



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 August – 31 December 2018

EU EXTERNAL AFFAIRS SUB-COMMITTEE

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PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE EUROPEAN DEFENCE FUND (10084/18)

Letter from Stuart Andrew MP, Parliamentary Under-Secretary of State and Minister for Defence Procurement, Ministry of Defence

Thank you for your letter dated 20 July 2018 on the Explanatory Memorandum (EM), submitted by my predecessor Guto Bebb MP on 27 June 2018, regarding the above document. I acknowledge that you have retained the file under scrutiny.

You asked me to explain further the changes in the Regulation since last year's EM on the launch of the European Defence Fund (10164/17, COM(2017) 295) submitted on 10 July 2017. Last year's EM related to the launch of an initiative called the European Defence Fund, which was composed of two separate elements; the European Defence Industrial Development Programme (EDIDP) and the Preparatory Action on Defence Research (PADR). These were essentially 'pilot' schemes, intended to run between the 2017-2020 period, to inform the draft proposed regulation for the EDF that we now have in front of us. If approved, this will cover the next Multi-Annual Financial Framework (MFF) period 2021-2027.

In bringing together the PADR and EDIDP into one regulation for the 2021-2027 MFF, the more open research eligibility terms have been revised. Multinational research organisations, such as NATO's Centre for Maritime Research, would no longer be eligible to participate under the proposed EDF regulation's terms. We judge that this would be to the detriment of the Fund's capacity to deliver innovative and international science and technology projects.

Moreover, there is now a single definition for a non-associated third country and the proposed terms are more restrictive than those applied to the recently agreed EDIDP regulation. Whilst the text does allow participation by derogation for non-associated third country subsidiaries based in the EU, which means that companies like Fokker, Hagglands and potentially MBDA would be eligible for funding, the conditions under which this is permissible are stricter and more limited than the final version of the EDIDP regulation. Finally, beneficiaries and their subcontractors involved in the action may also cooperate with undertakings established outside the territory of the participating countries, or controlled by third countries, or third country entities. This could include use of their assets, infrastructure, facilities and resources. However, the derogation only applies if this is necessary for achieving the objectives of the action. This is an additional test above that of the EDIDP, which could prove difficult to meet in practice and the related costs would not be eligible for funding.

More positively, and unlike the PADR and EDIDP regulations, there is an Associate Country section in the proposed future EDF regulation. However, this is limited to "*European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA).*" Thus Iceland, Liechtenstein and Norway are now eligible to participate, but the UK is not. It is also more constrained than the third country associate language in the HORIZON Europe regulation which explicitly welcomes third party participation.

Turning to your second point, regarding elements of the EDF with which the Government does not agree, and your linked third point about complementarity between other activities and the EDF. The Government does indeed broadly support the intent of the EDF. The European defence sector is fragmented across national borders with substantial inefficiencies and duplications. We support efforts to address this by increasing collaboration which will also help achieve economies of scale and greater interoperability. Indeed, the UK has a strong history of collaborative defence programmes.

We do have concerns that it could be implemented in a way which is very inward-looking and protectionist, and it has long been our position that this will not promote a competitive European defence industrial and technological base. As I have set out above, the Regulation as currently drafted makes it unattractive for third-parties to participate in programmes under the EDF. We believe this will damage the ability for the programme to deliver the best capabilities at the best value for money for ourselves and European partners. My officials are taking part in a series of 'Friends of Presidency' groups, under the Austrian presidency of the European Council, which is where discussions are taking place on proposed wording changes and where we will make our case for a more open and outward-looking regulation.

Turning finally to your question on the role of the Commission in decision-making. Defence is, and will remain, a national competence. The terms of the EDIDP, to which Earl Howe's statement in his letter of 9th October 2017 related, were resolved to our satisfaction in the final agreed text of the Regulation. As for the draft proposed EDF regulation there will need to be some movement in the current text to return to the negotiated outcome for the EDIDP. The Commission have acknowledged that they are not experts in defence and Member States have been clear that they should retain their national autonomy therefore we believe this movement is possible. I predict this being a key area of negotiation as the EDF regulation proceeds through the legislative process.

I hope this letter provides the answers you need and I wish you a pleasant summer recess.

1 August 2018

Letter from Stuart Andrew MP, Parliamentary Under-Secretary of State and Minister for Defence Procurement

You have already received an update from my officials regarding the progress of the European Defence Fund (EDF) through the European legislative process, following what was intended to be the final Friends of Presidency (FoP) meeting on 25th and 26th October. You will therefore be aware that there is still some way to go in negotiating the text of the Regulation and very little time in which to do so, if we are to meet the ambitious timetable of the Austrian Presidency.

The issue of third country restrictions on the ownership of IPR (in Articles 22 and 25) remains outstanding and my officials will continue to press for changes in these last negotiations.

I am conscious that this is the last time your Committee will consider this file before the partial General Council approach will be voted on and that things may change in the interim. I understand that you will therefore be unable to undertake due diligence in order to release the file from scrutiny in time for the vote. Consequently, I would like to formally request a scrutiny waiver which will allow UK officials to negotiate for our best interests between now and then, and to vote in accordance with the latest position at the time

8 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE NEIGHBOURHOOD, DEVELOPMENT AND INTERNATIONAL COOPERATION INSTRUMENT (10148/18)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

Thank you for your letter of 20 July about our Explanatory Memorandum (EM) regarding the proposal to establish the Neighbourhood, Development and International Cooperation Instrument.

Taking your questions in order, first, the UK is open to contributing to the EU's external programmes and instruments, where it is in our mutual interest to do so. If we choose to fund EU external programmes in future, it will be because we think that working with the EU is the best way to achieve a particular UK priority. The White Paper identified peace and security, humanitarian aid and migration as thematic areas where there is a strong case for close collaboration but the UK is also open to collaboration elsewhere. There will continue to be areas where we can achieve more by acting in concert than they we would do alone.

Our work in determining where we will look to collaborate with the EU will continue to evolve as negotiations with Taskforce 50 progress and as discussions on the structure of the next Multiannual Financial Framework (MFF) become clearer. The UK will critically assess the rationale for close collaboration depending on the situation and be rigorous in assessing whether each contribution to the EU offers value for money. Now that the White Paper has been published, we must move at pace to negotiate our proposal with the EU, working to reach a substantive agreement on the Future Framework alongside the Withdrawal Agreement this autumn. We remain confident of reaching agreement on these by October.

Second, you ask about oversight. If the UK makes a financial contribution to an EU instrument, this would need to be underpinned by a shared framework that would enable an appropriate level of participation and oversight, including a say over how our funds are used. We would need governance arrangements that ensured both parties could shape the activity covered, recognising these will need to respect the autonomy of the EU's decision making. This will be subject to negotiations with Task Force 50 on the Future Framework and at EU28 on the MFF where the governance arrangements for the NDICI and other external instruments are still under negotiation.

You also asked about what influence ACP countries will have over the spending of funds. The MFF negotiations started in June, based on the Commission's proposals for the MFF external instruments, and will continue until at least April 2019 as the Commission plans to finalise the MFF for 2021-2027 before the EU Parliament Election in May 2019. The MFF will be discussed at upcoming Council meetings and at EU Parliament over the coming months. The question about ACP countries' influence has not yet been part of the initial technical discussions between the Commission and the EU member states.

You asked about the EU's ability to disburse funds, and on the UK's ability to co-operate with the EU's post-Cotonou Agreement. It is important that the regional partnerships within post-Cotonou and the NDICI geographic pillars enable coherent working between the EU and African, Caribbean and Pacific (ACP) regions. The MFF negotiations include technical discussions on the NDICI within an ad-hoc NDICI Working Group. However, the issue about changes in geographical pillars under the NDICI and the EU's ability to disburse funds efficiently has not been on the agenda for the initial technical discussions between the EU and EU member states.

Given that the final post-Cotonou agreement is also yet to be negotiated with ACP countries, we cannot provide a definitive position on the whether UK's ability to cooperate with it will be impacted. The MFF negotiations will continue after the August break, at least until April 2019, including discussions at Council and Parliament.

Finally, you asked about the implications of the changed structure of EU foreign policy instruments for the UK's stated intention to co-operate with the EU. As it says in the White Paper, "we want to use our tools and privileged position in international affairs to continue to work with the EU on foreign policy security and defence". We will do this where it makes good sense and where it is in our mutual interest.

3 August 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter dated 3 August 2018 regarding the proposal to establish the Neighbourhood, Development and International Cooperation Instrument. This was considered by the External Affairs Sub-Committee on 13 September 2018.

We appreciate the additional information provided in your letter. We have one further question, to which we would be grateful for your response, as below.

What impact would, in your view, the consolidation of separate EU foreign policy instruments into one have on the UK's ability to co-operate with the EU on a case-by-case basis?

We have decided to clear the above document under scrutiny. We look forward to your response in the usual 10 working days.

21 September 2018

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE
COUNCIL ON TRADE AND INVESTMENT BARRIERS | JANUARY 2017 - 31 DECEMBER
2017 (10554/18)

**Letter from the Chairman to George Hollingbery MP, Minister of State for Trade Policy,
Department for International Trade**

Thank you for the Explanatory Memorandum (EM) dated 11 July 2018. This document was cleared at the Chairman's sift, and the External Affairs Sub-Committee considered it at their meeting on 6 September 2018.

In the EM, you refer to the fact that a Market Access Digital Service is currently in development. In correspondence in April, your predecessor explained that the service was currently in "Beta" phase and that "any public roll-out will be dependent on this Beta phase successfully confirming value for money". I would be grateful if you could confirm when a decision on the public roll-out is scheduled to be made.

We look forward to your response in the usual 10 working days.

The Committee would also like to take this opportunity to reiterate its wish to continue to be kept informed, in general terms, of the Government's progress in developing its approach for dealing with trade barriers after Brexit.

10 September 2018

Letter from George Hollingbery MP, Minister of State for Trade Policy

As part of DIT's continuing engagement with Parliament on EU scrutiny matters, I am writing to provide you and your committee with a further update on EU trade policy matters, including an overview of President Juncker's recent State of the Union annual address to the EU Parliament delivered on 12 September.

As with previous letters, this update summarises ongoing progress in EU trade negotiations and legislative trade files. No update is provided on files where there has been no progress.

In response to the outstanding follow up question from your committee on the trade and investment barriers report (EM 10554/18), concerning when a decision on public roll-out of the Market Access Digital Service is due to be made, DIT officials can confirm that beta testing for the MADB is underway with a sample of overseas Posts. This will be extended to others as our confidence in the service increases. This is due to conclude by January 2019, at which point we will assess its effectiveness before considering full roll out – including extending the system to business. DIT aim to make a decision on full roll-out to business in April 2019.

23 October 2018

Letter from the Chairman to George Hollingbery MP, Minister of State for Trade Policy

Thank you for your letter dated 23 October 2018, which the External Affairs Sub-Committee considered on 29 November 2018.

Thank you for answering our question. We look forward to receiving further updates about the Government's progress in developing its approach for dealing with trade barriers after Brexit in due course.

29 November 2018

JOINT PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE UNION, AND PROVISIONAL APPLICATION OF THE FRAMEWORK AGREEMENT ON PARTNERSHIP AND COOPERATION, BETWEEN THE EU AND ITS MEMBER STATES, OF THE ONE PART, AND THE GOVERNMENT OF MALAYSIA, OF THE OTHER PART (10755/18)

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

Thank you for your Explanatory Memorandum (EM) dated 18 July, which was cleared from scrutiny at the Chairman's sif. The Committee had, however, one request and one follow-up question.

In line with the request made as part of its consideration of the EM on the Singapore PCA, the Committee would welcome to be kept updated on the role the Government considers political agreements like the Malaysia PCA will play after Brexit.

The EM states that if there is an Implementation Period and the PCA enters into force during that time, the UK would likely need to adopt domestic legislation to ensure that it can apply the PCA, in compliance with the terms of the Withdrawal Agreement. How will the FCO seek to do this in practice? In general terms, what processes does the FCO envisage will need to be followed to translate such international agreements into domestic law?

We look forward to your response in the usual 10 working days

19 October 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 19 October, confirming that the Explanatory Memorandum (EM) dated 18 July has been cleared from scrutiny by the European Union Committee at the Chairman's sif.

The Committee asked about the processes for translating international agreements into domestic law during the Implementation Period.

It is intended that the European Union (Withdrawal Agreement) Bill will make provision for the application of such international agreements to and in the UK during the Implementation Period. The Bill will save and repurpose the powers set out in the European Communities Act 1972 for use where domestic legislation is required during the implementation period.

The Foreign and Commonwealth Office will provide an update on progress of Political Agreements after Brexit.

31 October 2018

PROPOSAL FOR A COUNCIL DECISION ESTABLISHING THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION WITHIN THE COMMITTEE ON GOVERNMENT PROCUREMENT ON THE ACCESSION OF AUSTRALIA TO THE AGREEMENT ON GOVERNMENT PROCUREMENT (11926/18)

Letter from Oliver Dowden CBE MP, Minister for Implementation, Cabinet Office

Following receipt of the formal notification of this proposal on 11 September, the Cabinet Office is submitting an Explanatory Memorandum and Impact Assessment on the above proposal by 30 September 2018 to both EU parliamentary scrutiny committees.

This proposal is being made in the context of the WTO Agreement on Government Procurement (GPA). One of the Agreement's key objectives is the effective and reciprocal opening of government procurement markets which is consistent with the UK's objectives in terms of trade policy and wider policy goals.

It should be noted that Australia's coverage, although significant, is not complete, and therefore the EU has introduced certain specific restrictions or carve-outs from the access to the Union procurement market with respect to Australia as the EU has done in the past for the Parties to the Agreement which offer only partial coverage.

However, the small, limited number and nature of the exclusions from Australia's coverage offer are not significant in the context of the extensive market access commitment made in the final offer.

Unfortunately due to the EU Presidency's tight timetabling to consider the Commission's proposal for a Council Decision on this issue, it will not be possible to seek your clearance ahead of the decision which is due to take place on 9 October given Conference Recess.

I apologise that time constraints prevent full approval, however, the Cabinet Office concludes that it is in the UK's interest to approve this decision within the given timeframe. I am therefore writing to advise you that the Government will override the UK's scrutiny reserve on this occasion.

The UK's failure to support this decision would potentially be perceived as obstructive and unhelpful. We do not want to be seen to delay the accession of another country when the UK is seeking our own accession within a tight timetable. In addition Australia's accession should also help maintain GPA momentum and encourage other countries, such as China, to conclude their accession negotiations.

