HOUSE OF LORDS
European Union Committee

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The primary purpose of the House of Lords European Union Select Committee is to scrutinise EU law in draft before the Government take a position on it in the EU Council of Ministers. This scrutiny is frequently carried out through correspondence with Ministers. Such correspondence, including Ministerial replies and other materials, is published where appropriate.

This edition includes correspondence from 1 April – 30 June 2019

EU INTERNAL MARKET SUB-COMMITTEE

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Letter from Kelly Tolhurst MP, Minister for Small Business, Consumers & Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for your letter of 21 December clearing this file from scrutiny. I appreciate the work of the Committee in doing this on accelerated timescales.

I am pleased to now be able to provide more detail on the further question that you raise on whether the Government expects a UK State Aid framework to provide exemptions for domestic funds that are comparable to those EU funds that could now be block exempted by the European Commission.

HM Treasury has guaranteed continued funding after EU exit to UK participants of a range of programmes currently funded by the EU, such as Horizon 2020. These EU programmes do not constitute State Aid because the funds are allocated by EU institutions and are not paid directly from Member State resources. After EU exit, however, there is a risk that payments for some programmes made as a result of HM Treasury's underwrite would become classed as State Aid in a domestic setting.

To avoid this unintended consequence, and ensure certainty for UK participants of EU programmes after exit, the Government has concluded that specified EU projects, as detailed in Schedule 2 of the draft State Aid (EU Exit) Regulations 2019, should be exempt from the scope of the retained State Aid rules. This exemption applies to funding that has been bid for before exit day and was allocated by that EU programme before or after exit day. The Government laid the draft State Aid (EU Exit) Regulations 2019 in Parliament on 21 January 2019, to come into force in the event of a no-deal exit. This aims to ensure that the UK would have a functioning domestic State aid regime in place on exit day. The draft regulations were debated and approved by House of Lords on 14 March, and subsequently progressed through Committee stage in House of Commons on 10 April. In light of the current extension to EU exit, the final approval motion in the House of Commons will be tabled at the appropriate time.

I hope that the Committee find this a helpful clarification and update on progress.

20 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE DIGITAL EUROPE PROGRAMME FOR THE PERIOD 2021-2027 (10167/18)

Letter from Margot James MP, Minister for Digital and the Creative Industries, Department for Digital, Culture, Media & Sport

I am writing to inform you that the proposed Digital Europe Regulation has made significant progress in trilogue negotiations, following the approval of a partial General Approach at Telecoms Council on 4 December. An update on this file is below.

Progress of Negotiations

The Council and European Parliament have now reached a "common understanding" on a compromise text of the Regulation. Below are key changes reflected in the agreed text, pending the conclusion of horizontal MFF negotiations on provisions concerning the budget (Article 9), third-country participation (Article 10), and governance (Article 28).

Security Provisions in Article 12 Working with like-minded Member States, we have secured a provision under Article 12 regarding the AI and High Performance Computing pillars, so that if the EU seeks to exclude legal entities controlled from third countries on the grounds of security, such entities may still apply to participate if they can demonstrate that they do not pose security concerns, subject to the conditions set out in the annual work programme. However, this provision does not

apply to the cyber security and trust pillar, so third country companies may still be excluded from "all or some" actions.

Strategic Autonomy in Articles 3, 6 and 18 We have supported limiting references to strategic autonomy where possible, resulting in references under Article 3 (programme objectives), 6 (cyber security and trust) and 18 (eligible entities) but avoiding the inclusion of this term in each pillar. There is no agreed definition of how the term applies to digital, as it is usually used in a security context, and it is therefore unclear how actions would be measured against the objective. Accordingly we supported a focus on competitiveness, particularly with regard to emerging technologies and the ways in which the EU can exert influence globally.

Digital Innovation Hubs in Article 16

The agreed text clarifies the process for creating and operating Digital Innovation Hubs, including a specification to have one hub per Member State provided that at least one candidate meets the selection criteria (with Member States selecting candidates through an open and competitive process).

Adoption

The General Affairs Council on 19 March endorsed a letter from the Romanian Presidency to the European Parliament setting out the "common understanding" of what has been provisionally agreed on all MFF programmes that were agreed before the elections.

The progress report did not affect adoption of the file, and was without prejudice to any final negotiated text. It did not incorporate the final budget and spending figures (Article 9) or commit the UK to any spending requirements. The endorsement did not include general third-country participation provisions (Article 10) or the governance arrangement for establishing work programmes (Article 23).

I believe it is important at the present moment to demonstrate the UK's support for continuing European collaboration in digital and data sectors that exhibit high growth in the UK economy. We continue to assess whether the UK should pursue participation in the programme or access to certain workstreams, either through negotiations on our future relationship with the EU or as part of our wider cooperation as a third country. As I believe the current compromise text is acceptable to the UK, I supported endorsement of the Romanian Presidency's letter with respect to the Digital Europe programme.

I hope this is helpful and trust it provides sufficient clarification regarding the progress of this file.

11 April 2019

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL DISCONTINUING SEASONAL CHANGES OF TIME AND REPEALING DIRECTIVE 2000/84/EC (12118/18)

Letter from Kelly Tolhurst MP, Minister for Small Business, Consumers & Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for your letter of 8 February 2019. I note that the Committee is retaining the file under scrutiny. In addition to answering your specific questions, I would also like to provide the Committee with an update on negotiations on the proposals. The Government does not believe there is any case for changing the current arrangements. It is working with Member States and the Commission to convince them of this position.

Withdrawal Agreement – Northern Ireland Backstop

In our view it is unlikely that the backstop arrangement set out in the Draft Withdrawal Agreement would require Northern Ireland to comply with the EU rules on time changes.

The Protocol on Northern Ireland contained in the Draft Withdrawal Agreement applies only to specific provisions of EU law, essentially for the purposes of avoiding regulatory checks at the border with the Republic of Ireland. The provisions applied specifically to the UK in respect of Northern

Ireland are set out in Annex 5 to the Protocol. They do not include Directive 2000/84/EC, which would be repealed by the proposed Directive and deals with (broadly) similar subject matter.

While new measures can be added to the Protocol by a decision of the Joint Committee where they fall within the scope of the Protocol, it seems unlikely that this measure would fall into that category. The new Directive, whilst arguably addressing barriers to trade, does not appear to necessitate regulatory checks at the border.

Update on proposals

As I mentioned in my previous letter, there are no current negotiations taking place, though we expect that they will resume in the second half of the Romanian Presidency. The Presidency, however, have not yet indicated their intentions for the dossier for the next Transport Council. On 29th October 2018, Lord Henley spoke out on behalf of the UK government against the proposed Directive at the EU Transport and Environment Councils in Graz, Austria. He also held several bilateral discussions with other EU Ministers on the subject and sent letters to Member State ministers setting out the UK's major concerns with the proposal

Update on European Parliament's activities

The Committee may be interested to receive an update on the European Parliament's work on this file. You may recall that the European Parliament was an early proponent of the concept of discontinuing the seasonal clock changes. It issued a resolution in February 2018 which called on the Commission to conduct a review of the existing Summertime Directive and develop proposals for its revision.

The European Parliament's Transport Committee held a workshop in January. At the workshop, evidence was presented in several areas: long distance travel; road safety; energy savings and energy markets; health and well-being. In its February meeting, the Transport Committee received a draft report from its rapporteur. She criticised the Commission for not producing a proper impact assessment before publishing its proposals to revise the current Directive, echoing those of the UK and other Member States.

On 26 March, the European Parliament voted in Plenary to back the Commission's proposals to discontinue daylight saving changes. However, the European Parliament proposes that the Directive should not come into force until March 2021.

I hope this information satisfies the questions raised.

4 April 2019

Letter from the Chairman to Kelly Tolhurst MP, Minister for Small Business, Consumers & Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for your letter dated 4 April 2019 on the above proposal, which the EU Internal Market Sub-Committee considered at its meeting on 27 June 2019.

As we concluded in our reasoned opinion, this proposal would have specific implications for the UK, and Northern Ireland in particular, under any scenario. We note that other countries, including Ireland, are preparing for the possibility that the proposal is agreed, including through public consultations. We therefore once again reiterate our request to understand what preparations are being made by the Government for this possibility, what public consultation would be required and within what timeframe.

We would also be interested to know under what circumstances the UK would be required to comply with the proposal, if a withdrawal agreement is reached. For example, one of the European Parliament's amendments requires Member States to notify the Commission by 1 April 2020 if they wish to maintain winter-time—what if this date fell within a Brexit transition period?

We would also be grateful for an update on Council discussions, covering the outcome of the 6 June Transport Council, and the following specific points:

• What are the Finnish Presidency's intentions for the file?

• What responses (if any) have Member State Ministers provided to Lord Henley's letters?

• We understand that the Council Legal Service has provided clarification on the choice of Article 114 TFEU as a legal base and on other legal matters.[1] Could you please give us an overview of their advice in relation to the proposal?

We have decided to retain the file under scrutiny. We look forward to a response to this letter within 10 working days

27 June 2019

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2009/33/EU ON THE PROMOTION OF CLEAN AND ENERGY-EFFICIENT ROAD TRANSPORT VEHICLES (14183/17)

Letter from the Chairman to Jesse Norman MP, Minister of State, Department for Transport

Thank you for your letters dated 14 January and 27 March 2019 on the above proposal. The EU Internal Market Sub-Committee considered your letters by correspondence and decided to clear the file from scrutiny.