26 September 2018

COMMUNICATION FROM THE COMMISSION COMMUNICATION ON A NEW AFRICA - EUROPE ALLIANCE FOR SUSTAINABLE INVESTMENT AND JOBS: TAKING OUR PARTNERSHIP FOR INVESTMENT AND JOBS TO THE NEXT LEVEL (12167/18)

Letter from the Chairman to Harriett Baldwin MP, Minister of State, Department for International Trade

Thank you for your Explanatory Memorandum (EM) of 1 October 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 25 October 2018. Your EM did not provide us with all the information we needed to consider the proposal, so we would be grateful for answers to the following questions.

First, the EM only states that the funding is coming from the current and next EU budget. Please provide us with further information about where the €42 billion under the current Multi-annual Financial Framework come from. Are they re-allocated from other EU instruments, and if so, which ones? Or is the new Alliance a re-branding of already existing programmes?

Second, the EM provides very specific outcomes and identifies the number of people that the proposal envisages will benefit from these. However, it is not clear what methodology was used to identify and target the number of people that the proposal says will benefit from the stated outcomes. We would be grateful if you could provide this information.

In particular, the EM refers to the Alliance's goal of creating "up to 10 million new jobs in Africa in the next five years". Which countries are the focus of this policy? What type of jobs will be created? How will the EU ensure this goal will be met? The EM also mentions the goal of having 30 million people "benefit from access to electricity". Which countries and regions are targeted by this? What assessment underpins this selection?

Third, the EM then states that the UK has "a number of programmes across sub-Saharan Africa which work to improve regional economic integration and access to international markets for trade. EU activity in this area should complement the UK's ongoing work in this space and lead to increased economic growth and market access for African countries, and improve the business environment for UK and international investment." It is unclear to us whether EU activity does already complement the UK's ongoing work or not, and which specific UK programmes you are referring to and in which countries. Please provide us with a clarification on the extent to which EU activity is complementary to that of the UK, and with specific examples of the UK programmes across Sub-Saharan Africa that you refer to.

Finally, to what extent does the EU coordinate the new Alliance with programmes by other actors with similar objectives, such as 'Power Africa' by USAID? What level of cooperation is there with the African Union in the design and implementation of the Alliance?

We have decided to retain this document under scrutiny. We look forward to receiving your response within the usual 10 working days.

29 October 2018

Letter from Harriett Baldwin MP, Minister of State

Thank you for your letter of 29 October explaining your decision to retain the communication from the Commission on the new Africa - Europe Alliance under scrutiny and requesting additional information on the proposal.

In order to provide detailed responses to your questions surrounding the funding under the current Multi-annual Financial Framework; the methodology used to identify beneficiaries of the proposal; further details of the '10 million new jobs in Africa' initiative; and cooperation with similar programmes, I have asked officials at the UK Permanent Representation to the EU to meet with their counterparts in the Directorate General for International Cooperation and Development. Due to recent public holidays in Belgium, these meetings have not yet taken place. I will update the Committee as soon as these discussions have been held, which I expect to be within the next two weeks.

You requested further information on the extent to which EU activity already complements the UK's development work in Africa. There are a wide range of areas where we are working towards mutual development objectives. One example is the EU's Africa Investment Platform - a blended finance instrument that delivers investments in key economic infrastructure, such as transport infrastructure, communication, water, energy, agriculture, and private sector development. The Platform is in line with our own efforts to utilise both public and private investment in sectors that create sustainable jobs and provide the economic infrastructure required for increased trade across and economic opportunity for people across Africa.

The UK and the EU are also both members of the Development Partners Coordination Group which supports the delivery of the Comprehensive Africa Agriculture Development Programme, the African Union's strategic policy framework for the agricultural transformation of the African continent. This coordination is helping to promote sustainable development of the agriculture sector across Africa, securing food supply, creating sustainable jobs, and increasing food trade across the region.

The EU, like the UK, is supportive of the African Continental Free Trade area and is working towards regional economic integration through its support to Regional Economic Communities. This is in line with UK initiatives such as Trademark East Africa, which seek to increase trade between countries across sub-Saharan Africa and to facilitate improved access to international markets for African countries.

7 November 2018

Letter from Harriett Baldwin MP, Minister of State

In my letter of 7 November, I promised to provide responses to the remainder of your questions once DFID officials met with their counterparts from the European Commission. You asked where the €42bn for the EU-Africa Alliance under the current Multiannual Financial Framework (MFF) would come from. The Commission have now confirmed that this is simply the existing allocation for Africa under this MFF and that there will be no reallocation or re-branding of funds.

You also asked what methodology the Commission used to determine the number of people who will be impacted by the Alliance. The Commission reported that they formulated their estimates using a variety of methodologies, including: reviewing the expected results of Proposed Investment Programmes (PIPs) submitted by financial institutions to the European Fund for Sustainable Development; and a review of the results achieved on investment and job creation by EU commitments over the period 2013-2017.

On focal countries for the effort to create 10 million new jobs, the Commission stated that they will be prioritising low income and fragile states where investment is higher risk than in middle and high income economies. The Commission will ensure that investment and job creation goals are met by developing Jobs and Growth Compacts with a range of African countries - many are already being negotiated. These will drive joint efforts around value chains with the highest potential for job creation, unlock the potential of the green economy, and support transition to low-carbon and climate-resilient economies.

You asked which countries or regions would be the focus of the EU's efforts to provide 30 million more people in Africa with access to electricity, as well as what assessment had been done to target these countries or regions. Energy is a focal sector for EU development work in a number of African countries, including: Sierra Leone, Ethiopia, Rwanda, Tanzania, and Côte d'Ivoire. Assessment to determine priority countries underpins the Commission's staff working document SWD(2017)482 'Empowering Development – The strategic approach to sustainable energy cooperation in development', published in 2017¹.

You asked to what extent the EU has coordinated with the African Union (AU) in developing the proposal for the Alliance. The Commission has reported that the Alliance proposal builds on the commitments under the trade and investment pillar made at the 5th AU-EU Summit in Abidjan, held in December 2017. The Alliance proposal was discussed with the current AU Chairperson, President Paul Kagame of Rwanda, prior to launch and the active participation of AU and EU Member States in the Alliance's sectoral Task Forces is foreseen.

Finally, you asked whether the Commission plans to coordinate with similar programmes being delivered by other donors, such as the USAID Power Africa initiative. The Commission reported that it plans to ensure that activities under the Alliance complement the work of other donors in the economic development and investment space. On Power Africa specifically, the Commission reported that the initiative is implemented in close coordination with the EU ElectriFI Programme under the framework of an MoU between the EU and the US.

27 November 2018

Letter from the Chairman to Harriett Baldwin MP, Minister of State

Thank you for your letters of 7 November and 27 November 2018 regarding the above document. They were considered by the EU External Affairs Sub-Committee on 13 December 2018.

We are now content to release this document under scrutiny. You do not need to reply to this letter.

13 December 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN COUNCIL, THE EUROPEAN PARLIAMENT AND THE COUNCIL. A STRONGER GLOBAL ACTOR: A MORE EFFICIENT DECISION-MAKING FOR EU COMMON FOREIGN AND SECURITY POLICY (12425/18)

Letter from the Chairman to Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

Thank you for your Explanatory Memorandum of 5 October 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 25 October 2018. We welcome your commitment to keep us updated on further discussions taking place in the EU. We have four questions about the Communication, to which we would be grateful for your reply, as below.

First, we understand that this proposal is of high political significance and that it is only expected to be endorsed after the UK has left the EU. We are concerned, however, that your EM states: "We will need to consider how a change from unanimity to QMV – both through a change in existing practice in line with the treaties, and through the use of the ratchet or passerelle clause - could affect the UK's interests during the Implementation Period." We would have hoped that the Government would have

¹ <http://data.consilium.europa.eu/doc/document/ST-15866-2017-INIT/en/pdf>

started to undertake such considerations already. Please provide us with further information about when the Government will assess the impact this would have on UK interests during the transition period.

Second, how will the EU ensure that decisions taken by QMV will also be implemented by Member States that have not voted in favour, in particular in the field of sanctions?

Third, the Communication sets out the use of an 'emergency brake', where a Member State can object to a decision being taken by QMV for 'vital and stated reasons of national policy', in which case a vote would not take place. This would then lead to a consultation between the High Representative and the Member State concerned. Should this not succeed, the Council of the EU may by qualified majority request to refer the matter to the European Council for a decision by unanimity. What criteria are being used to assess whether the stated reasons of national policy are vital and who makes this assessment? Please also provide us with your assessment of the effectiveness of the process following the application of the 'emergency brake'.

Fourth, the Communication states that "Article 31(4) TEU excludes decisions having military or defence implications from the scope of Article 31(2) TEU, thus ensuring that decision with such implications will not be taken by qualified majority." What is the definition of 'military or defence implications' used in this context?

We have decided to retain this document under scrutiny. We look forward to receiving your response within the usual 10 working days.

29 October 2018

Letter from Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

I am grateful for the Committee's attention on this issue, and for the detailed questions that you have asked about how these proposals would operate if they were brought into force. Discussions remain at a very early stage, and the Commission have not provided further information on their proposals, which means that I am not yet able to provide detailed answers to some of the points that you have raised. However, I will keep the Committee informed as discussions develop ahead of the May 2019 European Council.

You asked for further information about our assessment of the impact of the changes on the UK's interests during the Implementation Period. I should note that it is not clear that EU Member States will agree to the change, or what the timing of its introduction would be if they did. There has been little appetite among EU member states for further internal reform. In addition, the changes proposed apply to specific areas of CFSP, rather than CFSP as a whole. The EU's strategic approach would remain subject to unanimity as currently.

However, if the changes were introduced during the IP, the intention is that it will make it easier for the EU to take decisions in the specific areas referenced in the Commission Communication, where the EU has found difficult to reach consensus. Where the UK agrees with the policy that could be a positive outcome. However, it would also have the effect of making it easier for the EU to agree policies that the UK did not agree with. The UK is committed to a successful and effective CSFP, and we are working to agree a range of mechanisms to allow regular dialogue, cooperation and coordination with the EU on foreign policy during the implementation period.

You asked whether decisions would be implemented by Member States who had voted against them. We expect that decisions adopted by QMV would be binding on both those Member States who voted against it as well as those who voted for it, as would be the case on other policy areas subject to QMV. However, as the Commission Communication notes, there are safeguards in the Treaties in the form of the Emergency Brake, and the commitment that decisions with military or defence implications will not be taken by QMV. The Commission have not yet presented any additional information about how these treaty commitments would operate in practice, so I will write to the Committee as more information becomes available.

24 December 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL SETTING UP A UNION REGIME FOR THE CONTROL OF EXPORTS, TRANSFER, BROKERING, TECHNICAL ASSISTANCE AND TRANSIT OF DUAL-USE ITEMS (RECAST) (12785/16)

Letter from Stuart Andrew MP, Parliamentary Under-Secretary of State and Minister for Defence Procurement, Ministry of Defence

The proposal in question from the Commission is to replace the Council Regulation (EC) 428/2009, which currently provides the legislative framework of EU export controls on dual-use items (i.e. goods, including software and technology, which can have both civil and military applications). This detailed proposal followed an extensive review exercise and consultation period with stakeholders, which commenced in 2011 and attempts to modernise and strengthen controls covering the export of dual-use items, and to take account of the changing environment and evolving threats from technological changes. The proposal in the Commission's words is "ambitious". We submitted an Explanatory Memorandum on this proposal on 17 October 2016.

Further to my department's last specific update of 17 July 2018, on the recast of the Dual-Use Regulation, I would like to bring you up to date on the progress of the dossier, particularly as there has been a push by the current Presidency to conclude the Council negotiations.

We respect the interest of both EU parliamentary committees in this dossier and address here the points raised by the House of Commons European Scrutiny Committee, on Brexit issues related to the dossier when it was discussed at the Committee's 43rd meeting (Session 2017-19) on 31 October 2018.

Update on Progress

The Austrian Presidency have prepared a compromise text that takes into account discussions to date amongst Member States. For the most part the UK is content with the text, though there are some points which we would seek to refine, for example the scope of some EU General Export Authorisations (EUGEAs), the consultation mechanism for catch-all denials and the re-inclusion of the suspicion clause. Principally, the compromise text at Article 8a and Annex V does not address the UK's concerns about autonomous EU controls and a human rights end use control, which we set out in our previous update. The compromise text proposes an autonomous list as set out in Annex V combined with a human rights focused end use control as set out in article 8a; the UK, along with a number of Member States, has concerns with this concept. The UK will not support this proposal where it retains an autonomous EU control list.

There was been a lot of discussion around this key point, but we do not foresee a realistic prospect of this being resolved in the Council through on-going discussions.

The dossier was expected to go before COREPER on the basis of an informal mandate on 5 December and again on 7 December but on both occasions it was pulled. We nonetheless expect the Austrian Presidency to put this to COREPER before the end of their tenure. We will continue to keep the committees appraised on the progress of this file.

Questions related to Brexit

'No deal': In its guidance of 23 August 2018, the Government states that UK and EU operators will require a licence to trade dual-use items if the UK leaves the EU without a deal on 29 March 2019. Furthermore, existing export licences for dual use goods issued in the UK will no longer be valid for UK companies exporting from the EU27 (and vice versa for EU27 companies exporting from the UK using an EU27-issued licence). What assessment, if any, has the Government conducted on: the expected costs to the UK authorities of implementing and enforcing these new licensing requirements; the expected costs to UK exporters/traders (in particular SMEs) of complying with these new licensing requirements; the expected impact on trade flows; and the risks of UK/EU Member State competent authorities not having sufficient time/resource to effectively enforce them?

In a No Deal scenario we would introduce a light-touch Open General Export Licence to facilitate exports to the EU of those dual-use items that currently move licence-free. Companies would only

have to complete a simple, one-time, online registration to be able to use this licence. We believe the costs of doing so would be minimal.

Based on analysis of export licence applications made via SPIRE, the UK's export licensing database, the number of UK export licences issued each year in circumstances where the goods are located in another Member State is very small. Out of about 17000 export licence applications we receive each year, about 150 – 200 are for goods located in another Member State. For goods located in the UK but licensed from another Member State, the number is around 50.

Of these, only those licences which are extant (i.e. currently active licences) on the 29 March 2019 would no longer be valid under a no deal scenario. In these cases, exporters would need to apply for new licences in the country from which the goods were to be exported.

The small number of licences affected means the cost and resource to the UK and EU competent authorities of dealing with them would be negligible. The expected costs to those UK exporters affected by this would be limited to their administrative cost incurred in having to apply for a new export licence in the country where the goods are located. Overall the small number of licences involved means there would be no significant impact on trade flows. We have said that exporters requiring individual licences would be able to apply for these licences in advance of the exit date.

During any implementation/transition period: If the recast Regulation is adopted and enters into force during the scheduled transition period (up to 31 December 2020), what are the expected financial and administrative costs to the UK authorities and to UK operators of its application; and to what extent, if any, would an extension to the scheduled transition period impact the analysis?

Based on analysis by Export Control Joint Unit (ECJU) policy officials, there would be no significant, if any, additional costs beyond the existing running costs if the recast Regulation is adopted during the implementation period. The financial and administrative cost to exporters would not change if the recast Regulation is adopted during the implementation period. The Regulation would still control the same goods and technology that the existing Regulation controls. Even if, based on the Austrian Presidency's compromise text, the adopted Regulation brings a small number of additional goods under control, the financial and administrative costs would be limited to the cost of applying for an export licence. These will not be significant. An extension to the implementation period would not impact on this analysis.

What criteria will the Government use to assess the costs and benefits of UK convergence or divergence from the EU regime (relative to supporting a 'multilateral approach' through the four established export control regimes)?

Both the UK and the remaining EU Member States would be obliged to comply with their international obligations which include implementing controls derived from the four International Export Control Regimes. There may be circumstances, as there are now, where for example for national security reasons the UK would wish to adopt additional, national controls beyond those agreed in the international regimes. We would weigh up the costs and benefits of doing so in the same way as we would now. That would include an assessment of the costs to business and government, the likely effectiveness of the controls in preventing the activity we were concerned about, and the risks (for example to national security) of not taking action. Similarly, should the EU adopt additional controls any decision to follow suit would be based on a similar assessment of the costs and benefits.

What indication has the EU given that it would agree to continued cooperation with the UK in the field of export controls after UK exit, including: the sharing of information on denied export licence applications and related consultation procedures; cooperation on annual updates to the control lists (Annexes I and IV of the Dual-Use Regulation); and simplified procedures for exports of controlled items between the EU and the UK (such as reciprocal open general licences and mutual recognition of licences granted before UK exit/end of the scheduled transition period)?

This will be subject to negotiations for the future relationship. The UK's objective is to maintain the integrity and effectiveness of export controls through Brexit and beyond. Therefore, we will minimise any additional burdens on business and the impact on licensing performance while remaining compliant with relevant international obligations.

The UK would welcome continued cooperation with the EU, particularly on denial notifications issued before Brexit and on continued UK access to the EU mechanisms for denied licences and the related consultation procedures.

Further timetable for negotiations

As indicated above, the Austrian Presidency is now keen to agree a Council mandate for triologue by the end of the calendar year. We will continue to keep the committee informed of any progress on this file.

17 December 2018

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL EUROPEAN DEVELOPMENT FUND (EDF): FORECASTS OF COMMITMENTS, PAYMENTS AND CONTRIBUTIONS FROM MEMBER STATES FOR 2018, 2019, 2020 AND NONBINDING FORECAST FOR THE YEARS 2021-2022 (13232/18)

Letter from the Rt Hon Penny Mordaunt MP, Secretary of State, Department for International Development

I am responding to your request for additional information relating to the UK's recent abstention on European Council decisions on payments to the European Development Fund. All documents referred to in this letter are available on request.

As you are aware, the European Development Fund is a treaty-based fund and we are bound to make the payments in accordance with the treaty and decisions made under it. I instructed my officials to abstain, however, on recent Council decisions on EDF contributions to express my serious concern about the European Commission's discriminatory approach to UK organisations applying to implement EU programmes.

Since the end of 2016, UK NGOs have in a variety of ways been discouraged from bidding for contracts that go beyond the end of March 2019. The Commission has used disclaimers, saying it cannot guarantee funding beyond that date to UK implementers, or explicitly asked NGOs to confirm that they can fund the programmes after March. Clearly it is completely unacceptable that UK organisations, which count among some of the best in the world, are being discouraged from tendering for aid funds to which UK taxpayers make a substantial contribution. This is notwithstanding the continued eligibility of UK organisations and goes against the draft Withdrawal Agreement, which provides for UK organisations to implement Union activities committed during the period of this Multi-annual Financial Framework until their completion.

On 23 August, DFID published a technical notice providing UK NGOs with a funding assurance that, in the event of a No Deal, DFID will fund any humanitarian programmes for which they currently receive EU funding. This vital contingency planning should unlock bidding opportunities for UK organisations and ensure that the UK's world-class development organisations can continue their vital work to deliver for the world's poorest.

I wrote to EU Commissioners Stylianides and Mimica on 23 August asking them to confirm they would cease any discrimination against UK entities (enclosed). Since the Commission has failed to respond to my concerns, I decided not to vote in favour of EDF Council Decisions. On 31 October the UK abstained on a Council Decision on the financial contributions to be paid by Member States to finance the European Development Fund, including the third instalment for 2018 as set out in document 12951/18. The Decision was taken by qualified majority voting (QMV) and was adopted; the UK's payment is now proceeding. I did not however wish to risk jeopardising development programmes by blocking payments agreed by other Member States, and so voted in favour of the use of the written procedure.

This abstention was notified to the Committee on 1 November 2018 (EM 1323218). On 8 November, the UK abstained on a Council Decision on the financial contributions to be paid by Member States to finance the European Development Fund, including the ceiling for 2020, the annual amount for 2019, the first instalment for 2019 and an indicative and non-binding forecast for the expected annual amounts of contributions for the years 2021 and 2022. This was Decision 13429/18, using the same statement as

on 31 October. The UK had agreed these proposals in the ACP Working Group on 24 October (as was the case with the abstention on 31 October: these amounts had also been agreed at Working Group level).

Needless to say, my officials continue to stress the urgency of resolving the issue of discrimination against UK organisations and raise it regularly at the highest levels of the Commission. DFID Director-General, Economic Development and International last raised these issues in Brussels with the Director-General of ECHO on 6 November. The Commission said it was taking this issue seriously and working across EU services to respond to my concerns.

The financial settlement with the EU in December 2017 agreed that the UK would honour all its financial commitments, including the 11th European Development Fund. This is reflected in the Withdrawal Agreement. I recognise that the UK has a commitment to the European Development Fund through being party to the Internal Agreement on the EDF and is bound by the decisions made under it. This includes votes by QMV on contributions. However, while I await the assurances sought from the Commission, I continue to feel unable to vote in favour of the Council Decisions on the EDF.

26 November 2018

Letter from the Chairman to the Rt Hon Penny Mordaunt MP, Secretary of State

Thank you for your letter dated 26 November 2018, which the External Affairs Sub-Committee considered at its meeting on 13 December.

The Committee would welcome being kept informed about the Government's progress in having its concerns over the Commission's contractual disclaimers addressed.

14 December 2018

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EUROPEAN UNION, OF THE INVESTMENT PROTECTION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE SOCIALIST REPUBLIC OF VIET NAM, OF THE OTHER PART (13314/18)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE INVESTMENT PROTECTION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE SOCIALIST REPUBLIC OF VIET NAM, OF THE OTHER PART (13315/18)

Letter from the Chairman to George Hollingbery MP, Minister of State for Trade Policy, Department for International Trade

Thank you for your Explanatory Memorandum (EM) of 5 November regarding the above documents. This was considered by the External Affairs Sub-Committee on 22 November 2018. We have one question to which we would be grateful for your reply, as below.

While otherwise comprehensive, the EM omitted to explain what the UK Government envisages would happen should the Investment Protection Agreement be provisionally applied or ratified after the UK has exited the EU, but before the end of the transition period. Would the UK-Vietnam BIT be suspended? The draft Withdrawal Agreement published on 14 November suggests that this may be the case, given that international agreements should continue to apply to the UK during this period. However, the Committee would be grateful for your confirmation.

We have decided to retain the item under scrutiny. We look forward to your response within the usual 10 working days.

23 November 2018

Letter from George Hollingbery MP, Minister of State for Trade Policy

Thank you for your letter of 23 November 2018 seeking additional information on the EU-Vietnam Investment Protection Agreement (EUVIPA). As you will, no doubt, have noted from paragraph 6 of the Explanatory Memorandum (EM) of 5 November, upon the EUVIPA's entry into force, existing investment agreements between Vietnam and individual EU Member States shall be terminated, or, upon its provisional application, suspended. Annex 6 of the EUVIPA lists the investment agreements which could be impacted and includes the UK-Vietnam bilateral investment treaty.

The European Commission has confirmed that it does not intend to seek provisional application of the agreement. As detailed in the EM, individual EU Member States and Vietnam will have to ratify the agreement. The European Parliament will also need to give its approval. The time necessary to complete these requirements, based on recent precedent, makes it unlikely that the EUVIPA will enter into force before the UK leaves the EU, or indeed before the end of the proposed implementation period (IP).

Article 129 of the Withdrawal Agreement, and the notification proposed in the footnote to that article, will serve as the basis for the continued application of the EU's International Agreements to the UK during the IP. Our future approach to investment with Vietnam will be a matter for discussion in the context of our future bilateral relationship.

7 December 2018

COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE UNION, OF THE PARTNERSHIP AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF SINGAPORE, OF THE OTHER PART (7322/18)

Letter from the Chairman to Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

Thank you for your letter dated 19 July regarding the EU-Singapore Partnership and Cooperation Agreement (PCA). This was considered by the External Affairs Sub-Committee on 1 November 2018.

Your letter provided comprehensive information, which we appreciate. We welcome your commitment to have the Third Country Agreements Unit at the FCO keep us updated on progress made on the role of political agreements after Brexit. Please note that we do not accept the UK's unilateral assertion of the Justice and Home Affairs opt-in to wider political cooperation agreements, such as the EU-Singapore PCA, that include incidental Justice and Home Affairs related matters.

In your letter, you wrote that "the UK will be given the opportunity to comment on discussions on Provisional Application after Signature of the PCA." Given that the PCA has now been signed, could you please update the Committee on the timeline for such discussions?

We look forward to your response in the usual 10 working days.

1 November 2018

Letter from Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 1 November regarding the EU-Singapore Partnership and Cooperation Agreement (PCA). I take note of the Committee's position in relation to the Justice and Home Affairs (JHA) opt-in to wider political cooperation agreements that include incidental JHA-related matters.

You asked for an update on the timeline for discussions on Provisional Application after signature of the PCA. When I wrote to you on 19 July, it was our understanding that the UK would be given the opportunity to comment on discussions concerning Provisional Application following signature of the PCA.

However, since signature, significant differences of opinion have emerged between EU institutions. The institutions now take the view that the differences of opinion, on what could be provisionally applied, may not be resolvable for the purposes of this PCA. In order to avoid a protracted discussion on Provisional Application, it has been suggested that the focus should instead shift to ratification. However,

a decision has not yet been reached. Therefore, at present, there is no formal discussion on Provisional Application scheduled for EU Member States.

I hope that this answers your question and provides further context. As previously stated, the Foreign and Commonwealth Office will provide an update on progress of Political Agreements after Brexit.

15 November 2018

Letter from the Chairman to Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 15 November regarding the EU-Singapore PCA. This was considered by the External Affairs Sub-Committee on 29 November 2018.

The Committee is grateful for your response and would welcome being kept updated on progress of the negotiations around provisional application vs. ratification.

29 November 2018

COMMUNICATION FROM THE COMMISSION PROGRESS REPORT ON THE IMPLEMENTATION OF THE EUROPEAN AGENDA ON MIGRATION (9072/18)

Letter from the Rt Hon Caroline Nokes MP, Minister of State for Immigration, Home Office

Thank you for your letter of 13 July 2018.

You asked for details of the UK's future cooperation with the EU through the EU Trust Fund for Africa (EUTF), aside from seeking continued participation in regional dialogues such as the Rabat and Khartoum Processes.

We have made clear to the EU that migration is an area where we want to continue to cooperate after we leave. This will be discussed as part of the EU exit negotiations. The UK and the EU have already agreed that the UK should continue to participate in the Trust Fund until its conclusion in 2020. That agreement is explicitly reflected in the *Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Article 148)*.

The Trust Fund's Constitutive Agreement makes clear that non-EU donors can participate fully in the governance of the Trust Fund, with voting rights in its Board and Committees. Norway and Switzerland currently participate in the Trust Fund on this basis. The UK Government intends to continue to play a full role in the Trust Fund until its conclusion.

You also asked for further information on how the UK aligns its current bilateral and humanitarian assistance in Africa with EU efforts through the EUTF. The Government treats its engagement with the Trust Fund as a core element of the UK's efforts to address unmanaged migration and its drivers. We work actively with the EU and its Member States on that basis, seeking to support and influence the projects developed under the Trust Fund through our participation in its Strategic Board and Operational Committees, and through less formal engagement with the Commission's Trust Fund managers and their teams, and with EU Delegations in the Fund's regions of operation.

Those engagements also allow us to better coordinate our own bilateral initiatives with those of European and other international partners. For example, we are working closely with the Commission's Sahel and Lake Chad team to ensure full alignment of work under the Trust Fund and DFID's £75M SSS II (Safety, Support and Solutions) programme, which also covers the Sahel and West Africa.

You asked what actions the UK is taking to address the funding gaps in the EUTF. Joint efforts are already underway to address the Commission's projected €1.2bn shortfall for the EU Trust Fund. At the June European Council, EU leaders agreed that the Commission could seek to transfer €500 million from the 11th European Development Fund (EDF) reserve to the EUTF. This required a decision by the EDF Committee, which was reached via written procedure on 16 July.

In addition, the Prime Minister made clear the UK's willingness to provide further bilateral support to the EUTF alongside other Member States during the Council's discussions. However, we are concerned that the Commission may now seek to include discriminatory provisions relating to the post-Exit participation of UK entities in new contracts for the implementation of Trust Fund projects. We wish to resolve this issue before proceeding with any additional UK contributions to the Trust Fund.

In relation to Greece, you asked for the UK's assessment of reported staff shortages, including at Greek refugee camps, and for information on UK bilateral support to address these shortages. Regarding overall resourcing, Member States rely on information from the Greek authorities verified by the Commission and its agencies – especially Frontex and EASO - on a weekly basis. The UK and other Member States coordinate our support to handling what remains a challenging set of conditions on the Greek islands through bi-lateral and multi-lateral dialogues with the Greek Government. Our recent additional bilateral support of interpreters to the Greek Reception and Identification Services was in response to a specific request to the UK from Greece.

You asked about the EU and UK's efforts in Tunisia, due to the increasing number of departures. As you have pointed out, the vast majority of migrants leaving Tunisia are Tunisians, which makes the situation different to that of Libya. The UK and EU partners have both been working to tackle the smuggling networks in Africa, which requires a whole of route approach. The UK has also funded the UN Office on Drugs and Crime to provide additional support to the Tunisian government to tackle smuggling networks.