We would be grateful if you could clarify whether the proposed recital 12a addresses your previous concerns over the scope of procuring entities that would be subject to the targets. We would also welcome an update on the Council vote, the Government's work on an impact assessment of the proposal, as well as any feedback provided by the devolved administrations—including in response to your letter of 5 December 2018.

We look forward to a response to this letter in due course.

4 April 2019

Letter from Michael Ellis MP, Minister of State, Department for Transport

Further to Jesse Norman's letter of 27 March and your response of 4 April, I am writing to update you on the above proposal.

As noted in the 27 March letter the Presidency and the European Parliament reached a provisional agreement on the text of this Directive in February. This was approved at a plenary session of the European Parliament on 18 April and at that stage we expected the Directive to be finally adopted by the Council of Ministers by the end of April/early May. In the event, this final stage took a little longer than we anticipated and instead the Directive was adopted at the Employment, Social Policy, Health and Consumer Affairs Council meeting on 13 June. Given that the Committee asked for an update on the Council vote we have therefore held off replying until now.

Firstly, I would like to thank the Committee for its previous clearance of the file which enabled the UK to vote in favour of the Directive at the Council meeting on 13 June. There was no change to the text of the Directive since Jesse Norman's letter of 27 March. On 13 June, while supporting the overall aims of the Directive, four Member States voted against it and three abstained. This was for differing reasons e.g. one could not support the targets for buses.

Your letter of 4 April sought clarification on whether the proposed recital 12a addresses our previous concerns over the scope of procuring entities that would be subject to the targets. Recital 12a notes that *"Member States should have the flexibility to distribute efforts to meet the minimum targets within their territory, in accordance with their constitutional framework and in line with their transport objectives."* As this is a recital it is not a direct requirement of the Directive, however we are comfortable that this provides clarification that the intention of the Directive is for Member States to have flexibility in any implementation in establishing how the targets are to be met nationally.

You also requested an update on the Government's work on an impact assessment of the proposal. As noted in Jesse Norman's letter of 27 March we received limited data from the Commission as the relevant data sources will not be in place until the Directive is adopted, as well as some limited

[1] Progress report by the General Secretariat of the Council, 21 November 2018

information from another source. That said, while implementation will depend on the terms of the UK's exit from the EU, to ensure we are prepared my officials are currently considering implementation options including as far as possible the impacts of these. I would be happy to keep you informed on progress. We would of course ensure that all relevant stakeholders affected by the Directive have the opportunity to input into this. There would also be a full public consultation on any proposals for implementation, which will be key to assessing the impacts of any proposals for requirements in the UK.

You also asked for feedback provided by the devolved administrations—including in response to Jesse Norman's letter of 5 December 2018. The only response received, which was supportive of our proposed approach, was from the Northern Ireland Government's Department for Infrastructure. We will of course continue to work with colleagues from the across the UK to develop proposals any proposals on implementation.

20 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON COMMON RULES ENSURING BASIC AIR CONNECTIVITY WITH REGARD TO THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FROM THE UNION (15788/18)

Letter from the Chairman to Baroness Vere of Norbiton, Transport Minister for Aviation, International and Security, Department for Transport

Thank you for your letter to Baroness Sugg following the meeting of the EU Internal Market Sub-Committee on 21st March 2019. As the new Aviation Minister, I am now writing to provide an update on the Regulation, which has since been adopted.

Following the most recent update to your Committee on 7th March, from my predecessor Baroness Sugg, progress on the Regulation moved quickly. The draft was approved by the European Parliament Plenary on 13th March and by the Council of Ministers on 19th March. On 27th March the Regulation was published in the Official Journal of the European Union and it entered into force on 28th March 2019. 2

As anticipated in Baroness Sugg's letter, the UK abstained on the proposal at Council. Nevertheless, we welcome the Regulation which, along with the UK's reciprocal measures, provides confidence and certainty for consumers and industry that flights would continue in a "no deal" EU exit scenario.

The version of the Regulation that was finally adopted contained a number of helpful amendments compared to the original proposal, as highlighted in Baroness Sugg's previous letter. To summarise, under the terms of the Regulation, and in the event of a "no deal" EU exit:

UK airlines would be able to operate without restriction between any pair of points, with one being in the UK and the other in an EU27 Member State (the so called Third and Fourth "Freedoms of the Air").

UK airlines would also be able to operate all-cargo services to points beyond the EU27, via points in the EU27 (the Fifth Freedom of the Air) for up to five months. The number of such services that UK airlines could operate would be capped at 2018 levels.

UK airlines would be able to operate to/from the EU27 using their own aircraft, aircraft leased without crew from any lessor, or aircraft using crew of another UK operator on a wet-lease basis. If a UK airline wished to wet-lease an aircraft registered outside the UK, then the airline would need to demonstrate to the competent authority of each EU Member State it wished to operate to that the lease was justified on the grounds of exceptional needs, seasonal capacity needs or operational difficulties.

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[2] Official Journal of the European Union - https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.LI.2019.085.01.0049.01.ENG

Regarding codesharing, our interpretation of the Regulation is that while it would allow most cooperative marketing arrangements that currently take place today to continue, it would not allow UK airlines to sell tickets on services that operate wholly within the EU.

The Regulation will apply from the day the UK exits the EU in a no-deal scenario and, as it stands, it will expire on 30th March 2020, regardless of the day the UK leaves. Extending the Regulation beyond this point is a matter for the EU, and my officials have approached the European Commission for a follow-up discussion to explore potential options.

You also asked about airline ownership and control requirements. The Regulation provides for UK airlines already in possession of an EU operating licence to continue operating between the UK and the EU so long as they remain majority owned and effectively controlled by UK/EU/EEA nationals. However, any new UK airline licensed after the UK leaves the EU would be required to be majority owned and effectively controlled by UK nationals. As the Regulation is intended to apply for a relatively short period, we judge the impact of this provision to be limited.

In a no deal scenario, EU airlines would still have to comply with EU Regulation (EC) No 1008/2008, which requires EU airlines to be majority owned and effectively controlled by EU/EFTA nationals. The new Regulation on common rules ensuring basic air connectivity provides a grace period for EU27 airlines to comply with these requirements (since a number will cease to be compliant if they cannot count UK investors as EU nationals). EU airlines that would not be majority owned and effectively controlled by EU/EFTA nationals (which post EU exit would not, of course, include UK nationals) had a period of two weeks after the Regulation entered into force on 28th March to present a plan for remedial action to the competent licensing authority. Following this, EU airlines have a period of six months to fulfil these remedial actions, timed from the day the UK leaves the EU.

The extension to the UK's departure from the EU raises some potential questions on how the timings of this element of the Regulation would work in practice. Officials from my Department hope to establish this with the Commission in due course

17 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON COMMON RULES ENSURING BASIC ROAD FREIGHT CONNECTIVITY WITH REGARD TO THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FROM THE UNION (15843/18)

Letter from Jesse Norman MP, Minister of State, Department for Transport

I am writing in response to your letter dated 21st March 2019 on the above proposal, to update you on the agreement of the regulation. I am grateful to the Committee for clearing the file from scrutiny.

I am writing in response to your Committee's second report on the above proposal, to update you on the agreement of the regulation.

On 13 March, the European Parliament plenary approved the provisional agreement for allowing UK road haulage and bus and coach operators to provide services between the UK and the EU until the end of 2019; there were 623 votes in favour, 35 against, and 21 abstentions. The text was then put to the General Affairs Council which adopted the measure on 19 March. I can confirm that the UK abstained, for the reasons explained in my letter of 12 March.

The final Regulation (EU) 2019/501 was published in the Official Journal of the European Union on 27 March 2019.

In accordance with Article 12, the Regulation entered into force on 28 March, the day after it was published in the Official Journal, although its provisions do not apply unless the UK exits without a Withdrawal Agreement having been ratified. On 11 April, the EU agreed an extension to the Article 50 deadline to the end of October at the latest. The provisions of the Regulation as it stands would therefore come into effect were the UK to leave the EU without a deal at that point, and would last until 31 December. The Department is of course mindful that this would only provide two months of transitional market access rights for UK operators, which would be contrary to the collective intention in agreeing the measure in the first place. The Department will therefore be engaging with

the European Commission and other Member States as regards options for addressing this, such as the extension of the lifetime of the measure.

The extension of the Article 50 process also means that the context has changed regarding the Regulation's provisions for staged reductions in some aspects of the rights afforded to UK operators. Those reducing UK hauliers' rights to perform cabotage and cross-trade work after three and seven months of the Regulation's lifetime will obviously no longer have effect before the existing measure expires, but we will of course wish to address issues around those rights in our engagement with the Commission and Member States. With regards to passenger transport services, the Regulation would only have allowed cabotage in the border regions of Ireland until September 2019 specifically, so the Department will wish to address the approach to that question in the event that we exit without a deal on 31 October, working with the Northern Ireland Civil Servants, the EU and our Irish counterparts to find a solution.

In reference to your query on cabotage and cross-trade rights, the extension of the Article 50 process means that the context has changed regarding the Regulation's provisions for staged reductions in some aspects of the rights afforded to UK operators. Those reducing UK hauliers' rights to perform cabotage and cross-trade work after three and seven months of the Regulation's lifetime will obviously no longer have effect before the existing measure expires, but we will of course wish to address issues around those rights in our engagement with the Commission and Member States. With regards to passenger transport services, the Regulation would only have allowed cabotage in the border regions of Ireland until September 2019 specifically, so the Department will wish to address the approach to that question in the event that we exit without a deal on 31 October, working with the Northern Ireland Civil Servants, the EU and our Irish counterparts to find a solution.