You asked for updated statistics on refugee flows from Syria into neighbouring countries. UNHCR collates information on latest registrations on a country by country basis but not information on flows across borders. According to UNHCR's online information of 12 July 2018 there were a total of 5,604,005 registered Syrian refugees living outside of Syria. Of this total, only 8.3% were being hosted inside official refugee camps. The rest were being hosted by urban, peri-urban or rural communities in neighbouring regions. Turkey was the largest host, with 3,546,905 registered Syrian refugees; Lebanon was hosting 976,065; and Jordan was hosting 666,596.

You asked if the European Border and Coast Guard Agency (EBCG) has now deployed staff to Albania and to the former Yugoslav Republic of Macedonia (FYROM), and what impact they have had. EBCG teams will be deployed in the regions of Albania and FYROM borders with the EU once the necessary legal procedures have been completed by all sides and the Agreements have entered into force.

You also asked if EU additional support would be offered to Spain to deal with any expected increases in migrant arrivals. We are aware that Spain will be intensifying its existing work with Morocco, while the June European Council also affirmed that efforts should be made on all routes. It also reaffirmed that any additional needs for support should be communicated to the Commission and the relevant agencies through the established channels. It is too early to say if this will lead to further EU operations or projects in the Western Mediterranean which involve Spain. We will be watching such developments closely.

I also note there will be separate consideration of my reply letter on 14473/17 & 15574/17 sent on 8 June, which covered your other questions.

16 August 2018

Letter from the Chairman to the Rt Hon Caroline Nokes MP, Minister of State for Immigration

Many thanks for your comprehensive response, dated 16 August, to the Committee's questions on the EM covering the Commission's Communication on the European Agenda on Migration. The Committee considered your letter at its meeting on 18 October and decided to clear the item from scrutiny

19 October 2018

COMMISSION DELEGATES REGULATION (EU) .../... OF ... AMENDING THE ANNEX TO COUNCIL REGULATION (EC) NO 2271 OF 22 NOVEMBER PROTECTING AGAINST THE EFFECTS OF EXTRA-TERRITORIAL APPLICATION OF LEGISLATION ADOPTED BY A THIRD COUNTRY, AND ACTIONS BASED THEREON OR RESULTING THEREFROM (9831/18)

Letter from George Hollingbery MP, Minister of State for Trade Policy, Department for International Trade

Thank you for the letter of 23 July 2018, following my letter of 15 July 2018. This raised five further questions, to which I am happy to respond to address the Committee's concerns.

I should also like to bring to your attention two outstanding points raised by the House of Commons European Scrutiny Committee in the 33rd Committee report of 27 June 2018, concerning the approval of the delegated regulation and the publication of the Commission's guidance document.

First, would you be able to provide us with the number of UK businesses that are currently doing business with Iran and would be affected by the re-imposed sanctions and the Regulation?

According to the ONS, total trade in goods and services (i.e. exports plus imports) between the UK and Iran was £415m in 2017, a 26.9% increase from 2016. The re-imposed sanctions potentially affect many types of businesses: however, it is not possible to provide precise figures. As I said in my previous letter, in addition to the energy and petrochemical sectors, they relate to banking, insurance, energy, petrochemical, shipping, shipbuilding, port and automotive sectors, and gold and other precious metals; graphite, raw or semi-finished metals (including aluminium, steel and coal). Officials have naturally been in discussion with a number of UK companies that have expressed concern, on a commercial in confidence basis.

The Blocking Regulation serves to protect EU businesses and individuals carrying out lawful activities outside the territory of the United States from the effect of any US sanctions. At this stage, we cannot say how many UK companies will benefit from these provisions.

Second, is our understanding correct that the Blocking Regulation would aim to protect businesses within the EU, but would not be able to protect branches or assets of European businesses in the US?

The Blocking Regulation would prevent penalties imposed by the US on a company incorporated in the EU from being enforceable within the EU. It would not prevent the US enforcing measures against branches of an EU business within the US or against assets of EU businesses held within the US. Similarly, subsidiaries of EU companies incorporated in the US are not protected.

Third, could you please elaborate on how US fines on EU companies would be enforced in the US?

We would advise any company that thinks it may risk breaching US sanctions to take independent legal advice. However, under US law the US Office of Foreign Asset Control could take enforcement action against a company breaching sanctions. If it determines a civil penalty is appropriate it would issue a penalty notice, and if this were not paid this would become a debt due to the US Government and referred to the US Department of Justice for appropriate action to recover. As I said in my previous letter, we have in the past seen very large fines from the US authorities. Again, such a debt would not be enforceable in the EU.

Fourth, what is your assessment of how this Blocking Regulation has worked in previous cases, when applied to US sanctions against Cuba and Libya? What lessons were learnt and taken into consideration when developing the current blocking regulation?

The Blocking Regulation has previously mainly applied to the US sanctions against Cuba. In 1998, the US reached an agreement with the EU and largely suspended the application of these sanctions. The Blocking Regulation itself has not changed significantly since then. The new delegated regulation simply adds the re-imposed US sanctions against Iran to the list of those within scope.

Fifth, which other actions the EU could take to protect EU businesses' trade with Iran, in addition to developing a guidance document?

In addition to the Blocking Regulation and the associated guidance, the EU, the UK and the other remaining parties to the Joint Comprehensive Plan of Action (JCPOA) have committed to work on the preservation and maintenance of the JCPOA and maintaining economic relations with Iran.

The UK Government itself continues to fully support expanding our trade relationship with Iran and encourages UK businesses to take advantage of the commercial opportunities that arise. In coordination with our European partners, we are looking at what we can do to protect UK and European business interests in Iran.

We continually raise with the US the need to make allowance for continued economic ties between Europe and Iran – including legitimate UK business – to ensure we can meet our obligations under the JCPOA.

As in other markets across the globe, the Department for International Trade has a dedicated team working to support UK trade at the British Embassy in Tehran.

In partnership with the EU, we are undertaking intensive expert discussions with Iran that seek to find practical solutions to support European business. These solutions aim to protect European operators, facilitate special purpose finance vehicles and maintain our economic relationship with Iran.

Approval of the delegated regulation

The delegated regulation was agreed by the Council and no objection was raised by the European Parliament. As a result, it was published on 7 August in the EU Official Journal as “Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018 amending the Annex to Council Regulation (EC) No 2271/96 protecting against the effects of extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom”,² and has now entered into force.

Commission Guidance Document

The European Commission has also now published in the EU Official Journal the guidance note providing questions and answers on the adoption of the update of the Blocking Regulation, and it is available on their website.³

I appreciate the interest of both Committees in this issue and am happy to answer any additional follow up questions should they arise.

21 August 2018

Letter from the Chairman to George Hollingbery MP, Minister of State for Trade Policy

Thank you for your letter dated 21 August 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 18 October 2018.

Your letter provided comprehensive information, which we appreciate. We request you to keep us updated on further developments relating to the Regulation, and further steps the EU and its Member States may be taking to continue trading with Iran.

19 October 2018

² [OJ L 199I, 7.8.2018, pp. 1–6.](#)

³ [OJ C 277I, 7.8.2018, pp. 4–10](#) and http://ec.europa.eu/dgs/fpi/what-we-do/blocking_statute_en.htm

RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL ON THE
RENEWAL OF THE AGREEMENT BETWEEN THE EUROPEAN ATOMIC ENERGY
COMMUNITY (EURATOM) AND THE KOREAN PENINSULA DEVELOPMENT
ORGANISATION (KEDO) (17833/12)

**Letter from Richard Harrington MP, Minister for Business and Industry, Department for
Business, Energy & Industrial Strategy**

On Monday 19 November, there was a decision made at the Meeting of the Committee of Permanent Representatives (COREPER II) in Brussels to approve the conclusion, by the European Commission, of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO). I am writing to inform you that the United Kingdom voted in favour of approving this decision.

Euratom Member States, including the UK, have been full members of KEDO since 1997. The main objective of KEDO was the provision of two nuclear light water reactors to North Korea, as part of international non-proliferation efforts on the Korean Peninsula. As a result of North Korea's failure to implement its non-proliferation obligations, the operative activities of KEDO were terminated and the 12-year-old secretariat closed on 31 May 2008. KEDO's Executive Board decided not to terminate the organisation immediately, but to maintain it in the form of an empty shell with a secretariat employed on a temporary basis in order to allow it to defend its financial and legal interest and those of its four members represented in the Executive Board (Euratom, Japan, South Korea and the USA). The 19 November decision was the most recent of several renewals.

Your Committee cleared an Explanatory Memorandum about extending the Euratom-KEDO agreement in 2013 (17833/12, Recommendation from the European Commission to the Council on the Renewal of the Agreement between Euratom and the Korean Peninsula Development Organisation (KEDO)). The UK has supported the aims of the negotiations undertaken by the Commission to develop the renewal of the Euratom – KEDO agreement, which continues to seek to protect the interests of Euratom Member States. The UK continues to be strongly supportive of the verifiable denuclearisation of the Korean Peninsula.

The agreement, to which there have been no major changes, is dormant and poses no political, financial or reputational risks to the UK. It does not necessitate the re-engagement with North Korea on this front. It is particularly vital at this juncture that the UK is seen as being a collaborative partner in areas of mutual interest with Euratom Member States, as well as a champion of global nuclear safety. To this end, the decision was made to vote in favour of this agreement rather than abstaining. The decision to vote in favour of the extension of this agreement on Monday's meeting was a cross-departmental one, endorsed by officials from the Department for Business, Energy and Industrial Strategy (BEIS), the Foreign and Commonwealth Office (FCO) and the Department for Exiting the European Union (DExEU).

25 November 2018

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION, ON BEHALF OF
THE EUROPEAN UNION, OF THE PARTNERSHIP AND COOPERATION AGREEMENT
BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART,
AND THE REPUBLIC OF SINGAPORE, OF THE OTHER PART (15223/18)

**Letter from Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign
& Commonwealth Office**

I am writing with regard to the EU Proposal for a Council Decision regarding the conclusion of the EU-Singapore Partnership and Cooperation Agreement (PCA). The Council Decision on conclusion of the EU-Singapore PCA empowers the President of the Council to designate the person(s) empowered to proceed on behalf of the Union to express consent of the Union to be bound by the PCA.

As detailed in the attached Explanatory Memorandum, the proposed Council Decision on conclusion will only be formally adopted by the Council once all MS have ratified the PCA and the European

Parliament (EP) has provided its consent. The Council is being asked to agree the draft Council Decision on conclusion at this stage in order to transmit the PCA to the EP for consent.

This is a procedural matter following the signature of the PCA by Singapore and the EU in Brussels on 19 October 2018.

Unfortunately the proposed Council Decision was issued on 4 December with the intent that the proposed Council Decision be agreed at COREPER on 19 December, and the Environmental Council on 20 December 2018. Officials in Brussels were informed of the COREPER deadline on Wednesday 12 December 2018. In addition, the UK was informed that one Member State had raised questions on the legal basis on 12 December. The outcome of this challenge remains unresolved at the time of writing. The UK wishes to proceed with the proposed Council Decision as issued on 4 December.

As a result of the challenge, it is likely that the proposed Council Decision will be heard at the COREPER scheduled for 7 January 2019. Due to the UK parliamentary scrutiny committees' timetables for December and January, I regret that I find myself in the position of having to agree the proposed Council Decision before your Committee has had an opportunity to scrutinise the documents.

As you know, the responsibility to keep your Committee informed on issues regarding the EU-Singapore PCA is something I take seriously and the need for the override of scrutiny on this occasion is regrettably unavoidable.

20 December 2018

**COUNCIL DECISION ESTABLISHING PERMANENT STRUCTURED COOPERATION
(PESCO) AND DETERMINING THE LIST OF PARTICIPATING MEMBER STATES
(14866/17)**

**Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the
Americas, Foreign & Commonwealth Office**

Ahead of the launch of PESCO and bringing this formally to the Scrutiny Committee, I thought it would be helpful to set out some background on the initiative and UK involvement to date.

PESCO is provided for in the Lisbon Treaty, introducing the possibility for EU Member States to strengthen their cooperation in military matters. In June 2016, when the EU agreed the European Global Strategy, the PESCO debate was re-launched with a call on Member States to 'make full use of the Lisbon Treaty's potential'.

Under PESCO, groups of participating Member States can work together to pursue specific capability projects. PESCO is voluntary and works on an opt-in basis. In July this year, France and Germany released a draft notification letter to encourage participation by Member States. There are plans to make PESCO projects eligible for up to 30% of their funding from the Commission's European Defence Fund. As a result, PESCO may increasingly become the primary avenue for military capability development between Member States.

In the margins of the 13 November Foreign Affairs Council with Defence Ministers (FAC(D)), 23 Member States signed an agreed notification letter (copy attached) marking the first step in the establishment of PESCO. The UK - along with Denmark, Ireland, Malta and Portugal - did not sign this notification.

The UK has supported the ambition of PESCO to develop military capabilities that address the shortfalls in EU and NATO contexts. As the Rt Hon Earl Howe affirmed at the FAC(D), we welcome PESCO as a tool to support the development of capabilities that Europe needs for its security, provided it remains complementary to NATO and encourages EU-NATO cooperation. The UK approach reflects our continuing commitment to European defence and security, and protecting the interests of UK industry.

The UK has consistently said that if it is to be successful, PESCO must be designed in a way that strengthens the relationship with NATO and promotes an open and competitive European Defence industry. In line with our position, we are encouraging Member States to develop PESCO to be open to third country participation, especially for the UK and our defence industry, where there is clear value in doing so. It is also important to us that projects carried out under PESCO arrangements should

remain Member State-owned and that the capabilities delivered are available not only to the EU but can also be used in support of NATO and UN operations.

As PESCO develops, it is possible that projects are developed that the UK would find it beneficial to join. So we are looking into how the UK or UK industry might join projects in the future. This will be particularly important if, over the coming years, PESCO becomes the principal format for capability cooperation in the EU. This policy is still under development as detailed discussions on third party access have been deferred until after the launch of PESCO.

The Secretaries of State for Defence and Foreign and Commonwealth Affairs have joint interest in UK policy towards PESCO. The Secretary of State for Exiting the EU will also have an interest in how this initiative progresses as the UK leaves the EU.

In terms of next steps, the expectation is that PESCO will be officially launched at the December Foreign Affairs Council (11 December) via Council Decision, to then be endorsed at the December European Council (14 December). We received yesterday an informal draft version of the Council Decision text that has not yet been to the RELEX committee for discussion. As soon as I am able, I will update the Committee with a copy of the draft Council Decision text to adhere to scrutiny processes.

23 November 2018

COUNCIL DECISION (CFSP) 2018/... OF ... IN SUPPORT OF THE UNITED NATIONS VERIFICATION AND INSPECTION MECHANISM IN YEMEN (OTNYR)

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

Thank you for your Explanatory Memorandum (EM) dated 21 August 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 6 September 2018 and released from scrutiny.

We nonetheless have a number of questions, to which we would be grateful for your response, as below.

First, we note that under the draft Council Decision, the first half of the financial support for UNVIM will run until March 2019. However, the extension of the EU's contribution for a further six months will be subject to Member State approval either in the immediate run-up to or after the UK is scheduled to leave the EU. We would be grateful if you could set out whether and how the UK would continue to provide support to UNVIM after Brexit, including in the case that there is no transition period under a 'no deal' scenario.

Second, the EM also states that "the UK has provided £1.3m to UNVIM in 2018/19". It is not clear whether this amount refers solely to any bilateral aid provided to UNVIM, or whether it includes the UK's proportion of the overall EU contribution set out in the Council Decision. We would welcome confirmation of what the £1.3m figure refers to.

We look forward to your response in the usual 10 working days.

10 September 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 10 September, confirming that the EU-Sub Committee on External Affairs considered the above document and decided to clear it from scrutiny. You also raised some questions, however, on funding and the impact of the project following the United Kingdom's departure from the European Union.

The continuation of and the subsequent impact on the project following the UK's departure from the European Union is something we are reviewing. The UK would consider providing bilateral funding to UNVIM after March 2020 based on the assessment of the merits of UNVIM's performance and the continuing need for the mechanism to facilitate the flow of commercial goods into Yemen's Red Sea ports.

I also welcome the opportunity to clarify the figure. The £1.3m refers solely to funding we are providing bilaterally to UNVIM in 2018/19. The UK is providing £170 million in aid to Yemen in total this Financial Year.

20 September 2018

**COUNCIL DECISION ON A TWO-YEAR EXTENSION OF COUNCIL DECISION
2012/392/CFSP ON ESTABLISHING A EUROPEAN UNION CSDP MISSION IN NIGER
(EUCAP SAHEL NIGER) (OTNYR)**

**Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for
Europe and the Americas, Foreign & Commonwealth Office**

Thank you for your Explanatory Memorandum (EM) dated 30 August 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 13 September 2018.

While the Committee cleared the item from scrutiny, it does have some follow-up questions.

First, given Niger's strategic importance to the UK's efforts in combating terrorism and organised crime, it would be grateful if you could provide the Committee with further information about the Government's plans for future engagement with Niger in case of a 'no deal' Brexit.

Second, your EM notes the challenging environment in which EUCAP Sahel Niger operates and refers to a European Court of Auditors' report that raised concerns over the management of the Mission. The EM also points to a number of recent operational improvements, such as the implementation of a reinforced Mission Support Platform. The Committee would like to be provided with information relating to any recent strategic review of the mission, including the methodology used to measure its effectiveness.

We also note that the EM states that "the Council adopted the decision to extend the mission's mandate until 30 September 2020", but your officials have confirmed that this is not the case and that the decision is still subject to approval.

We look forward to your response in the usual 10 working days.

21 September 2018

**Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the
Americas**

Thank you for your letter of 21 September, containing follow-up questions on the Explanatory Memorandum covering the two-year extension of the European Union's CSDP Mission in Niger, which cleared Scrutiny on 13 September.

You asked about the Government's plans for future engagement with Niger in case of a 'no deal' Brexit. As Prime Minister Theresa May announced in Cape Town on 28 August, the UK is actively stepping up its engagement across Africa, including in the Sahel region. As part of this new activity we will open an Embassy in Niger – the first ever in-country diplomatic presence to be staffed by British diplomats and other British government officials. Planning and preparation for opening and staffing this new Embassy in Niamey is currently in its preliminary stages.

A Strategic Review of EUCAP Sahel Niger was carried out in the Spring of 2018, and subsequently published (Document EEAS (2018) 336). The Review, which is an internal document not subject to scrutiny, was developed with relevant European External Action Service (EEAS) and Commission experts and the EU Special Representative for the Sahel. Consultations were held with the Nigerien authorities, EU Member States and key partners (notably the United States) and informed by a mission to Niger led by officials from the Crisis Management and Planning Directorate (the department within the EEAS responsible for the strategic planning of civilian CSDP Missions).

As with the Strategic Reviews of all CSDP Missions, the Review considered the delivery of identified outcomes of success. It found that the Mission had made some achievements, but that a revision of four of its strategic objectives was needed to reinforce the sustainability of the Mission's work. The Review was clear, though, that this should not be at the expense of the delivery of the Mission's overall core

mandate. The Mission has contributed to the training of the Nigerien internal security forces, and this will continue along with the consolidation of support to Nigerien security actors to tackle terrorism and organised crime through entrenching the expertise gained through the training. The Mission will also seek to foster Nigerien political ownership, which is required for the implementation of reform.

I regret that the language used on the date of the decision's adoption has caused confusion. The Council decision currently under your scrutiny will eventually adopt the Political and Security Committee's political agreement to the Mission's extension, once agreed by all EU Member States.

2 October 2018

COUNCIL DECISION AMENDING DECISION (CFSP) 2017/1869 ON THE EUROPEAN UNION ADVISORY MISSION IN SUPPORT OF CIVILIAN SECURITY SECTOR REFORM IN IRAQ (EUAM IRAQ) (OTNYR)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

I am writing with regard to the EU Council Decision concerning the proposed 18 month extension to the EU Advisory Mission in Iraq in support of civilian Security Sector Reform (SSR).

The mission's first Strategic Review was formally presented to the Political and Security Committee of the Council (PSC) on 13 July 2018, which recommended that the current mandate be extended by 18 months to allow for continued progress on civilian SSR. PSC agreed this recommendation. A corresponding budget uplift is required.

As detailed in the attached Explanatory Memorandum, EU support for Iraqi-led civilian SSR is in line with our National Security Council priorities for Iraq, which were agreed in 2017: protecting the UK from terrorist threats; defeating Daesh and limiting any future insurgency; and working towards a more resilient Iraqi state. Reforming Iraq's security sector is central to all three of these priorities. A representative, capable and inclusive civilian security sector that is responsive to all Iraqis will be critical in helping to address the legitimate grievances that led to Daesh's rise and to build a more stable and inclusive Iraq.

The mission's current mandate expires on 17 October. I understand that just before recess started my officials contacted the Committee secretariat, as it became clear that the timing of adopting this item would be constrained. My officials worked with the Committee secretariat to ensure that the Committee received this document as early as possible. However, the parliamentary recess and the Council's adoption timetable have meant that your Committee will not have time to consider the documents for clearance prior to adoption. Given the importance of agreeing for the mandate to be extended, I regret that I must therefore override scrutiny on this occasion and agree to the adoption of the Council Decision before your Committee has had an opportunity to scrutinise the documents.

As you know, the responsibility to keep your Committee informed on issues concerning Iraq is something I take seriously and the need for the override of scrutiny on this occasion is regrettably unavoidable.

16 October 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your Explanatory Memorandum (EM) of 21 September 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 18 October 2018.

We are disappointed by the lack of information provided in your EM, which does not allow us to adequately consider the proposal. We have a number of questions to which we would be grateful for your reply, as below.

First, your EM does not set out what specific results the mission has brought about since its inception last year, and what assessment the extension of the mandate is based on. Please provide us with your

assessment of the mission's specific achievements so far, and with an overview of what specific actions will be undertaken during the next 18 months.

Second, your EM helpfully explains that "reforming Iraq's Security Sector is central to all three" of the UK's foreign policy priorities in Iraq. In addition to the UK's support for EUAM Iraq, please provide us with further information about how the UK is bilaterally supporting security sector reform in Iraq.

Third, your EM states that "We support an EU role in Iraq which takes a focused approach to SSR, is firmly based on Iraqi need, and which complements existing efforts on the ground carried out by individual EU Member States, the Global Coalition and other international actors." Is it the Government's assessment that these objectives are sufficiently addressed by EUAM Iraq?

Fourth, the budget contains a considerable increase of costs, which entails almost doubling the number of mission staff "to fulfil the mission's mandate effectively". What gaps is this staff increase seeking to address to make the mission more effective? What expertise are the additional staff expected to bring to EUAM Iraq and what work would they undertake?

Fifth, the EUAM mandate extends beyond the date of UK exit from the EU. To our disappointment, the EM does not address this at all. Would the UK be interested in participating in the mission as a third country after Brexit, unless a closer level of co-operation were to be agreed between the UK and the EU? What plans has the UK Government made for its bilateral relations with Iraq after Brexit?

We have decided to retain the item under scrutiny. We look forward to your response within the usual 10 working days.

19 October 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 18 October, confirming that the EU-Sub Committee on External Affairs had considered the above document. You raised a number of questions about the mission and its proposed mandate extension, which I will address in turn.

First, you asked for an assessment of the mission's results since its inception. So far the mission has provided strategic advice on the civilian aspects of: the Iraqi Countering Violent Extremism Strategy; the Ministry of Interior's five year Strategic Plan; the Federal Intelligence and Investigation Agency's Modernisation Plan; and the drafting of national laws. In advising the Ministry of Interior and the Office of the National Security Adviser, the mission has directly contributed to efforts to prevent renewed causes for further conflict. Furthermore, the mission has provided strategic coordination and coherence with other international actors in Iraq, established a mapping function to identify opportunities for future EU engagement on SSR, and has promoted human rights and gender equality across the above areas. On this basis, we assess that the mission made effective progress in its first year. You also requested an overview of the specific actions that will be undertaken during the next 18 months. Please see a list of the mission's planned activities in Annex A.

Second, you asked for more information on how the UK is bilaterally supporting SSR in Iraq. Through the Conflict, Security and Stability Fund, British Embassy (BE) Baghdad is advising Iraqi decision makers, including the National Security Adviser, on a governance framework that promotes formal Iraqi structures and appropriate command and control. We are also promoting, through a reform programme, the professionalism of the Ministry of Peshmerga Affairs as a formal institution which should support Iraq's security and territorial integrity. The UK Ministry of Defence is working directly with the Iraqi Ministry of Defence to increase its offer of professional training courses in the UK including on Officer development, intelligence, instructor training and on countering corruption. We are seeking to enhance and develop new opportunities on defence education, for both civilian and military personnel. We also support SSR in Iraq through multilateral institutions such as NATO and the Global Coalition.

Third, you asked for the Government's assessment on whether EUAM Iraq sufficiently addresses its objectives to take a focused approach to SSR, firmly based on Iraqi need, and complementing existing efforts on the ground. I can confirm that we assess the mission does address these objectives. Its advisory work with the Iraqi Ministry of Interior and the Office of the National Security Adviser is firmly centered around civilian SSR capacity building, although further work is needed to ensure the long-term

sustainability of the results. The mission's active mapping function is an essential tool for assessing ongoing Iraqi need. And the mission is effectively coordinating with the UN Development Programme, Global Coalition, NATO and the US to promote synergies and coherence on the ground.

Fourth, you asked about the gaps being addressed by the significant increase in staff, what expertise these additional staff will bring to the mission, and what work they will undertake. Each of these queries corresponds directly with the new areas of activity outlined above and in Annex A (actions to be undertaken over the next 18 months). In Iraq, increases in staffing levels lead to considerable uplifts in mission costs because of the resulting increased security costs and high levels of hardship allowance. Member States have expressed their desire for an ambitious reinforcement of the mission, and this increase in staffing will provide the capacity to deliver against the mandate whilst also ensuring sufficient resilience, including during regular staff breather breaks.

Last, you asked whether the UK would be interested in participating in the mission as a third country after Brexit. The UK is unequivocally committed to European security and supports a continued mandate for EUAM Iraq. Our potential future participation in the mission as a third country contributor is currently subject to Withdrawal Agreement negotiations. The first Strategic Review of EUAM Iraq authorised the participation of Third States, which was subsequently discussed at PSC on 16 October 2018 in relation to inviting Australia and Canada contribute to the mission given their ongoing involvement on the ground in Iraq. Noting that many civilian missions suffer from staffing gaps, it was agreed that the EU should take advantage of Third States who are willing to provide valuable expertise. Following Brexit, the UK Government intends to continue its current bilateral relations with Iraq, including on SSR, counter-Daesh and military support, humanitarian aid and stabilisation. We will continue to re-evaluate our bilateral relations as the new Government of Iraq beds in over the coming months.

2 November 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 2 November regarding the above document. This was considered by the External Affairs Sub-Committee on 15 November 2018.

Your comprehensive letter contained the information we were looking for and we are content to clear the document from scrutiny. You do not need to reply to this letter.

15 November 2018

COUNCIL DECISION AMENDING AND EXTENDING DECISION 2010/96/CFSP ON A EUROPEAN UNION MILITARY MISSION TO CONTRIBUTE TO THE TRAINING OF SOMALI SECURITY FORCES (OTNYR)

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

Thank you for your Explanatory Memorandum (EM) of 9 October 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 25 October 2018. We have a number of questions to which we would be grateful for your reply, as below.

First, while the EM details the activities carried out by the mission, it does not set out what specific results it has brought about – the EM simply refers back to the Strategic Review without providing much detail on what this contains. While the Committee understands that the Commission does not wish Government Departments to share copies of Strategic Reviews, it would nonetheless be helpful if all EMs covering CSDP mandate extensions provided information on the key findings relevant to an extension decision, so that the Committee can effectively conduct its scrutiny work. This approach was previously agreed by the Committee and the FCO, but has unfortunately not been followed with recent EMs. I would be grateful if you could provide this information for this particular EM and all other EMs in future. I would also be grateful if you could provide us with your assessment of the mission's specific achievements so far.

Second, the EUTM mandate extends beyond the date of UK exit from the EU. To our disappointment, the EM does not address this in much detail. Would the UK be interested in participating in the mission as a third country after Brexit if a closer level of co-operation cannot be agreed between the UK and the EU? What plans has the UK Government made for its bilateral relations with Somalia after Brexit?

We have decided to retain the item under scrutiny. We look forward to your response within the usual 10 working days.

29 October 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 29 October, confirming that the External Affairs Sub-Committee considered the above document and decided to retain it under scrutiny, pending responses to some further questions.

Strategic Review recommendations

You asked for more details about the specific results of the EU Training Mission (EUTM), as identified by the Strategic Review. This was a holistic review of CSDP engagement in Somalia and the Horn of Africa, covering Operation ATALANTA (an anti-piracy mission) and EUCAP Somalia (which builds maritime security capacity) alongside EUTM.