It is disappointing that the measure does not extend to Gibraltar, and we hope this can be addressed in any further EU negotiation on the measure in the context of the extension of the Article 50 process. We are nevertheless working closely with HM Government of Gibraltar to ensure Gibraltar is prepared for the eventuality that this is not possible. One key element of this is enabling Gibraltarian hauliers to benefit from the ECMT framework. The Department is working with the ECMT Secretariat to ensure UK membership covers Gibraltar, and have already shared permits with Gibraltar. More widely on the movement of goods, and in line with the UK's position, the Government of Gibraltar has stated that they will allow continued access for EU hauliers. This will maintain the movement of goods in and out of Gibraltar. With regards to passenger transport, as Gibraltar only has occasional bus and coach services, this will be covered by the UK's accession to the Interbus Agreement.

15 May 2019

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON IMPROVING THE GENDER BALANCE AMONG NON-EXECUTIVE DIRECTORS OF COMPANIES LISTED ON STOCK EXCHANGES AND RELATED MEASURES (16433/12)

Letter from Kelly Tolhurst MP, Minister for Small Business, Consumers & Corporate Responsibility, Department for Business, Energy & Industrial Strategy

I am writing to update you on the current position of the above proposal of 2012 which aims to improve the gender balance among non-executive directors of companies listed on stock exchanges. It originally stated that by 2020, women should constitute a minimum of 40% of the non-executive directors, or 33% of all directors, on the boards of all listed companies registered in an EU Member State. Small and medium-sized enterprises are exempt.

This proposal was last discussed by Ministers at the EPSCO Council on 7 December 2015 under the Luxembourg Presidency. The Luxembourg Presidency had proposed changes to the proposal, including further revisions to introduce more, flexibility and extend the original timescales. However, the Presidency concluded that there was still insufficient support for the proposal and no general approach was reached. The current Romanian Presidency has likewise determined that there is no clear way forward to securing the necessary support for the Directive. The UK has consistently

opposed the directive on the grounds of subsidiarity and proportionality and is part of a long-standing blocking minority of several other Member States.

The Government remains committed to seeing more women on boards and in the senior management of the UK's top companies. In February 2016, the Government appointed Sir Philip Hampton, Chairman of GSK, and the late Dame Helen Alexander to chair an independent review that would continue the work of Lord Davies in pushing for increased female representation on FTSE 350 boards. They extended the scope and targets to include women in senior executive positions as well as on boards and the Review is now pushing FTSE 350 companies to achieve 33% women on boards and at executive committee and direct report levels by 2020. The Review's latest report of November last year showed that the representation of women on FTSE 350 boards has nearly trebled from 9.5% in 2011 to 26.7% and that the number of all-male boards has gone down to 5 (now just 3) from 152 in the same period.

It remains the Government's view that action should be tailored to the specific culture, business environment and legal systems of each country. Therefore, we continue to be unable to support the Directive on grounds of subsidiarity and proportionality.

11 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ESTABLISHING CONTINGENCY MEASURES IN THE FIELD OF SOCIAL SECURITY COORDINATION FOLLOWING THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FROM THE EUROPEAN UNION (5949/19)

Letter from Alok Sharma MP, Minister of State for Employment, Department for Work and Pensions

Thank you for your letter dated 21 March 2019 and for your decision to clear the proposal from scrutiny. In further developments, the Regulation on establishing contingency measures in the field of social security coordination was adopted in Council on Tuesday 19 March. The UK abstained and asked Council to note its position that all such relevant contingency measures should apply with respect to Gibraltar, where Gibraltar has previously been covered by the relevant area of EU law. I have attached a copy of the final Council text and the EU's press release for your information.

You asked for further information on a number of points as follows:

• What the absence of provisions for 'applicable legislation' will mean for workers who may be subject to the social security legislation of the UK and an EU Member State, such as frontier workers.

The whole system of security coordination across the EU relies on cooperation and reciprocity. If the UK leaves the EU without an agreement, it will have no means of enforcing reciprocal obligations on EU Member States. The UK aims, as far as possible, to maintain the citizens' social security rights of British nationals and other UK-insured individuals on a unilateral basis. Where frontier workers are concerned, the Government's view is that the Commission's proposal applies to Gibraltar in the same way as to the UK. This is because Gibraltar is treated as part of the UK for the purposes of applying regulation 883/2004. The UK has signed a Reciprocal Agreement with the Government of Ireland covering social security, which is more comprehensive than the Commission proposal and will ensure that UK and Irish nationals who work across the border will maintain their existing social security rights and entitlements.

• The Government's assessment of how many UK citizens might be affected by the absence of 'applicable legislation' arrangements.

When a person goes to work in the EEA or Switzerland, but remains UK insured under the applicable legislation rules, HMRC issues a certificate showing that they continue to be liable to pay only UK National Insurance contributions. The latest published figures from the EU show that the UK issued around 50,000 certificates in 2017.

• What progress the Government has made on arrangements for continued access to public healthcare by UK citizens resident in the EU and how the Government plans to communicate changes to those affected.

The Commission and EU Member States have refrained from openly discussing no deal contingency arrangements with the UK, in order to protect their position on the Withdrawal Agreement. However, to prepare for all eventualities the Secretary of State for Health and the Foreign Secretary have both written to their respective Ministries in Member States to ask for discussions on contingency bilateral healthcare arrangements. The Government has proposed to EU Member States and EFTA states that we should maintain the existing healthcare arrangements in a no deal scenario until 31 December 2020, with the aim of minimising disruption to UK nationals and EU and EFTA state citizens' healthcare provision. In addition, following the Costa amendment on ring-fencing the citizens' rights provisions in the Withdrawal Agreement, which the government accepted, the Secretary of State for Exiting the EU has written to Michel Barnier to emphasise the importance of protecting citizens, including their healthcare and social security rights, in the event of no deal. The letter and response can be found here. The Department for Health and Social care, along with other Departments has been working closely with EU Member States and EFTA states to protect existing healthcare arrangements.

The Healthcare (International Arrangements) Bill, now the Healthcare (European Economic Area and Switzerland Arrangements) Act, received Royal Assent on 26 March. Now this is in place we have the primary payment power and data processing power to cover arrangements, pending any regulations under the Act being made. All critical reciprocal healthcare legislation has now been approved by Parliament.

The Department for Health and Social Care has published country specific guidance on **GOV.UK** and **NHS.UK** about healthcare arrangements if the UK leaves the EU without a deal and has been working closely with EU Member States and EFTA states to protect existing healthcare arrangements for these and other groups. Further detail of these arrangements was provided to Parliament in the Written Ministerial Statement - HCWS1429 on 19 March 2019.

• The Government's analysis of the proposal's application to Gibraltar, given the Commission's position that contingency measures will not include Gibraltar.

In addition to the government's statement to Council above and as stated and in the Explanatory Memorandum, the government believes that the EU Commission's social security coordination proposal, while not confirmed in writing, does apply to Gibraltar in the same way as to the UK. This is because Gibraltar is currently treated as part of the UK for the purposes of applying regulation 883/2004. The proposal recognises entitlements relating to the assimilation of facts and aggregation for periods completed in the UK, and therefore Gibraltar, before exit for those who are or have engaged with the social security system of the UK and Gibraltar under the coordination Regulations whilst the UK was a Member State.

• The extent to which the UK may be able to conclude bilateral agreements on social security coordination with Member States.

The UK has 17 reciprocal agreements on social security with EU Member States. There are 10 EU countries where there is no reciprocal social security agreement in place. Those countries are: Bulgaria, Czechia, Estonia, Greece, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia. Officials are assessing pre-existing Reciprocal Agreements on a case by case basis as to whether they are capable of revival, for both legal and administrative operability reasons. Any revival will require technical discussions and formal agreement between the parties.

Social security coordination is an area of shared competence. Member States retain competence to enter into bilateral agreements with third countries. Therefore, Member States will have to consider the legal and political position and form their own view on whether the EU's contingency regulation places any limits on bilateral agreements. There is provision in retained EU domestic law, which could give effect to pre-existing bilateral agreements in relation to social security, should that be desirable.

Article 6(1) of the contingency Regulation as agreed at the General Affairs Council recognises the operability of existing bilateral agreements between the UK and Member States that are listed in Annex II to Regulation 883/2004 under Article 8. Article 6(2) of the contingency Regulation

acknowledges that bilateral agreements may be concluded between the UK and Member States after exit that cover periods before exit, provided they satisfy the conditions set out in that Article, namely to meet the requirements of the contingency Regulation and give effect to the principles in Regulation 883/2004.

• What support the Government can provide to UK citizens affected by the terms of this proposal, should it come into force.

The EU Commission's approach to no deal preparations has been to have no formal discussions with the UK regarding post-exit information exchange on social security in the event of no deal. Departments have made preparations to continue supplying evidence of qualifying periods of UK employment, self-employment and residence upon request to British and EEA nationals following exit. We will continue to work closely with the EU27 so that the first port of call for all contribution queries will be the appropriate administration in a member state. The government has introduced legislation which includes provisions to ensure that the UK can continue to share data with EU Member States when they are applying the Coordination Regulations. The government has provided coordinated communications to citizens such as those signposted above in relation to healthcare and will continue to provide regular updates.

I refer you to my letter of 26 March where I have written in similar terms to the Commons European Scrutiny Committee.

2 April 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON CERTAIN ASPECTS OF RAILWAY SAFETY AND CONNECTIVITY WITH REGARD TO THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FROM THE UNION (6340/19)

Letter from Andrew Jones MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your letter of 21 March on the above proposal. Since I last wrote to you this issue has been progressing quickly. You may be aware that the Regulation (EU) 2019/503 was adopted by the Council of Ministers by written procedure on 22 March. I am grateful to the EU Internal Market Sub-Committee for clearing the proposal from scrutiny before that date, however in the absence of scrutiny clearance or a waiver from both Committees the UK signalled its abstention.

The Regulation has now come into force. It will apply from the day after the UK's withdrawal from the EU unless a withdrawal agreement concluded with the EU has entered into force by that date.

In your letter, you asked for an update on our assessment of the progress made by Eurostar and Northern Ireland Railways on the additional continuity measures required to maintain cross-border rail services, which I am happy to provide.

The adoption of the Regulation and the certainty it provides for operators is a significant milestone and an extremely positive development which helps to mitigate the risk of disruption to cross-border services in the event of no deal, supplementing the extensive work already completed by the Department on this issue. It will mean that key UK-issued documents (operator licences, safety certificates and train driver licences) that are required under EU law will continue to be valid in the cross-border area (Calais-Fréthun in France and Dundalk in Ireland) for nine months from the date of exit. Critically, for Eurostar and Enterprise, this Regulation provides important legal certainty and clarity regarding licensing arrangements in the period following the UK's withdrawal from the EU in the event that the UK exits without a deal.

Notwithstanding the EU Regulation, Eurostar and Northern Ireland Railways (NIR) have been progressing their own contingency plans given the extent of their operations extends beyond the cross-border area covered by the Regulation. The Government has been working closely with both operators, in conjunction with other relevant authorities such as the Office of Rail and Road (ORR) and the Northern Ireland Department for Infrastructure (NIDfI) to support these contingency plans and ensure they are delivered in time for the UK's departure from the EU.

Taking each of these services in turn:

Eurostar

Following adaptations to its group structure, Eurostar will now satisfy EU requirements once the UK leaves the EU. Eurostar has therefore obtained an EU operator licence and safety certificate from French and Belgian authorities to cover its operations in the EU beyond the Channel Tunnel Fixed Link. In addition, UK-licensed train drivers working on Eurostar services have been issued with EU train driving licences in France which will continue to be valid once the UK leaves the EU. These steps will support the continuation of the important Eurostar service beyond the 9-month period covered by the Regulation.

Enterprise

The Enterprise service is an important joint operation between the two operators, Northern Ireland Railways (NIR) and Iarnród Éireann **(**Irish Rail, IR). They have agreed on a temporary arrangement whereby IR will be legally responsible under EU law for all Enterprise services that operate on Irish territory (as opposed to the current arrangement where some services are wholly operated by NIR). On this basis, NIR will be able to continue operating Enterprise services with valid EU documentation, under the auspices of Irish Rail. The operators are jointly considering longer-term arrangements beyond the immediate period following the UK's departure and this is subject to ongoing discussions. Furthermore, as with Eurostar, the Government understands that those Northern Irish-licensed train drivers engaged in Enterprise operations will be issued with valid EU train driving licences in Ireland immediately following the UK's withdrawal from the EU. Some NI drivers have provisional approval for re-licensing in the EU, and all should be approved before 12 April with a view to issuing the new EU licence immediately after the UK leaves the EU.

On the basis of our engagement with both operators to date, the Government is satisfied that both operators have put in place appropriate arrangements to secure the necessary regulatory approvals for the smooth continuation of these important services for passengers and is confident in these arrangements. We have actively supported Eurostar, NIR and the Northern Ireland Civil Service to put these contingencies in place and continue to work closely with them and the relevant authorities to ensure arrangements are sustainable longer-term.

4 April 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A EUROPEAN LABOUR AUTHORITY (7203/18)

Letter from Kelly Tolhurst MP, Minister for Small Business, Consumers & Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for your letter dated 28 March 2019. I am grateful to the Committee for their continued interest in this file and for lifting scrutiny ahead of the final vote in April. My decision to override the Scrutiny Committees at PESCO was not taken lightly and I welcome the opportunity to explain the Government's position.

Despite providing updates in previous letters, the speed of the negotiations meant that the text brought to General Approach was only agreed in working groups the week before Council. Specifically, there had been limited clarity regarding the procedure and relationship between the ELA Mediation Board and the Administrative Commission, concerning the division of responsibilities on social security coordination disputes. This had been the outstanding point of concerns. Based on this timeframe I judged that there was not sufficient time available for the Committee to consider the latest developments on the file before the vote in Council.

The UK is an active member of the Administrative Commission and was concerned the transfer of power of social security coordination disputes to ELA would result in a loss of expertise. Arrangements for these disputes were not finalised until the week before EPSCO Council, when this issue was removed from the scope of the Directive. The Government voted in favour of the General Approach, as the UK had been a key Member State negotiating this outcome and it was in our policy interests to support this text.

Despite being removed during the General Approach, social security coordination will be included within the scope of ELA in an amended form as an outcome of Trilogue negotiations. The UK had expressed concern but is now satisfied with the proposed relationship between the Administration Commission and ELA when dealing with social security coordination disputes. Upon request of Member State or of the Administrative Commission, the ELA shall refer social security coordination disputes to the Administrative Commission. As the UK supports the overall aims of the ELA, to reinforce employment law and worker protections, I consider that the benefits outweigh the concerns. With this in mind, when the file comes to formal adoption, the UK will vote in favour of the file.

Trilogues have now concluded and the text is currently undergoing the formal Jurist Linguists process. I have been informed by the Commission that the European Parliament will vote on the text in Strasbourg this April, following which Member States will formally vote on the adoption of the text adopt at a Council meeting, which may also be in April. The decision on the seat for ELA will be taken in the margins of EPSCO Council on 16 June 2019, and ELA will be formally established in the same month.

As the text currently stands, the ELA will be responsible for:

- Facilitating access to information on rights and obligations in cases of cross-border mobility for employees, employers and national administrations;
- Supporting coordination between Member States in cross-border enforcement of relevant Union law;
- Mediating between Member States' authorities in order to resolve cross-border disputes between them, including social security coordination; and
- Facilitating solutions in the event of labour market disruptions.

I will write again after the formal vote of adoption of the text at Council to provide more detail on the text.

30 April 2019

Letter from Kelly Tolhurst MP, Minister for Small Business, Consumers & Corporate Responsibility

Following my letter dated 30 April 2019,1 am now writing to you to as promised, after the final adoption of the proposal to establish a European Labour Authority, at EPSCO this month.

The June EPSCO Council agenda included the final adoption of the file as a formal agenda item, and a vote on the seat of the Authority which took place in the margins. The file was adopted with a clear majority, with only a small number of Member States voting against a couple abstaining. As I have previously explained, the UK supports the overall aims of the file to reinforce EU law on labour enforcement and labour mobility rights. Previous concerns the UK had with the inclusion of social security coordination within the ELA Mediation Board, were dissuaded after the compromise agreement on the relationship between the Mediation Board and the Administrative Commission for social security coordination. This relationship will allow the Administrative Commission to present their view on social security coordination disputes.

In the margins of the Council meeting, Member States also voted on the host of the European Labour Authority. Bratislava, Slovakia received the highest number of votes after Member States assessed bids from four Member States - Slovakia, Bulgaria, Latvia and Cyprus - against pre-agreed criteria. These criteria included seeking geographical balance between agency hosts, accessibility of the location, and the existence of adequate education and work opportunities for families of the Authority's staff. UK officials met with representatives from all four bidding Member States and discussed the bids in detail including the labour enforcement policies being pursued by their country. The department wrote-round on the issue and received collective agreement on the voting preference.

The European Labour Authority will be responsible for:

- facilitating access to information on rights and obligations regarding labour mobility and relevant services;

- facilitating and enhancing cooperation between Member States in the enforcement of relevant EU law;
- supporting and facilitating joint and concerted inspections between Member States;
- mediating and facilitating solutions in cases of cross-border disputes between Member States, including on social security coordination;
- supporting cooperation between Member States in tackling undeclared work.

I am grateful to the Committee from releasing this file from scrutiny ahead of EPSCO

25 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL SETTING CO2 EMISSION PERFORMANCE STANDARDS FOR NEW HEAVY-DUTY VEHICLES (8922/18)

Letter from Jesse Norman MP, Minister of State, Department for Transport

I thank the Committee for its scrutiny waiver for the proposed heavy-duty vehicles (HDV) CO2 emission Regulation ahead of the 20 December Environment Council. I am writing now to inform it of the outcome of the Council as you requested, and have delayed this letter in order to cover subsequent rather fast-moving developments.

At the Environment Council meeting the UK maintained its call for greater ambition for 2030 and stressed the need to agree a strong overall package of measures. The Presidency presented a revised set of proposals, the key element of which was a binding 2030 target, and a General Approach was successfully reached with UK support. The Presidency subsequently opened trilogue discussions with the European Parliament. They were able to conclude their discussions after four trilogue meetings, which reached a provisional agreement. This is now expected to be finally adopted in June.