The Review noted that the EU has invested extensively in Somalia, and that some progress towards peace, stability and prosperity has been made. However, it remains deeply fragile and faces multiple challenges; more remains to be done to build long-term stability and prevent significant political and security reverses. The Review further concluded that 2019-20 (the proposed time period for the mandate extension) would be a formative period for Somalia, which should see considerable progress in the transition of security responsibility from the African Union Mission in Somalia (AMISOM) to Somali-led security forces. It also noted the inherent risk in formulating CSDP options for a fragile state as far as the end of 2020, and so proposed deliberately adaptive and flexible options for the renewed mandate.

In its assessment of EUTM's impact, the Review praised its recent efforts to refocus on the provision of collective training and reshape its advisory role. It noted that the mission has contributed to capacity-building in the Somali security sector by realising a renewed, better structured and output-oriented approach to directly support the Somali National Army (SNA). Key achievements here have included establishing and enhancing cooperation with the new Somali political and military leadership, UN Support Office in Somalia (UNSOS) and AMISOM; providing collective training to integrated SNA light infantry units; providing "train the trainer" courses to the SNA to support country-wide Somali training delivery; contributing to the co-location of the SNA and MOD General Staff; and improved security conditions for EUTM personnel.

The Review's recommendations for future activity focus on building Somali capacity to take over security responsibility from AMISOM. It suggests the mission's focus should be on its advisory role, including priority work with the General Staff to build Command and Control and logistical capacities as the main cause of SNA operational ineffectiveness; and with the MOD to support the establishment of civilian oversight and control. Alongside this, it proposes continued mentoring and advice to support the establishment of a Somali-owned training system.

I judge these recommendations to be a sensible assessment of EUTM's impact to date and future priorities for Somali security sector reform. In particular, it is positive that the Review makes repeated reference to the security agreements made at the 2017 London Somalia Conference, and the need for coordinated work by the international community to implement these. The Review's recognition of the many risks and challenges involved in operating in Somalia is also reasonable, and it is positive that whilst trying to propose a strategic direction for work up to 2020, they also recognise the need to remain responsive to the situation on the ground.

Implications of Brexit

You also asked for more information on UK plans for engaging with EUTM after Brexit. HMG's future position on participating in Common Security and Defence Policy (CSDP) missions is subject to ongoing

Future Security Partnership discussions, and the broader Withdrawal Agreement negotiations. We cannot speculate on our possible future involvement while negotiations continue. Once discussions have concluded we will endeavour to update the Committee.

Whatever our future position on CSDP, the UK will remain a leading partner for Somalia. We are one of the top three donors, with a broad range of engagement which includes considerable bilateral support for security sector reform. We are also the only EU Member State which maintains an Embassy in Mogadishu. We will continue this active engagement after Brexit, and ensure that we continue to coordinate closely with EU partners in Somalia.

14 November 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

I am writing with regard to the above Council Decision.

Unfortunately, there has been a change of timelines in Brussels: we had expected adoption of the renewed mandate to take place in December, but are now coming under pressure to lift our reserve and support renewal of the mandate prior to a force generation conference on 22 November which sees EU Member States commit resource to EU Common Security and Defence Policy military missions and operations. Delaying the mandate approval at this stage would bring substantial reputational risk both with the EU and Somali stakeholders, and would be at odds with our public stance as we continue to lobby for international support to Somalia. This means that I will need to agree to support the renewal of EUTM's mandate before your Committee has had an opportunity to scrutinise the further information which we have provided.

As you know, the responsibility to keep your Committee informed on issues concerning CSDP missions is something I take seriously and the need for the override of scrutiny on this occasion is regrettably unavoidable. As you will see from my separate response to your questions, the mission is making a difference in Somalia, and has an appropriate strategic direction for the next two years.

15 November 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 14 November regarding the above document. This was considered by the External Affairs Sub-Committee on 29 November 2018.

Your comprehensive letter contained the information we were looking for and we are content to clear the document from scrutiny. You do not need to reply to this letter.

29 November 2018

UPDATE ON THE EUROPEAN DEFENCE AGENCY BUDGET 2019 (OTNYR)

Letter from Stuart Andrew MP, Parliamentary Under-Secretary of State and Minister for Defence Procurement, Ministry of Defence

I am writing to update you on the latest negotiations on the European Defence Agency (EDA) budget for 2019. The process for agreeing this year's budget has departed from the usual protocol, largely due to the Agency's response to the ongoing uncertainty around the UK EU Exit deal. In contrast to previous years, we do not have an agreed budget for 2019 at this stage.

We received the formal proposed increase for 2019 from the Head of the Agency, Federica Mogherini, on 28 September 2018. This proposal requested an uplift to the budget of 7.7% on the 2018 level, an increase from €32.5 million to €35 million.

The Defence Secretary considered that this proposal was unacceptable and instructed that the UK should block any increase to the EDA budget. We presented this position at the EDA Preparatory Committee on 20 November. At the same meeting Member States were presented with an alternative

budget, which assumed there would be no deal between the UK and EU and that the UK would not continue contributing beyond our withdrawal from the EU on 29 March 2019. Several Member States made clear they were not able to accept this no-deal proposal without further detailed discussion. Therefore no consensus agreement on the 2019 budget was reached at the Committee.

Following this, an emergency budget was circulated under silence, which proposed a rollover of the 2018 budget for the first three months of 2019. This proposal was reflective of the UK position that there should be no increase, and we have voted to agree that arrangement at this time. The EDA confirmed on 11 December that the necessary threshold had been reached for the budget to have passed by qualified majority.

We can expect this position to be reviewed at the latest in March 2019, possibly whilst the UK is still a member state of the EU and hence the EDA. However, it is possible that the final budget may be subsequently presented for agreement by the EDA Steering Board after March 2019, given the need to reflect the final arrangements for the UK's withdrawal, at which stage the UK would no longer be involved in the decision. At that point the EDA may ask the remaining Members to roll over the budget at its current rate for the rest of 2019, or return to its earlier proposal for an enhanced budget to reflect the increase in activity.

Under the terms of the draft Withdrawal Agreement between the UK and EU, we have agreed to continue contributing to the EDA budget in 2019 and 2020 during the Implementation Period, on the existing contribution key. This would mean the UK would continue to contribute around 16% of the Agency's budget in these years, but not beyond. This would include paying our share of any increase to the budget agreed after we exit the EU.

We will continue to work with the EDA as a full participating Member state until the close of March 2019, including by playing a full part in any budget discussions which occur while we are still a member of the EDA. As the Committee will be aware, the UK has also signalled its intention in the text of the draft Political Declaration to seek an Administrative Arrangement with the EDA post EU Exit. Should we do so, then beyond the implementation period we would not be expected to contribute to the central budget, but would contribute on a project-by-project basis.

We will write to the committee with further details on the ongoing negotiation process as any further developments arise.

13 December 2018

COUNCIL DECISION AMENDING DECISION (CFSP) 2013/233 ON THE EUROPEAN UNION INTEGRATED BORDER MANAGEMENT ASSISTANCE MISSION IN LIBYA (EUBAM LIBYA) (OTNYR)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

In my Explanatory Memorandum of 27 November, I promised to provide you with a full assessment of the budgetary and financial information for the mission mandate renewal as soon as I received them. I enclose them here as an annex to this letter (Not published here).

4 December 2018

Letter from Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

I am writing with regard to the EU Council Decision amending Decision (CFSP) 2013/233 on the European Union Integrated Border Management Assistance Mission in Libya (EUBAM Libya), which will expand the objectives of the mission and extend the mandate to June 2020.

As detailed in the Explanatory Memorandum submitted on 27 November, the Mission is at a pivotal point in its development - adapting from its original mandate, which held an emphasis on planning and mapping - to a focus on operational delivery. EUBAM Libya has developed a "light presence" in Tripoli,

which has enabled the Mission to enhance its mapping of the relevant Libyan actors and to increase its overall engagement with Libyan partners on the ground. This preparatory work will hold the mission in good stead to deliver on its new objectives. It is therefore important that the UK is able to continue to support the EU Council in its decision to extend the mandate.

It is therefore necessary to renew the mandate before the current mandate expires on 31 December. Failure to do so will have a severely negative impact on the mission, effectively halting operations. Without a mandate there will be no legal cover, therefore employees will have to be sent home. Moreover, the failure to renew the mandate and the impact this will have on the mission would be damaging to the reputation to the EU and UK Government.

Unfortunately the draft Council Decision was written so close to the renewal date that the decision needs to be agreed very quickly. Though the House of Commons European Scrutiny Committee cleared the item from scrutiny on 5 December, I regret that I find myself in the position of having to agree to the adoption of this Council Decision before your Committee has cleared the item for scrutiny.

Your Committee has previously expressed concern that renewals of this type are not considered earlier in the EU, reducing the possibility of the documents being scrutinised. This is something that I continue to be mindful of and I have instructed my officials to continue to raise these concerns with colleagues in the EU. As you know, the responsibility to keep your Committee informed on issues concerning EUBAM Libya is something I take seriously. However the need for the override of scrutiny on this occasion is regrettably unavoidable.

13 December 2018

DRAFT COUNCIL DECISION AMENDING AND EXTENDING EUROPEAN UNION CSDP MISSION IN MALI (EUCAP SAHEL MALI) (OTNYR)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

I am writing with regard to the draft Decision to amend and extend Council Decision CFSP 2014/219/CFSP concerning the EU's Capacity Building Mission in Mali (EUCAP Sahel Mali) from 14 January 2019 to 28 February 2019.

As detailed in the Explanatory Memorandum, EUCAP Sahel Mali has been operational since January 2015 and has made good progress against its overall objective of building the capacity of Mali's internal security forces. Activity is focused on four areas: (i) capacity building for tackling terrorism and organised crime; (ii) support activities in border management and addressing migration flows; (iii) provide training to trainees from the other G5 Sahel countries with no CSDP Missions (Burkina Faso, Chad and Mauritania); and (iv) looking to undertake more training in the regions of Mali, away from the central training centre in Bamako.

The UK Government strongly supports the work of EUCAP Sahel Mali. The capacity of the Mali internal security forces (ISF) is weak, and they are therefore not able to provide adequate security for the population. They also face considerable security challenges themselves. EUCAP Sahel Mali is providing much needed capacity building and EU Member States offer a good mix of relevant police training expertise and capacity. The UK believes progress has been made on the ground in delivering the Mission's mandate, whilst acknowledging that the operational context is very challenging given the local conditions and security threats within Mali. It is therefore important that EUCAP Sahel Mali is able to continue its important work until 28 February 2019 in anticipation of approval by the Council of the planning documents on the next phase of the EU's Sahel Regionalisation concept (more detail in the attached Explanatory Memorandum) which is likely have an effect on the mission's future mandate. Information on the future mandate of the mission will be submitted in a separate EM for parliamentary scrutiny. This is a no-cost, time limited technical extension of six weeks only to allow more time for the External Action Service and the Council to consider the impact of Sahel Regionalisation on the mission's future mandate before it is considered for renewal.

The item was cleared by the House of Commons European Scrutiny Committee on 12 December. Unfortunately however, the EU's adoption timetable left insufficient time for your Committee to consider the document. Due to the importance of the work of the Mission, we needed to agree the current mandate extension in order to allow its work to continue. Therefore I regret that I find myself in the position of having to agree to the adoption of the draft Council Decision before your Committee has had an opportunity to scrutinise the documents.

As you know, the responsibility to keep your Committee informed on issues is something I take seriously and the need for the override of scrutiny on this occasion is regrettably unavoidable.

13 December 2018

**COUNCIL DECISION IN SUPPORT OF GENDER MAINSTREAMED POLICIES,
PROGRAMME AND ACTIONS IN THE FIGHT AGAINST SMALL ARMS TRAFFICKING
AND MISUSE, IN LINE WITH THE WOMEN, PEACE AND SECURITY AGENDA
(OTNYR)**

**Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the
Americas, Foreign & Commonwealth Office**

I am writing with regard to the EU Council Decision in support of gender mainstreamed policies, programme and actions in the fight against small arms trafficking and misuse, in line with the Women, Peace and Security agenda.

As detailed in the attached Explanatory Memorandum, the EU wishes to finance a three-year project to strengthen implementation of the UN Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons (UNPoA) and the International Tracing Instrument. It specifically addresses the gender-related action points identified in the Outcome Document of the UNPOA Third Review Conference in June 2018 that relate to strengthening the participation of women in UNPOA implementation processes and addressing the negative impacts of the illicit trade in small arms and light weapons on the lives of men, women, girls and boys.

In order for the Council Decision to be funded from the 2018 CFSP budget, it needs to be adopted by the Agriculture and Fisheries Council on 17 December. This is the final opportunity for the Council Decision to be adopted this year and if it is not then the programme may have to be cancelled. Unfortunately the draft Council Decision was finalised so close to this deadline that it needed to be agreed very quickly. Though the House of Commons European Scrutiny Committee cleared the item on 12 December, it will not be possible for your Committee to consider it in time for the 17 December Council. Therefore I regret that I find myself in the position of having to agree to the adoption of this Council Decision before your Committee has had an opportunity to scrutinise the documents.

As you know, the responsibility to give your Committee the opportunity to scrutinise EU Council Decisions ahead of adoption is something I take seriously and the need for the override of scrutiny on this occasion is regrettably unavoidable.

13 December 2018

**COUNCIL DECISION (CFSP) 2018/1930 OF 10 DECEMBER 2018 AMENDING DECISION
2014/145/CFSP CONCERNING RESTRICTIVE MEASURES IN RESPECT OF ACTIONS
UNDERMINING OR THREATENING THE TERRITORIAL INTEGRITY, SOVEREIGNTY
AND INDEPENDENCE OF UKRAINE (OTNYR)**

**Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the
Americas, Foreign & Commonwealth Office**

I am writing with regard to the attached EU Council Decision and Council Implementing Regulation, concerning the additional listing of nine individuals under Russia Tier II restrictive measures in respect of actions undermining or threatening the territorial, sovereignty and independence of Ukraine. The

Council of the European Union agreed that Russia Tier II measures should be extended to include an additional nine listings and those listings were adopted on 10 December 2018 and published in the Official Journal the same day.

These individuals are being listed for their role in the illegally held 'parliamentary elections' in the so-called 'Donetsk People's Republic' and 'Luhansk People's Republic' on 11 November 2018. This constitutes responsibility for "actively supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty, and independence of Ukraine".