Key points in the agreed provisional text are:

a. CO_2 emission reduction targets from new HDVs of 15% by 2025 and 30% by 2030 (with the 2030 target being binding). This strengthened the original Commission proposal that the 2030 target should only be indicative and would revert to the lower 2025 CO_2 target if agreement was not reached in a proposed 2022 review. Gaining a binding target now for 2030 was a key UK objective. Importantly, this provides certainty and a clear signal of long-term ambition to HDV manufacturers so that they can invest in the necessary technologies;

b. A review in 2022 that will consider if the 2030 target should be revised upwards, whether the penalty regime for non-compliance remains effective and consider targets for heavy vehicles outside of the current scope of this Regulation such as buses and coaches, and propose HDV targets for 2035 and 2040;

c. The introduction of a Zero and Low Emission Vehicles (ZLEVs) incentive where ZLEVs count up to double toward a given manufacture's overall target when calculating compliance with their CO_2 target. As of 2025 there will be a minimum sales target (or 'benchmark') for zero and low emission (ZLEV) trucks of 2%. This means that truck makers need to sell at least 2% ZLEV trucks annually before they can get a bonus (i.e. a less stringent CO_2 target). This bonus is capped at 3% to ensure that the fuel efficiency targets are not undermined (zero emission buses and coaches will not qualify for super credits - this was a key UK objective given the well-developed market that already exists for them). The benchmark aims to incentivise truck makers to start changing their production lines towards more zero emission technologies;

d. Zero Emission trucks will be allowed to weigh up to 2 tonnes more than their diesel counterparts to compensate for any battery weight. This will make it technically much more feasible for manufacturers to build zero emission trucks with a longer range;

e. Excess emission penalties at €4250 per gCO_2/tonne-km missed up to 2029 and €6800 from 2030. The Commission's original proposal included an excess emissions premium of €6800 per gCO_2/tonne-km for 2025 to 2029 and 2030 onwards. I am content with the reduced premium for

2025 to 2029 as the Commission's impact assessment shows that it is still high enough to ensure manufacturers comply with the CO_2 targets; and

f. Provisions in the review clause at 2022 to assess the feasibility of introducing a 'pooling' mechanism between manufacturers and the possibility of developing a specific methodology to include the potential contribution of synthetic and advanced alternative fuels to emission reductions.

This provisional agreement represents major progress in reducing HDV emissions as existing EU legislation currently does not include any CO_2 reduction targets for these vehicles. The agreement reached aligns with the UK's negotiating objectives and will support UK climate change objectives. A binding 2030 CO_2 target strengthens the proposal's long-term ambition.

In addition, the exclusion of buses and coaches from the reduction (with the Commission intending to bring forward separate proposals for these vehicles) means the Regulation will rightly focus on emission reductions from heavy trucks.

I welcome the progress that has been made and I am satisfied that the provisional agreement goes a long way to meeting the Government's objectives for the Regulation. The HDV Regulation is now expected to be approved by the European Parliament on 17 April and finally adopted by the Council of Ministers in June. The Government would wish to support this, if the UK is still a Member State at the time the proposal is put to the Council. No further changes are expected to be made to the text, and I would therefore be grateful if the Committee could clear the proposal from scrutiny.

11 April 2019

Letter from the Chairman to Michael Ellis MP, Minister of State Department for Transport

Thank you for the letter dated 11 April 2019 on the above proposal. The EU Internal Market Sub-Committee considered your letter by correspondence and decided to clear the file from scrutiny.

12 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON TYPE-APPROVAL REQUIREMENTS FOR MOTOR VEHICLES AND THEIR TRAILERS, AND SYSTEMS, COMPONENTS AND SEPARATE TECHNICAL UNITS INTENDED FOR SUCH VEHICLES, AS REGARDS THEIR GENERAL SAFETY AND THE PROTECTION OF VEHICLE OCCUPANTS AND VULNERABLE ROAD USERS, AMENDING REGULATION (EU) 2018/… AND REPEALING REGULATIONS (EC) NO 78/2009, (EC) NO 79/2009 AND (EC) NO 661/2009 (9006/18)

Letter from Jesse Norman MP, Minister of State, Department for Transport

I am writing to provide your Committee with a further update on the above proposal and to request scrutiny clearance before a vote in Council, which is expected to take place during May. Your Committee will be aware that the proposal has recently attracted media attention, which I will also address.

As anticipated in my previous letter, the Presidency opened trilogue discussions with the European Parliament on 14 March. A second and final trilogue concluded on 26 March, where provisional agreement was reached between the two co-legislators.

While there was broad agreement on most issues, there were some areas where opinions differed significantly and a provisional agreement was difficult to reach. These included: -

- **Date of Application:** The European Parliament (EP) wanted to reduce the Date of Application from 36 months to 18 months. A compromise was agreed at 30 months. This aligns with UK objectives, recognising the time needed by the United Nations Economic Commission for Europe to develop the detailed technical requirements and to allow manufacturers sufficient time to develop and implement the necessary solutions.

- **Implementing and Delegated Acts:** The Commission and the EP both supported the use of Delegated Acts for new technologies and requirements, but the Council preferred Implementing Acts. The compromise will see the use of Delegated Acts in Article 6 covering some advanced vehicle systems and Implementing Acts for all other Articles including, general obligations and technical requirements, tyre pressure monitoring systems, tyres, advanced emergency braking systems, lane keeping systems, frontal protection systems and specific requirements relating to buses and trucks. The UK supported the Council preference for Implementing Acts as it is important that the Council has proper oversight over any new measures brought forward by the Commission. However, the agreement reached is a reasonable compromise, given the importance attached to this issue by the EP and the Commission.

- **Exemptions for Small Series:** The Commission's original proposal and the General Approach removed exemption for small series manufacturers from requirements to fit pedestrian protection systems. The UK and one other Member State opposed this during Council Working Group discussions, a position supported by the EP. The compromise reached retains the exemption for new types of vehicle for 42 months after the Date of Application, and for existing types of vehicle for 12 years after the Date of Application. The UK has been pushing to protect our small and low volume manufacturers for example, Morgan and Caterham. While this outcome may not be ideal and will require that these manufacturers to meet pedestrian protection requirements in the longer term, they recognise that it provides a long lead time and should help the development of innovative and cost-effective solutions. Following a UK proposal, additional text was also included for Recital 25 to ensure that low volume manufacturers will be considered when mandating new technologies.

- **Direct Vision:** The EP wanted to reduce the implementation time for Improved Direct Vision requirements of heavy vehicles. They wanted to reduce the Implementation Dates from 48 months after the Date of Application for new vehicle types to 36 months and from 84 months after the Date of Application for existing vehicle types to 78 months. A compromise was agreed at 42 months and 78 months. The UK supported the original dates included in the General Approach but we are satisfied that the compromise text ensures adequate time to develop the technical rules and will get the new vehicle designs into use more quickly.

- **Intelligent Speed Assistance:** The EP wanted a more design restrictive definition of intelligent Speed Assistance systems than that agreed by Council. They also wanted to include a driver switch-off function, which had been rejected by Council. A compromise was agreed to retain the Council definition, but to include a provision to allow the system to be switched-off by the driver. This aligns with UK policy for technology neutral performance based requirements, while also allowing a driver switch-off function (this was a key point raised by UK vehicle manufacturers and will help secure consumer acceptance).

We consider that these compromises are reasonable and align with UK policy objectives. The EP voted to approve the provisional agreement text at its plenary in the week beginning 15 April. We anticipate that the file will be put to a meeting of the Council of Ministers for final adoption on 27/28 May. The Government is content with the outcome of negotiations and would wish to support the proposal in the Council. I should therefore be grateful if the Committee would clear the proposal from scrutiny before that date.

Assuming the text follows broadly this timeline, the Regulation is expected to enter into force either later this year or early in 2020 with a Date of Application 30 months later in mid-2022. Implementing any elements that apply after EU exit and the end of any Implementation Period will be a matter for the Government of the day, subject to the terms of domestic legislation implementing the Withdrawal Agreement and the terms of the subsequent agreement on our future partnership with the EU. However, manufacturers are keen to harmonise requirements where possible and are expected to apply the requirements of the Regulation to vehicles destined for the UK market, even where the Government may not have implemented them.

Finally, following the provisional agreement during the second trilogue, there has been significant media interest. Overall, the reaction was positive to the changes, with the road safety charity 'Brake'

calling it a landmark moment for road safety. But there were front page stories which focused almost entirely on the incorrect reporting of the introduction of speed limiters from 2022, with some reports that cars would be forced to comply with speed limits. As you may be aware, this proposal does not mandate speed limiting devices but intelligent speed assistance systems. These systems help the driver to keep within the designated speed limit by providing appropriate feedback when that speed is exceeded. The system can be turned off or overridden by the driver should they choose to do so.

2 May 2019

Letter from the Chairman to Michael Ellis MP, Minister of State, Department for Transport

Thank you for your letters dated 12 March and 2 May 2019 on the above proposal. The EU Internal Market Sub-Committee considered your letters at its meeting on 23 May 2019.

We welcome your comprehensive update on the provisions of the compromise text and the implications of the proposal for the UK in the context of Brexit.

Media coverage of the file has reported that the president of the Automobile Association, Edmund King OBE, expressed concerns that intelligent speed assistance (ISA) might encourage driving at the speed limit, even where this would be inappropriate.[3] Has the Government assessed the impact of intelligent speed assistance on driver behaviour? We are also interested in the extent to which ISA affects vehicle fuel efficiency and emissions.

Lastly, we would also welcome information on any representations you have received from stakeholders, including UK manufacturers, on the compromise text.

We have decided to retain the file under scrutiny. We look forward to a response to this letter, including an update on the outcome of the final vote, in due course.

24 May 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ELECTRONIC FREIGHT TRANSPORT INFORMATION (9060/18)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A EUROPEAN MARITIME SINGLE WINDOW ENVIRONMENT AND REPEALING DIRECTIVE 2010/65/EU (9051/18)

Letter from Jesse Norman MP, Minister of State, Department for Transport

I am writing to update you on negotiations in advance of the Transport Council on 6 June, where the Government expects the Romanian Presidency to seek a General Approach on the above proposal.

Nusrat Ghani's previous letter to you stated that Council negotiations on the proposal had been limited to two working groups last July, in which interventions from Member States mainly centred on the more technical aspects of the proposal. Since then, the Romanian Presidency has scheduled further working group discussions which have resulted in some amendments. The principle amendments, as the text currently stands, relates to the relationship with international conventions. The current working draft now includes text requiring the Commission to seek to achieve interoperability with internationally accepted data models and to minimise compliance costs for both operators and Member State governments. The Government is comfortable with this amendment and supports its aim to reduce costs for all concerned.

The most significant matters have been resolved on this file and, overall, I consider that the proposed General Approach is satisfactory provided that, as the Government expects, it remains broadly as

[3] See for example BBC, 'Road safety: UK set to adopt vehicle speed limiters' (27 March 2019): https://www.bbc.co.uk/news/business-47715415

outlined above. I would therefore be grateful if the Committee would consider giving scrutiny clearance or a waiver ahead of the expected General Approach at the 6 June Transport Council.

There have also been further developments in the European Parliament's consideration of the proposal. On 12 March the European Parliament adopted its first-reading position in plenary, replacing the draft report mentioned in Nusrat Ghani's letter to you of 16 January. Some of the amendments from the initial draft report were removed in the EP's final first reading position, including the amendment to extend the scope of the proposal to cover regulatory information other than that relating to the transport of goods.

The Government will, of course, inform the Committee of further developments on the proposal, including the outcome of the Transport Council and of trilogue negotiations with the European Parliament later in the year.

16 May 2019

Letter from the Chairman to Michael Ellis MP, Minister of State, Department for Transport

Thank you for the letters dated 16 January, 5 March and 16 May 2019 on the above proposals. The EU Internal Market Sub-Committee considered these letters at its meeting on 23 May 2019.

We have decided to clear the e-freight documentation proposal (9060/18) from scrutiny. We look forward to an update on the outcome of the 6 June Council, and further developments on negotiations, in due course.

24 May 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON STREAMLINING MEASURES FOR ADVANCING THE REALISATION OF THE TRANS-EUROPEAN TRANSPORT NETWORK (9075/18)

Letter from Baroness Vere of Norbiton, Transport Minister for Aviation, International and Security Department for Transport

I am writing to inform your Committee of recent developments on the above proposal, ahead of a possible General Approach at the 6 June Transport Council.

When your Committee considered the Department's Explanatory Memorandum on the proposal you requested further information on a number of points in due course, and an update on the negotiations. I note that the Committee has been awaiting a response for some time, please accept my apologies for this delay which has, in part, been due to the prioritisation of preparations for a "no deal" exit, including the implementation of the Treasury funding guarantee for EU exit programmes, in the first part of this year. In the meantime, progress in negotiations has been very slow, and it is doubtful whether the Presidency will be able to achieve its objective of a General Approach unless there are significant developments in the remaining negotiations ahead of the Council.

The Austrian Presidency scheduled some working group meetings on the proposal in the second half of 2018, in which it received mixed reactions from Member States. Planning is often a regional or local responsibility, and Member States have to manage tensions between promoting projects of national importance and giving local people a say in decisions that affect their homes and local environment. Many Member States supported the objectives of the proposal but a number of them also had misgivings about the method for achieving it and the underlying evidence base. The Austrian Presidency produced a short progress report for the 3 December Transport Council, which noted that these issues would need to be addressed in order to allow further progress and an agreement on this dossier.

The proposal was not taken forward in the second half of the Austrian Presidency and the first months of the Romanian Presidency. When working group discussions resumed, Member States continued to express concerns about some aspects of the proposal, in particular with regard to the

provisions on setting up a single competent authority, the proposal's scope, the EU's competence to act in this matter, and the overall complexity of the proposal.

In an attempt to address these issues, the Romanian Presidency proposed some changes to the Commission's original proposal. Their latest text converts it from a (directly applicable) Regulation to a Directive, which in theory leaves Member States with some flexibility as to how to deliver the outcome. The Presidency text was discussed at a working group meeting on 10 May, at which most Member States welcomed this change but said that they would need further time to consider the consequences. It is difficult to predict whether the Presidency's changes will be enough to secure support from Member States, particularly given that the text is still prescriptive despite the change of legal form, and the provisions on many of the issues of concern, such as those regarding the single competent authority, are still included in the proposal. Only one further working group meeting has been scheduled ahead of the Council, and this will take place on 17 May.

The European Parliament has also been considering the proposal and has adopted its first reading position on it. The EP broadly supported the Commission's proposal, with some amendments. They supported the inclusion of the single competent authority so that core network projects may benefit from the integration of permitting procedures and a single point of contact for investors. However they adopted amendments that would allow such authorities to delegate this competence, obligations and tasks to another authority at the appropriate administrative level (regional, local or other) if necessary. They also proposed that the respective competent authorities should be able to establish a joint competent authority if a project of common interest requires decisions to be taken in two or more Member States, or in one or more Member States and one or more third countries. They welcomed the provisions setting a maximum duration for the permit procedure, on the grounds that the initial costs of projects usually increase with time.

The EP also introduced amendments on stricter timelines, such as reducing the pre-application phase to 18 months and the single competent authority assessment and decision stage to 6 months.

Your Committee asked for further information on the impact of the proposal for the UK and in particular, which UK TEN-T 'Core Network' projects would be affected. According to the current working draft of the proposal, the new measures would come into force 2 years after adoption, applying to only '*projects on the core network corridors provided for under Regulation (EU) No 1315/2013*', therefore projects for which planning approval is sought after transposition. .

Your Committee asked what views the devolved administrations have expressed about this proposal, and what implications Brexit would have on the UK's ongoing compliance with these rules if adopted as proposed. The Devolved Administrations were consulted on the proposal and supported the Government's assessment as set out in the EM. Views have not yet been sought from the DAs on the most recent text proposals, but as noted above they do not fundamentally change the proposal.

As regards Brexit, the Presidency's suggested text would give Member States 24 months to transpose the Directive after it is finally adopted into EU law. If this deadline falls during any EU exit implementation period, then the UK would need to comply with the Directive. However, the text is still subject to working group discussions and once a General Approach has been reached it will also need to go through trilogue negotiations with the European Parliament and further final adoption stages. We therefore do not expect final adoption of the legislation to take place until the end of 2019 at the earliest, and more likely early 2020, assuming the proposal can secure a qualified majority in the Council.

The Committee noted that the proposal is based on a series of consultation activities conducted between 2017 and early 2018, and asked for more information about the involvement of UK stakeholders and any feedback they may have provided. We are not aware of any feedback from UK stakeholders and according to the Commission's on-line survey report, it appears there were no UK returns to the survey. However, the report lists respondents who gave permission for their response to be published anonymously. Therefore, there may have been responses that are not reflected in the public consultation webpage.

Finally, the Committee asked if the Government is considering alternative approaches to streamlining approval procedures for transport infrastructure projects in the UK. The Government considers the systems currently in place in the UK to be already streamlined. The Planning Act 2008 system was introduced in order to tackle lengthy delays in securing planning consent for large scale infrastructure.

Under the nationally significant infrastructure projects (NSIP) regime applicants benefit from a statutory timeframe which gives them a decision within a year of the examination of an application beginning. For example, Heathrow terminal 5 took 8 years and Sizewell B nuclear power station took 6 years under the previous system. In comparison Hinkley Point C was approved in 17 months from submission of application under the 2008 Planning Act system. To date 92% of NSIP projects have been determined on time.

The Presidency's recently proposed amendments to the proposal are an attempt to move the text in the right direction, but given the significant level of outstanding concerns it seems very unlikely that a General Approach will be achievable on 6 June. While we support the objective of streamlining complicated procedures, the Government believes that the proposal is disproportionate and would not wish to support a General Approach while it includes the current provisions on a single competent authority. Although it remains possible that the proposal could be sufficiently amended to meet the concerns of many member states (including the UK) ahead of the Transport Council, we do not think that this is likely to take place. Your Committee will of course wish to retain the proposal under scrutiny until negotiations are further advanced, and I also appreciate that you would not wish to grant a waiver on the basis of the current position. However, I would be grateful if the Committee could grant a conditional waiver for the possibility, albeit remote, that a last minute compromise is offered which is not prescriptive as to how Member States should organise their planning processes.

I will, of course, continue to keep the Committee informed of progress on this proposal, including the outcome of the 6 June Transport Council whether or not a General Approach is reached, and future trilogue negotiations to reach a deal with the European Parliament.