Due to the addition of the above individuals, to avoid the risk of asset flight, I unfortunately found myself in the position of having to agree to the adoption of these measures without being able to follow the normal parliamentary scrutiny process. As you know, the responsibility to keep your Committee informed on issues concerning sanctions is something I take seriously and the need for the override of scrutiny on this occasion was regrettably unavoidable.

13 December 2018

COUNCIL DECISIONS CONCERNING EXTENDING THE MANDATES OF EUPOL COPPS AND EUBAM RAFAH (OTNYR)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas, Foreign & Commonwealth Office

Thank you for your letter of 2 July concerning Council Decisions on EUPOL Copps and EUBAM Rafah. I am happy to provide further information on the issues you outline.

Let me start by offering my apologies that your Committees were not given early sight of the Strategic Reviews of the Missions. The Reviews go through various iterations in different EU Committees to enable them to be agreed between Member States. It so happened that when these Strategic Reviews were finally agreed, it left insufficient time for full Parliamentary Scrutiny before the Missions' mandates would have expired, which regrettably meant that an override was necessary in this instance. My officials in Brussels have reiterated the need to allow sufficient time for Member States to complete the Scrutiny process. I would also like to reiterate to you the importance this Government places on updating your Committee, and assure you that next year we will endeavour to keep you informed of the Strategic Reviews of the Missions before their renewal.

You asked me to provide you with an assessment of recent political developments and an analysis of the context in which the two Missions operate. As you will be aware, the political and security conditions facing both Missions is challenging. The situation in Gaza makes the redeployment of EUBAM Rafah unlikely in the short term. We remain concerned about the recent escalations of violence in Gaza, and welcome the renewed ceasefire between Israel and Hamas. We continue to support the Egyptian-backed reconciliation efforts to see a full return of the Palestinian Authority (PA) to administer Gaza.

We are also strongly supportive of the UN Special Envoy for the Middle East Peace Process (MEPP) Nicolay Mladenov's proposals to improve the situation in Gaza, and hope that developments in this area may enable a redeployment of EUBAM Rafah in due course. We understand that Mladenov's proposals include easing import and export restrictions, increasing the number of permits, and moving forward with large-scale infrastructure projects in Gaza, such as those agreed at the Ad-Hoc Liaison Committee. We are encouraging Mladenov to bring forward more detailed proposals along with proposed timescales so that the international community can support them, and encourage the key stakeholders (Israel, Egypt and the PA) to engage.

EUPOL Copps operates in the context of Israel's occupation of the West Bank, with PA Security Forces having control over limited territory. There remains strong security cooperation between the PA and Israel, to the benefit and safety and security of both Palestinians and Israelis. The Mission continues to assist the PA in building the institutions for a future Palestinian State in the areas of policing and criminal justice under Palestinian ownership and in accordance with international standards. In line with this goal, the EU consensus remains in support of a two-state solution. While the UK was clear that we did not support the US decision to move their Embassy to Jerusalem, we continue to support the US MEPP

initiative which we see as the most viable opportunity to achieve peace, and continue to engage with the US on their plan.

I unfortunately cannot provide cost-benefit analyses of the Missions as these were not carried out as part of the Strategic Reviews. However it is the view of the UK and other EU Member States that there are significant benefits to maintaining our support for EUBAM Rafah and EUPOL Copps and that both the symbolic and practical impact they have is overwhelmingly valuable and in line with UK objectives.

EUBAM Rafah

You asked me to provide you with an update on the frequency of visits of EUBAM Rafah to the Gaza strip and the Rafah Crossing Point, and asked for examples of how the Mission ensures its preparedness to be redeployed. As you know, the security environment in Gaza is highly unstable and any trip must take place in strict compliance with security instructions. There were three visits by EUBAM Rafah staff to the Rafah Crossing Point (RCP) in May/June 2018. A fourth visit scheduled to take place in July was cancelled due to the security situation. The purpose of those visits was to obtain technical data and evaluate how operations are conducted at the RCP in order to produce an overall Technical Assessment as part of the Mission planning for redeployment. The Mission is continually preparing to redeploy to the RCP when conditions allow, through the PA Preparedness Project and work to strengthen the PA General Administration for Border and Crossings (GABC).

You asked me for an assessment of the progress made in the Mission's knowledge of border management. There are good working relationships maintained by EUBAM Rafah with the GABC at all levels and this engagement helps to raise the overall competence of GABC personnel and their adherence towards international standards of practice. The PA Preparedness Project implemented by the Mission remains the only international effort to enhance GABC capacities to redeploy to the RCP and manage it according to international standards.

The training delivered by EUBAM Rafah over recent years has enabled the GABC to strengthen capacities in border management. PA border authorities not able to redeploy from the West Bank to the RCP are currently using Mission trained personnel to perform 24/7 border checks according to international standards at the Al Karama Crossing Point (crossing with Jordan).

Through the implementation of the Training of Trainers (ToT) methodology, EUBAM Rafah continues to support the GABC in establishing its own pool of specialised trainers. The PA trainers are engaged in delivering refresher's courses to GABC personnel present at the RCP, enhancing the long-term sustainability of the intervention by EUBAM Rafah.

We assess that EUBAM Rafah has managed to promote genuine commitment, local buy-in and local ownership, enabling PA border authorities to become the 'owners' of their development policies and projects, in turn further enhancing the long-term sustainability of the Mission actions.

Since the Preparedness Project started, a significant amount of work has been invested in it by both EUBAM Rafah and PA/GABC counterparts. I would be happy to provide more detail on what has been produced.

You asked for an assessment of the preparations for redeployment. We assess that good progress is being made to allow redeployment once conditions allow, and to allow the crossing to be managed more effectively. The GABC has a clear methodology for redeployment at the RCP, and a clear vision about how border control should be implemented and performed, helped by the implementation of the Business Strategies and Action Plans. The GABC now also has enhanced capacity, developed with EUBAM, for short and medium-term planning, in terms of personnel, training and technical needs. It also now has a pool of personnel in the West Bank, well-trained in a wide range of areas, including the examination of travel documents; detecting counterfeit travel documents; anti-terrorism; revenue collection; anti-smuggling techniques; and Intellectual Property Rights. These personnel are currently ensuring the smooth running of Al Karama Crossing to international standards on 24/7 basis and are ready to be redeployed to the RCP once conditions allow. GABC has also developed a sound understanding of the EU approach and standards in the field of border management.

You asked for details about the steps taken by the UK and EU to improve the human rights situation in Gaza. The FCO has recently published its Annual Human Rights Report, which can be read here: <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2017>. This documents human rights abuses by Israel, the Palestinian Authority, and the Hamas administration in Gaza. While we have been clear that Israel has the right to defend itself from Hamas and other terrorist groups, we are deeply concerned about the deteriorating humanitarian situation in Gaza and the impact of Israeli and Egyptian restrictions. This is why we have recently announced funding to UNICEF and the ICRC in Gaza, and brought forward our support to the UN Relief & Works Agency (UNRWA), which is delivering vital services to Palestinian refugees in Gaza.

EUPOL Coppes

You asked what security coordination projects are in place with the Israeli authorities and what their results have been. EUPOL Coppes promotes, coordinates and facilitates a number of joint Israeli and Palestinian workshops, bringing together specialised police departments and prosecution units from both forces. This allows technical exchanges to take place, discussing topics such as legal procedures, local agreements in joint investigations, exchange of criminal intelligence, joint operations and the improvement of continuity of evidence. Additionally, other technical exchanges take place on a regular basis, on topics such as juvenile crime, domestic violence, community policing, traffic, and penitentiary.

These events continue on a quarterly basis subject to the prevailing political environment (they were cancelled for six months following the violence at Al Aqsa in July 2017, and two workshops were postponed following the US decision to move their Embassy to Jerusalem in December 2017), albeit the purpose and content is of a purely technical policing nature. These events remain one of the very few opportunities for counterparts to share understanding and discuss issues of mutual concern. The Mission has recently been able to add prosecution elements into this joint co-operation. The most recent workshop was held on 1 August in Netanya, with participation of both Palestinian and Israeli police officers and prosecutors, receiving training on the chain of custody of evidence. Over the last two years encouragement has been provided for the Palestinian Attorney General's Office (prosecuting authority) to take part, which they did at the most recent event in August. These events are very discreetly managed, are not publicised and are very positively received by counterparts.

EUPOL Coppes will continue to facilitate this cooperation, and intends to establish an even more regular schedule of workshops when the political environment allows.

We would also like to highlight the work undertaken by the British Support Team (through the United States Security Coordination) working in cooperation with the Office of the Quartet and Palestinian/Israeli counterparts to enhance Area B coordination and improve movement and access by the PA Police and security forces to Area B.

You asked for an update on the Law on Police. The introduction of a Police Law was an extensive undertaking over four years. Legislative progress has now been achieved, and the Decree law on the Police was adopted in December 2017. Although adopted, the Law on Police still has some deficiencies, for example allowing for gender discrimination relating to social security, retirement and inheritance. The Mission's view is that the Law does not go as far as it might have in terms of clarifying police primacy, civilian/military status, mandate, oversight and accountability; but it is nonetheless a significant step in adopting legislation where none has previously existed for over 20 years of the Palestinian Police's existence. The Law differentiates the police from other security services in terms of status. The Palestinian Police's status is now 'hybrid', which can be considered a positive step away from the historic 'military' nature of all security forces.

EUPOL COPPS Mission experts are supporting the PA to draft bylaws (secondary legislation) to address some of the issues with the Law, and are working together with PA experts in thematic workshops to advise on implementation and improvements. It is encouraging that Palestinian police activity now has a basic text with provisions we deem satisfactory. However much will depend on the bylaws which are being drafted, and in that sense there is still work to do before the whole legislative framework is in place.

The 2017 Strategic Review recommended that EUPOL Copps concentrate its work on a limited number of districts where its efforts have been most effective. The Mission has taken steps to implement this recommendation. Experts of the EUPOL Copps Mission Police Advisory Section are in regular contact with Police Headquarters and District police stations regarding their area of expertise. The Mission has conducted a district needs assessment, the outcome of which is informing further engagement regarding joining up local operational planning at District level with strategic level planning at Headquarters. To ensure that progress is made in this area, a Senior Police Adviser District Coordinator has been recruited to EUPOL Copps and was deployed to the Mission four weeks ago.

You asked which elements have already been transitioned, and what the criteria are for such a transition. The following elements supported by EUPOL Copps have already been transitioned: support to the Tourist Police; Protection and Guard Unit; and Palestinian Civil Police Logistics Department, and basic training to the Special Police Force. Support to the Traffic Police and internal reorganisation of the Criminal Justice Institutions will be considered for transition by the end of the Mission's current mandate. The criteria for transition is: the development level reached in a given area or activity which is assessed and deemed successful by the Mission, and/or the availability of other EU or international partners available to carry out support where applicable.

While a lack of political will in the PA does remain an obstacle to advancing the necessary legislative and structural reforms, the situation is more nuanced and the pace of reform has not slowed down on all issues. There is a strong will of the PA to engage with the EU, and the EU is considered a significant partner of the PA. As for EUPOL Copps, the Head of Mission meets strategic level PA counterparts on a regular basis. The Mission is confident that progress and reform in the Palestinian police sector is achievable. Some of the other obstacles that do remain are the absence of clear, legally mandated roles and responsibilities within and between the different services, the absence of formalised doctrine, policy and procedure, and concern not to distance the West Bank from Gaza in the event of Hamas-Fatah reconciliation.

Your Committee sought clarity on staff numbers for both civilian missions. According to statistics received from the EEAS, as of 30 April 2018, EUBAM Rafah and EUPOL Copps had a total of 17 and 102 personnel respectively – for Copps this includes international staff coming from 20 EU Member States. These numbers include seconded staff, internationally contracted staff and local staff.

8 August 2018

**COUNCIL DECISION (CFSP) 2018/1544 OF 15 OCTOBER 2018 CONCERNING
RESTRICTIVE MEASURES AGAINST THE PROLIFERATION AND USE OF CHEMICAL
WEAPONS (OTNYR)**

**COUNCIL REGULATION (EU) 2018/1542 OF 15 OCTOBER 2018 CONCERNING
RESTRICTIVE MEASURES AGAINST THE PROLIFERATION AND USE OF CHEMICAL
WEAPONS (OTNYR)**

**Letter from the Chairman to from the Rt Hon Sir Alan Duncan KCMG MP, Minister for
Europe and the Americas, Foreign & Commonwealth Office**

Thank you for your Explanatory Memorandum (EM) of 11 October 2018 regarding the above documents. They were considered by the External Affairs Sub-Committee on 1 November 2018. Thank you also for your override letter, dated 11 October 2018. We appreciate that Council Decisions, in particular those related to sanctions regimes, can be developed in a very short time, which does not always allow sufficient time for parliamentary scrutiny. In your letter you state that parliamentary recess was a factor contributing to the delay. Parliamentary recess ended on 8 October and your EM was submitted on 11 October, together with your override letter. We therefore do not think that the override was caused by parliamentary recess.

We have two further questions related to the sanctions regime, as below.

First, the EU's existing sanctions regime against Syria, for instance, already includes provisions related to the use of chemical weapons. To what extent will the new regime overlap or complement this regime? Second, what would the application of both regimes mean in practice – would individuals or entities be listed under both regimes?

We continue to hold these items under scrutiny and look forward to your response within the usual ten working days.

1 November 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Many thanks for your letter of 1 November 2018 and your ongoing interest in sanctions, and in particular the new EU chemical weapons sanctions regime which was adopted at the EU Foreign Affairs Council on 15 October. This new regime will be an important tool in building the EU's resilience to hybrid threats.

You note that the existing EU Syria sanctions regime includes provisions related to the use of chemical weapons. The EU chemical weapons regime is designed to complement this regime and other international architecture relating to the proliferation and use of chemical weapons (such as the Chemical Weapons Convention). It will do so by allowing the EU to target the proliferation and use of chemical weapons no matter where in the world such activities occur. You will be aware that chemical weapons have been used in other countries in recent years, including Iraq, Malaysia, and the UK.

With regards to listing individuals and entities under both regimes, this is possible, but not automatic. Any decision to add existing Syria listings to the chemical weapons regime would require unanimity from all EU Member States. The listing would also need to meet the (different) listing criteria for the chemical weapons regime. This factor was considered during the development of this sanctions regime, and there is existing precedent for dual listings across EU sanctions regimes. In its 18 October European Council conclusions, the EU stated that it 'looks forward to early progress on listings' in the chemical weapons regime. The Government is keen to see progress on the back of this mandate.

14 November 2018

Letter from the Chairman to from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the Americas

Thank you for your letter of 14 November 2018 regarding the above documents. This was considered by the External Affairs Sub-Committee on 29 November 2018.