15 May 2019

Letter from the Chairman to Baroness Vere of Norbiton, Transport Minister for Aviation, International and Security Department for Transport

Thank you for your letter dated 15 May 2019 on the above proposal. The EU Internal Market Sub-Committee considered the letter at its meeting on 23 May 2019 and decided to retain the file under scrutiny.

We understand that some Member States have questioned the EU's competence to act in the area of planning consent. Does the Government share this view? We also remain interested in any feedback provided by the devolved administrations on developments in negotiations.

We would welcome a timely response to this letter, including an update on progress in negotiations, in due course.

23 May 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING HORIZON EUROPE – THE FRAMEWORK PROGRAMME FOR RESEARCH AND INNOVATION, LAYING DOWN ITS RULES FOR PARTICIPATION AND DISSEMINATION (9865/18)

PROPOSAL FOR A DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ESTABLISHING THE SPECIFIC PROGRAMME IMPLEMENTING HORIZON EUROPE – THE FRAMEWORK PROGRAMME FOR RESEARCH AND INNOVATION (9870/18)

Letter from Chris Skidmore MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy and Industrial Strategy

I would like to thank you for clearing the Horizon Europe Decision text from scrutiny on 28 March. In my letter of 20 March, I explained that the vote will be conducted by simplified written procedure, also known as "silence procedure". However, the Presidency subsequently decided that no vote would be held under this procedure.

Instead, the Partial General Approach (PGA) text on the Decision was taken to the Committee of Permanent Representatives (COREPER) on 3 April. After COREPER, the Decision text was put forward to the Agriculture and Fisheries Ministerial Council on 15 April as an item to be signed off without discussion. The agreed PGA text is now available on the Council's website.[4]

The European Parliament adopted its initial position on the Decision text on 17 April. This position is largely in line with the Council's PGA text but says that the legal base should be adapted at a later stage. A final position on selection of the legal base will need to be agreed through interinstitutional discussions between the European Parliament, Council, and Commission.

Below is a response to the other elements in your letter.

Assessment of Decision Partial General Approach text

In our previous correspondence, I set out that the UK was content with the Decision text on 20 March. The policy detail has not changed since then. The possible areas for missions and partnerships have been moved from the Decision text into the Regulation text, meaning that they are subject to full co-decision between the Council and Parliament. However, the specific missions and specific partnerships will be adopted through implementing acts, which have a consultative role for the Parliament rather than one of full legislative co-creation. Furthermore, mobility (transport) research has been integrated into the energy and climate cluster with provisions within the text to allow appropriate flexibility in governance and agenda-setting for those areas of the Programme. Finally, the provisions on widening do not conflict with the UK's objectives on excellence and should promote the development of further excellent research and innovation across Europe.

Negotiations update on Regulation text

There were six trilogue discussions between the Romanian Presidency (on behalf of the Council), the Commission and the European Parliament on the Horizon Europe Regulation. At the sixth trilogue on 19 March, the Presidency reached a common understanding with the representatives of the European Parliament and the Commission. The compromise reached was discussed at COREPER on 27 March. On 17 April, the European Parliament voted in favour of the compromise text in Plenary.

As set out in our Explanatory Memorandum, the UK priorities for the Programme are excellence, openness to the world and EU added value. In our recent request for a scrutiny waiver, I highlighted that the two remaining issues for the UK were on the exploitation of research and innovation funded by Horizon Europe and the remuneration available to researchers in widening countries. I am pleased to confirm that the outcome of trilogues was in line with the UK's policy priorities. The Regulation text on exploitation does not require participants to exploit their results principally in the Union, giving them the flexibility to follow their commercial markets. The Regulation text also includes non-binding language on remuneration of researchers in two new Recitals.

15 May 2019

Letter from the Chairman to Chris Skidmore MP, Minister of State for Universities, Science, Research and Innovation

Thank you for your letter dated 15 May 2019 on the above proposals, which the EU Internal Market Sub-Committee considered at its meeting on 18 July 2019.

We would be grateful for a comprehensive update on negotiations on both the Horizon Europe Decision and Regulation. We remain particularly interested in any developments relevant to conditions for third country participation and future UK association to Horizon Europe.

We would also like to clarify that, while our letter of 28 March 2019 did grant a scrutiny waiver on the Decision ahead of the expected Partial General Approach, both documents remain under scrutiny. We look forward to a response to this letter in due course.

23 May 2019

[4] https://www.consilium.europa.eu/en/press/press-releases/2019/04/15/eu-future-research-programme-council-defines-key-objectives/

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE SPACE PROGRAMME OF THE UNION AND THE EUROPEAN UNION AGENCY FOR THE SPACE PROGRAMME AND REPEALING REGULATIONS (EU) NO 912/2010, (EU) NO 1285/2013, (EU) NO 377/2014 AND DECISION 541/2014/EU (9898/18)

Letter from Chris Skidmore MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy and Industrial Strategy

I am writing to provide you with an update on the progress of this draft regulation, following that which was provided in February.

Following the COREPER meeting on Friday 22nd February, at which the Romanian Presidency was given a mandate for its proposed compromise text, a second trilogue took place on Tuesday 26th February between the European Council, Parliament and Commission. The Council reached an agreement with the European Parliament on a compromise text at this second trilogue.

The EU Council Presidency stuck closely to the 19th December and 22nd February COREPER mandates with the exception of a few changes for the sake of compromise. These included the following:

- A positive change was the deletion of 'defence' in Article 4 as one of the objectives of the overall programme. As a result, the text leaves less room for a wholesale application of the restrictive security rules in Article 25 and therefore more scope for third country participation;
- The language setting out the ability of entrusted entities such as ESA to use their own procurement rules is now less firm following a change in the text of Article 13. While unhelpful, the change does not prevent entrusted entities from using their own procurement rules and was considered by the Presidency to be a vital compromise allowing for other Council text to be preserved;
- Owing to Commission concerns with regard to affording ESA greater competency over the components of the EU space programme, new text was inserted in the chapeau of Article 31 (on the role of the European Space Agency). The new text added an unhelpful condition, but 'shall' was retained in the provision ("ESA *shall* be entrusted with the following tasks …"), protecting ESA's overall role.

As the Presidency stuck closely to the mandate, most of the compromise changes were supported by the UK with the UK providing support for the agreement at a COREPER meeting on Friday 8th March. All other EU Member States, with the exception of one Member State (on account of a disagreement over Article 5 relating to Access to Space), also provided support for the agreement.

The Space Regulation file moved on to General Affairs Council on 19th March (alongside other Multiannual Financial Framework (MFF) files), when a letter was also sent from the Council to the EP, laying out the state of play for the MFF files. A state of play on the Space Regulation file will finally be voted on at a Plenary session in the EP on 17th April. To that end, the text of the Regulation has now been published.[5]

The articles relevant to third country participation were not included in the General Approach text. As it stands, the bracketed text allows for third country participation agreements to be struck for Galileo, Copernicus and EGNOS. This is with the exception of Galileo's Public Regulated Service (PRS), where, under Decision 1104/2011/EU, the UK would be able to negotiate an access agreement as a third country, but would not be permitted to participate in any security and PRS-related development which would enable access to all security-related sensitive information that allows assurance of system performance.

The bracketed text currently also allows for participation in GovSatCom, though under stricter rules than the other programmes (the text indicates that third countries can only participate in GovSatCom when they enter into an agreement laying down detailed rules for access to data and a framework for

[5] https://www.consilium.europa.eu/en/press/press-releases/2019/03/13/eu-shapes-its-future-space-policy-programme/

exchanging and protecting classified information), and access to SST services (though not necessarily participation – this will be subject to the text included in the bracketed articles).

As indicated, the core articles relating to third country participation in the programme (Articles 7 and 8) remain bracketed and have therefore been excluded from the provisional agreement. They will instead be considered as part of horizontal negotiations, alongside similar clauses across other programmes. This approach also continues to apply to the budget allocation and funding provisions for the space programme (Articles 11 and 22) and Article 25, which governs industrial participation in sensitive contracts relating to the 'essential security interests of the Union'. Article 25 remains a key concern given its potential to limit future UK industrial involvement in the programme.

Furthermore, Article 32 is partially bracketed as there is a suggestion to amend the text to say that the implementation of Copernicus services by entrusted entities, such as the European Centre for Medium Range Weather Forecasts (ECMWF) which is based in Reading, should be performed in sites located in the EU. We will continue to work with EU Member States, ESA and other entities to try to achieve the best text possible for these articles.

1 May 2019

Letter from the Chairman to Chris Skidmore MP, Minister of State for Universities, Science, Research and Innovation

Thank you for your letters dated 26 and 28 February, and 1 May 2019 on the above proposal. The EU Internal Market Sub-Committee considered your letters at its meeting on 27 June 2019.

We note that discussions on key aspects of the text from a UK perspective, relating to third country participation and protection of essential security interests, have been separated from general negotiations. Please update us on when these discussions are expected to resume as it becomes clearer. In the meantime, could you provide information on the positions taken so far by other Member States on these matters? Could you also provide more detail on the nature of Council attempts to modify the draft text in relation to Copernicus activities (Article 32), highlighted in your letter of 28 February?

How much information is available on the costs of participation in EU space programmes as a third country?

We would be grateful also for further information on the "unhelpful condition" added to Article 31, mentioned in your letter dated 1 May.

Lastly, we would welcome the Government's view on the role of the EU-ESA Space Council in European space policy, in the light of the Space Council's recent meeting after an eight-year gap.

We have decided to retain the file under scrutiny. We look forward to a response to this letter within 30 working days.

27 June 2019

PROPOSAL FOR A COUNCIL DECISION ON THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION, IN RESPECT OF THE FIRST EDITION OF THE INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES ON ENVIRONMENTAL PROTECTION - CARBON OFFSETTING AND REDUCTION SCHEME FOR INTERNATIONAL AVIATION (OTNYR)

Letter from Baroness Sugg, Transport Minister for Aviation, International and Security, Department for Transport

I am writing further to the unnumbered Explanatory Memorandum and accompanying letter on the above proposal, which you cleared from scrutiny on 21 November 2018. You will recall that the proposal was classified as 'limité' and publishing it at that time could have affected ongoing

negotiations in ICAO. This letter provides you with details on the final Council Decision which is now in the public domain.[6]

The Council Decision 2018/2027 was agreed on 29 November 2019 and set out how EU Member States must respond to ICAO State Letter AN 1/17.4 – 18/78, which asked States to notify ICAO of the differences between their national regulations and the CORSIA Standards and Recommended Practices (SARPs).

As agreed in the Decision, in their responses to the ICAO State Letter all the EU Member States including the UK reiterated their strong support for the efforts undertaken within ICAO to make CORSIA operational as soon as possible.

The responses explained that the EU is currently in the process of translating the CORSIA monitoring, reporting and verification (MRV) requirements into Union legal acts under the EU Emissions Trading System (ETS). However, certain technical differences to the CORSIA SARPs needed to be filed to allow for the continuation of the EU ETS alongside CORSIA during the monitoring phase and to acknowledge that not all the provisions for CORSIA could be implemented within the timeframe. The majority of the MRV requirements can be implemented through implementing regulations (2 implementing and 1 delegated acts), however to implement certain MRV requirements and the offsetting requirements would require a revision of the EU ETS Directive, and this could not be achieved before the short time limit set by the State Letter.

To implement the CORSIA MRV requirements, the Commission has amended the EU ETS Monitoring and Reporting Regulation (MRR) and the Accreditation and Verification Regulation (AVR) via an implementing act. In addition, the Commission has also published a delegated act on 6 March to apply the amended MRR and AVR to flights outside of Europe. An Explanatory Memorandum 7252/19 has been prepared on this delegated act and accompanies this letter.

10 April 2019

PROPOSAL FOR A COUNCIL DECISION ON THE POSITION TO BE ADOPTED, ON BEHALF OF THE EUROPEAN UNION, IN THE INTERNATIONAL TELECOMMUNICATION UNION (ITU) WORLD RADIOCOMMUNICATION CONFERENCE 2019 (WRC-19) (OTNYR)

Letter from Margot James MP, Minister for Digital and the Creative Industries, Department for Digital, Culture, Media & Sport

The proposed Decision sets out positions to be adopted on behalf of the EU in relation to ten of the WRC-19 agenda items. These are items where revisions to the Radio Regulations agreed at WRC19 are deemed capable of decisively influencing the content of Union legislation in the areas of air and maritime transport and internal market policies. It provides that Member States shall do their utmost to ensure that any relevant amendments to the Radio Regulations are consistent with EU law and do not bear any prejudice to its future foreseeable development.

DCMS laid an un-numbered EM in Parliament on 5 April 2019 regarding the proposal.

Discussions at working group level have progressed quickly, and there is broad support for the aims of the proposal among most Member States. The Romanian Presidency plans to bring forward the timetable for this draft Decision and hold a vote to approve the Decision at the Telecommunications Council on 7 June. In advance of this it will present a draft compromise to COREPER on 22 May in order to check whether there is enough support among Member States to proceed for a Ministerial vote. I am writing to provide an update on the progression of the draft.

WRC-19 Agenda

The agenda for WRC-19 contains over thirty items and issues covering wireless and broadband connectivity, satellite services, transport and scientific use of radio spectrum. As such they have the potential to influence a variety of Government policies, including the government's 5G and wireless

[6] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018D2027&from=EN

connectivity agenda, growth ambitions for the satellite sector, transport and technological developments such as the Internet of Things, defence and science.

The EU is a "sector member" of the ITU, not a full member, so it is unable to negotiate on its own behalf. The Commission's proposed Decision binds Member States to negotiating positions to be adopted on behalf of the EU in relation to ten of the WRC-19 agenda items identified as able to affect common EU rules or alter their scope in the areas of air and maritime transport and internal market policies. The Commission's right to do this was established in a previous legal case concerning positions of EU Member States at the WRC in 2015. These items are as follows:

Item 1.8 - This item considers regulatory reforms to support Global Maritime Distress Safety Systems (GMDSS) modernisation, by introducing a second provider of GMDSS services in the 1.6 GHz band. The aim of the proposed Decision is to protect the radio astronomy service when introducing a second GMDSS provider.

Item 1.9.1 - The objective of the item is to promote safety at sea by maintaining the integrity of the maritime Automatic Identification System (AIS) and the functioning of the Global Maritime Distress and Safety System (GMDSS) against the growing number of autonomous maritime radio equipment that uses spectrum designated to the AIS without fully respecting AIS requirements. The proposed Decision is aimed at supporting this objective.

Item 1.9.2 – This item seeks modifications of the Radio Regulations, including new spectrum allocations to the maritime mobile-satellite service, to promote safety at sea by improving traffic and information management, via a new VHF data exchange system (VDES) satellite component, while ensuring compatibility with existing services. The proposed Decision is aimed at supporting this objective.

Item 1.10 – This item is expected to review spectrum needs and possibly make changes to the Radio Regulations, to enable the introduction of the Global Aeronautical Distress and Safety System (GADSS) in line with International Civil Aviation Organisation (ICAO) requirements. The proposed Decision is based on the view that an implementation of GADSS does not need new allocations of spectrum.

Item 1.12 - This item considers possible global or regional spectrum allocation for the implementation of Intelligent Transport Systems (ITS). The proposed Decision to promote soft harmonisation through the instrument of ITU-R Recommendations without change to the Radio Regulations.

Item 1.13 - The most high-profile issue being addressed at WRC-19. It will identify spectrum bands at global level for International Mobile Telecommunications (IMT), to support 5G services worldwide. Under this item decisions will be made on the bands to be globally harmonised (among those, 26 GHz, 37.5-43.5 GHz and 66-71 GHz are the most likely to be agreed) and on the conditions that will be applied on these bands to allow co-existence with existing services - in particular satellite, earth observation and defence. These decisions on sharing conditions will determine the extent of limitations on IMT services. The proposed Decision is mainly focused on defining sharing conditions and is being developed to ensure the protection of other services in these bands.

Item 1.16 and Issue 9.1.5 – These item considers additional spectrum allocation to Wi-Fi use (1.16) and coexistence conditions between Wi-Fi and other services (9.1.5) in the 5GHz band, while considering other uses of these bands, including radars, Copernicus, road tolling, and Intelligent Transport Systems. The proposed Decision is being developed with the aim of ensuring protection of existing services in various parts of the 5GHz band.

Issue 9.1.1 – The items is aimed at assessing the relationship between the terrestrial component of IMT and the satellite component of IMT in order to avoid interference within the same bands. The proposed Decision aims at supporting protection of mobile satellite services from harmful interference by terrestrial components of IMT located outside the Union.

Item 10 – This item deals with the agreement on proposals for the provisional agenda for WRC-23. Some proposals have already been put forward, but most will be decided in the coming months up to WRC-19 taking place in November 2019. The proposed Decision states that, if proposals for items are introduced that may affect Union law or alter its scope, the Member States shall coordinate a position regarding their formulation.

Proposed Decision and UK Implications

The Presidency has set out plans to bring this draft Decision to the Telecoms Council for a vote for adoption on 7 June. The UK will be involved in the finalisation of the Council Decision, and will be able to vote on this, unless the Withdrawal Agreement is ratified before 1 June and the UK enters the implementation period.

Although the text is generally in line with the UK's objectives, there are some areas where we have sought to refine it further. The UK has sought to ensure greater flexibility for UK negotiators to deviate from the requirements of a Council Decision when negotiating regulatory limits to protect services in the 26GHz band. In association with like-minded Member States, we have also sought greater flexibility for negotiators to ensure countries can allocate additional spectrum for WiFi in the 5275 – 5850 band on a national basis. The latest text makes this possible provided compatibility with existing users can be shown. The UK has worked with like-minded Member States to either avoid the inclusion of any proposals for an agenda item at WRC-23 addressing the protection of Galileo from amateur radio services, or takes into account the protection of amateur radio services if it is included. The latest text supports consideration of a future agenda item, but does not require Member States to support such proposals outright.

As the proposed Decision on most of these agenda items now broadly aligns with the UK's preferred approach, I intend to vote in favour of adoption at Telecoms Council on 7 June. I understand that the current text also has the broad support of most Member States.

EU Exit Considerations

The applicability of these positions to the UK during WRC-19 will be dependent upon the timing and conditions of UK exit from the EU. If the Withdrawal Agreement is ratified, the UK will be bound by the Council Decision during the Implementation Period. If no Withdrawal Agreement is ratified and the UK leaves the EU without a deal, the UK will not be bound to these positions at WRC-19.

I hope this is helpful and trust it provides sufficient information for your scrutiny of this Decision.

21 May 2019