We have two further questions related to the sanctions regime, as below.

First, in your letter, you refer to the precedent of dual listings across EU sanctions regimes, but you also state that the listing criteria for the chemical weapons regime differ from those for the Syria sanctions. Could you please specify in which ways the listing criteria for the proliferation and use of chemical weapons under the Syria sanctions regime differ from those under this global regime?

Second, you quote the EU as stating that it "looks forward to early progress on listings' in the chemical weapons regime" and say that "The Government is keen to see progress on the back of this mandate." What does progress on listings look like to the EU and what progress is the Government looking for? Is it the EU's intention to list individuals and entities under both regimes, if both of them apply?

We are looking forward to your response within the usual ten working days.

29 November 2018

COUNCIL DECISION AMENDING DECISION (CFSP) 2010/788 CONCERNING
RESTRICTIVE MEASURES AGAINST THE DEMOCRATIC REPUBLIC OF THE CONGO
(OTNYR)

COUNCIL IMPLEMENTING REGULATION (EU) IMPLEMENTING ARTICLE 9 OF
REGULATION (EC) NO 1183/2005 IMPOSING CERTAIN SPECIFIC RESTRICTIVE
MEASURES DIRECTED AGAINST PERSONS ACTING IN VIOLATION OF THE ARMS
EMBARGO WITH REGARD TO THE DEMOCRATIC REPUBLIC OF THE CONGO
(OTNYR)

**Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for
Europe and the Americas, Foreign & Commonwealth Office**

Thank you for your Explanatory Memorandum (EM), dated 22 November. This was considered by the External Affairs Sub-Committee on 13 December 2018.

We have a number of questions about the context in which this sanctions regime is deployed, as below.

First, your Explanatory Memorandum (EM) states that “political space remains worryingly constrained” and that “we remain concerned about ongoing human rights violations and the political situation in DRC”. Please provide us with further information about and your assessment of the current political climate in the run-up to the elections and the ongoing human rights violations in the Democratic Republic of Congo (DRC).

Second, in your EM you write that the “sanctions are an important part of our toolkit to encourage respect for human rights and progress towards a political settlement.” Please provide us with specific information about the UK’s and EU’s wider approach to the DRC and where the sanctions regime complements other policy measures. Please also provide us with your assessment of where these efforts are complementary to those of the UN mission, MONUSCO, which shares some of the EU’s and the UK’s objectives, and with specific examples of cooperation between the EU, UK and MONUSCO.

Third, your EM sets out the reasons for the establishment of the sanctions regime. What requirements need to be fulfilled for the lifting of these sanctions, and what criteria are applied for the delisting of individuals?

Fourth, what assessment has been made of the effectiveness of the EU’s sanctions regime by either the EU or the UK?

Fifth, please provide us with specific information about how the UK and the EU are supporting the planning for the elections and whether the EU will send an election observation mission. If the EU found irregularities with the electoral process, what measures would it be able to take?

Sixth, if the elections have already taken place by the time you reply to us, please provide us with your assessment of their implementation.

Finally, we have heard recent reports about the security situation in eastern DRC worsening. To what extent do the EU’s sanctions regime and its wider measures aim to address these issues and what is your assessment of progress made to date?

We look forward to your response within the usual 10 working days. In the meantime, we have decided to retain the document under scrutiny.

14 December 2018

**Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister for Europe and the
Americas**

I am writing with regard to the EU Council Decision and Council Implementing Regulation concerning restrictive measures in response to the obstruction of the electoral process and the related human rights violations in the Democratic Republic of the Congo (DRC). The Council Decision and Council Implementing Regulation renew the measures for 12 months until December 2019, and amend the statements of reasons relating to eight listed individuals.

As detailed in the Explanatory Memorandum, with upcoming elections in DRC it is important for the EU to renew these restrictive measures for another 12 months so as to continue to send a strong message to Congolese actors, and above all Congolese authorities and institutions, to play a constructive role in the electoral process. I have received your letter containing questions on the EM and will respond separately.

In this instance, the measures would have lapsed had they not been renewed in advance of their renewal date. Therefore I regret that I found myself in the position of having to agree to the adoption of the Council Decision and Council Implementing Regulation before your Committee had the opportunity to scrutinise the documents.

Your Committee has previously expressed concern that renewals of this type are not considered earlier in the EU, reducing the possibility of the documents being scrutinised. This is something I am very aware of and I have instructed my officials to continue to raise these concerns with colleagues in the EU. As you know, the responsibility to keep your Committee informed on issues concerning DRC sanctions is something I take seriously and the need for the override of scrutiny on this occasion is regrettably unavoidable.

19 December 2018

GENERAL CORRESPONDENCE

TECHNICAL NOTE: TEMPORARY CUSTOMS ARRANGEMENT

Letter from the Chairman to the Rt Hon David Davis MP, Secretary of State for Exiting the European Union, Department for Exiting the European Union

The EU External Affairs Sub-Committee considered at its meeting on 14 June 2018 the document 'Technical Note: Temporary Customs Arrangement', published by the Department for Exiting the European Union on 7 June. The Committee also considered the slides published by the European Commission's Taskforce 50 in response to the technical note at its meeting.

The Committee is currently undertaking an inquiry into the Government's proposed options for UK-EU customs arrangements after Brexit, as set out in the 'Future customs arrangements – a future partnership paper' in August 2017. We therefore have a number of questions about the technical note, to which we would be grateful for your response.

First, the technical note states that those elements of the Common Commercial Policy "that are required to enable the temporary customs arrangement to function" would be applied to the UK. Please provide us with a list of the specific elements that would be applied and of those that would not be applied.

Second, our understanding is that the Withdrawal Agreement is expected to be agreed at the October European Council, to allow for ratification before the UK's exit from the EU on 29 March 2019. The technical note mentions that the Withdrawal Agreement "will be accompanied by, and refer to, an agreed future partnership framework, which would set out the new customs end state arrangement". How will the Government ensure that the future partnership framework will be agreed with the EU by October, given that the Government has not yet put forward a preferred option for negotiation? Is there a disconnect between the expectation expressed in the technical note and the EU's schedule, which foresees negotiations about the future relationship only to begin after 29 March 2019?

Third, the technical note refers to the requirement of "an approach on regulatory standards, which will also need to be addressed". We consider the maintenance of the same regulatory standards between the UK and the EU to be vital to the functioning of the temporary customs arrangement. When does the Government intend to address this issue, given its stated intention to agree the future framework on customs with the EU in October?

Fourth, the note states that "further technical discussions would be required with the EU to explore a shared solution to ensure the UK is able to apply the CET in full, and so that the UK continues to benefit from existing EU FTAs or any new ones signed during the period, and ensure that we remain

WTO compliant.” What progress has been made on these issues in discussions with the EU so far? What assessment has the Government made of the compliance with WTO rules in this regard?

Fifth, the note states that it would in any case “be necessary for the UK and EU to agree a mechanism to ensure that the UK national interest is represented in future FTA negotiations affecting the UK.” What would the Government envisage such a mechanism to look like?

Sixth, the note highlights the UK’s contribution to the development of EU trade and customs rules. It states: “During a temporary customs arrangement, it is important that the UK has the ability to continue to help develop the rules that govern trade and customs policy.” What steps has the Government taken to secure the UK’s ability to continue to help develop rules? What shape would such help take? Please provide us with specific examples.

Seventh, what consideration has the Government given to the implementation of trade defence measures during the temporary customs arrangement? Would they be in line with those of the EU?

Finally, what enforcement and supervision mechanisms would oversee this temporary arrangement?

We look forward to your response on these matters, before the House adjourns for summer recess.

28 June 2018

Letter from Robin Walker MP, Parliamentary Under-Secretary of State for Exiting the European Union, Department for Exiting the European Union

Thank you for your letter of 28 June addressed to the former Secretary of State for Exiting the European Union, Rt Hon David Davis – in which you sought further information regarding the temporary customs arrangement. The points that you raised in the letter are addressed below.

Common Commercial Policy

Under the temporary customs arrangement the UK will be outside the scope of the Common Commercial Policy, except where it is required to enable the arrangement to function and to prevent a hard border between Northern Ireland and Ireland. The exact scope regarding the Common Commercial Policy under the temporary customs arrangement will be a matter for technical negotiations with the EU.

The government’s preferred end state model

On 12 July, the Government published a White Paper setting out a clear proposal for the future relationship we want to build with the EU. On customs specifically, the Government proposes a new Facilitated Customs Arrangement that would remove the need for customs checks and controls between the UK and the EU as if they were a combined customs territory, enabling the UK to control its own tariffs for trade with the rest of the world and ensure businesses paid the right or no tariff. There will need to be a phased approach to implementation of this model, which the UK and the EU will need to agree through discussions on the future economic partnership.

This would meet our shared commitments to Northern Ireland through the overall future relationship with the EU, rendering the temporary customs arrangement unnecessary.

Regulatory standards

The Prime Minister reaffirmed the UK’s Joint Report commitments in her Mansion House speech and in the communique following the Cabinet away day at Chequers. The UK has proposed backstop text on customs to make progress towards this mutually acceptable agreement. Also, in the White Paper published on 12 July, the Government outlined that for the future economic partnership, the UK is seeking to maintain a ‘common rulebook’ on goods regulation with the EU. Agreeing a common EU-UK rulebook will ensure that no border checks will be required on the island of Ireland.

Trade matters

This arrangement would see the UK being able to negotiate, sign and ratify free trade agreements with rest of world partners and implement those elements that do not affect the functioning of the temporary customs arrangement.

The specific mechanism of the temporary customs arrangement, including agreeing a shared solution to ensure the UK is able to apply the Common External Tariff (CET) at the UK's external border, is subject to further consideration and discussion with the EU Commission. As set out in the technical note, to keep pace with any changes to the EU's tariff policy and apply the CET, it will be necessary for the UK to continue to participate in any new FTAs that come into force during the period of the temporary customs arrangement. The details of a temporary customs arrangement will continue to be progressed in a way that ensures we remain WTO compliant.

Participation in rule-making

The UK's participation in EU committees during the temporary customs arrangement and our ability to continue to help develop the rules that govern trade and customs policy is subject to further consideration and discussion with the Commission. We will work with the Commission to develop governance arrangements to ensure that the UK is adequately represented at, and has a voice in, EU committees related to trade and customs.

Trade remedies

We will work with the Commission to develop a suitable solution for the implementation of trade remedy measures in the temporary customs arrangement. The exact relationship between the UK and EU on trade remedies under the temporary customs arrangement will be a matter for technical negotiations with the EU.

Supervision and enforcement

The precise governance mechanisms – including those for supervision and enforcement – of the temporary customs arrangement will be a matter for negotiations. We will work with the EU to develop practical arrangements which ensure that rules are applied appropriately, are interpreted and enforced consistently, and that disputes between the parties related to these rules are resolved effectively. In designing these, it will be essential that the integrity of both the UK and EU legal orders is respected.

I trust this reply – alongside my appearance with Mel Stride MP before the External Affairs Sub-Committee on 19 July to give evidence on the Facilitated Customs Arrangement – has provided the Committee with further clarity on the Government's proposals on customs.

3 August 2018

GEOGRAPHICAL INDICATIONS AND EXCISE

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs

Thank you very much for your response, dated 3 July, to the House of Lords EU External Affairs Sub-Committee's questions on geographical indications and excise. The letter answered most of our questions. There is, however, still one area that was not addressed and where the External Affairs Sub-Committee would welcome some clarification.

Your letter contained a detailed explanation of protection of UK GIs in the UK. It did not, however, explain how UK GIs would continue to be protected across the EU's 27 Member States once the UK leaves the EU. There is reference, in both your response and in the latest Brexit White Paper, to the UK creating its own GI scheme which would be open to non-UK (and, therefore, also EU) applicants. However, what work is the Government undertaking to ensure that UK GIs will also continue to be protected across the EU?

I would be grateful if a response could be provided within 10 working days of receipt of this letter.

19 July 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 19 July regarding the protection of UK geographical indications (GIs) in EU Member States once the UK leaves the EU.

As outlined in my initial response, the UK Government continues to recognise the economic and cultural importance of GIs. Our objective in any trade negotiations is to support the best possible outcome for the UK's GIs and the UK economy as a whole. Negotiations with the EU on GIs are ongoing and all parties involved are working at pace to resolve outstanding areas and provide certainty to stakeholders.

Irrespective of the outcome of negotiations, after the UK has left the EU, we anticipate that all current UK GIs will continue to be protected by the EU's GI schemes. This is because UK GIs are already protected by virtue of being on the EU's GI registers, having earned their right to be there by successfully passing the EU's scrutiny processes.

The current EU legislation means that EU GI protection is indefinite unless specific grounds for the cancellation of GIs from the EU schemes are met. These are: compliance with the GI specification is not ensured; or no product is placed on the market under the protected name for at least seven years. Under most of the EU schemes, producers of the GI, a third country or an EU Member State can also request that a GI be cancelled for these reasons. Therefore, protection will continue automatically in the EU unless the relevant entries are removed from the EU registers on one of the above grounds. None of the grounds for cancellation relate to a change in status from a Member State to a third country.

5 September 2018

POST-COTONOU NEGOTIATING MANDATE

Letter from the Rt Hon Lord Bates, Minister of State, Department for International Development

As promised, I am writing to keep you updated on the adoption of the post-Cotonou negotiating mandate, which took place on Friday 22 June.

In my last letter to you I noted that the adoption date was likely to be at the Foreign Affairs Council (FAC) on 28 May. This was delayed due to debates between Member States on the language concerning migration, and in particular one Member State (Hungary), which was not content with the language proposed by the Presidency. Following further discussions, migration text was proposed which was satisfactory to all Member States, including the UK, and which seeks to present a balanced and coherent approach to the different elements of migration cooperation, with particular emphasis on cooperation with African partners.

There have been no other substantive changes to the text since my last letter where I provided a comprehensive update on the near final draft.

Two documents were recently circulated by the Council Secretariat - the final negotiating mandate text, and a council decision for this text to be made public, both of which the UK voted for. The final text was fully aligned with the UK position, and we supported its publication on the grounds of EU transparency.

The next phase of the negotiations will be between the EU and African, Caribbean and Pacific (ACP) countries, and is due to commence in October. The ACP countries have now finalised their negotiating mandate, but the African Union is yet to reach a position on its own future partnership with the EU. Member States and the Commission are in agreement that the African Union will play a crucial role in the future partnership and that their own position is integral to the negotiations. Once we receive further information after the summer on the African Union position and the calendar for negotiations, I will provide an update accordingly. Member states will be regularly informed by the Commission following each negotiating round with the ACP.

27 August 2018