HOUSE OF LORDS
European Union Committee

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

This edition includes correspondence from 1 October 2017 to 31 December 2017

EU JUSTICE SUB-COMMITTEE

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Letter from the Chairman to Nick Hurd MP, Minister of State for Policing and the Fire Service, Home Office

Thank you for your Explanatory Memorandum dated 19 July 2017 which was considered by the EU Justice Sub-Committee at its meeting of 10 October. We decided to retain the proposal under scrutiny.

With regards to the merits of opting into the proposal, as noted in our previous correspondence of 8 March 2016, the European Criminal Records Information System (ECRIS) has been a very useful instrument in the cross-border fight against crime and terrorism. The report of the European Union Committee, *Brexit: future UK–EU security and police cooperation*, recognised that there is considerable consensus amongst UK law enforcement agencies that access to ECRIS should be maintained. However, currently no non-EU country (including the Schengen countries) has access to ECRIS. In those circumstances, (and given the financial implications), the Government will no doubt wish to ensure that it will have continued access to ECRIS before opting in to this new proposal.

We look forward to notification of your decision, in due course, by the usual means.

Turning to the substantive issues raised by this proposal, we would also be grateful for some additional information.

First, the proposal envisages a difference in treatment between third country nationals (TCN) and EU Citizens. The Government's Explanatory Memorandum makes clear that the Regulation would centralise the identity data of TCN whereas the data of EU nationals would be kept and processed at Member State level. Depending on the outcome of the Brexit negotiations, after March 2019, UK nationals may be treated as TCN.

Differential treatment can be justified under Article 20 of the Charter of Fundamental Rights to the extent that the limitation of equal treatment respects the essence of the right and can be objectively justified. The main substantive justification contained in the proposal is financial. Does the Government believe that this is sufficient to justify the difference in treatment when establishing a centralised ECRIS-TCN system?

Second, the proposal is not limited to requests in relation to criminal investigations, nor to a specific list of procedures (e.g. recruitment, naturalisation, child protection etc.), but rather it applies in all cases where a Member State receives a request for information on previous convictions of third country nationals "in accordance with national law". Given the Government's own commitment to seek sufficient data protection safeguards, does it believe that this is a proportionate use of a power which is principally aimed at the cross-border fight against crime? In what circumstances would a Member State be justified in refusing to disclose the relevant information to the requesting Member State?

Finally, you will recall from our correspondence of 10 January 2017 and 9 February 2017 that we had some concerns about the technical information that had been used to justify the proposed creation of a centralised system. Are you now in a position to confirm that IT experts have indicated that only a centralised system is viable?

We look forward to a reply within the usual ten days.

10 October 2017

Letter from Nick Hurd MP, Minister of State for Policing and the Fire Service

Thank you for your letter of 10 October 2017 on behalf of Lord Boswell of Aynho requesting further information following my Explanatory Memorandum of 19 July 2017 on the European Commission's draft Regulation to establish a centralised identification system for third country national (TCN) convictions in the EU, via the European Criminal Records Information System (ECRIS). I will answer your questions in turn.

"Does the Government believe that this [financial justification] is sufficient to justify the difference in treatment (between TCN and EU Citizens) when establishing a centralised ECRIS-TCN system?"

Whilst you rightly note the differences between the way in which identity data of TCNs and EU nationals would be held, the decision to support the Commission's proposal for a centralised system for TCNs was not based purely on financial merit. Originally, a decentralised system was preferred by Member States and the Commission so that any TCN system would be aligned with the existing ECRIS model. However, further analysis carried out by fingerprint experts on the various options for storing the data revealed that the storage of large volumes of fingerprint files at the Member State level was technically difficult, administratively burdensome and more costly. As such, the Government's view is that, overall, a centralised identification system is objectively justified, not simply because of financial reasons, to justify the difference in treatment and to resolve the technical elements of this proposal.

"Given the Government's own commitment to seek sufficient data protection safeguards, does it believe that this [the fact that the proposal is not limited to requests in relation to criminal investigations, nor to a specific list of procedures but where a Member State receives a request for information "in accordance with national law"] is a proportionate use of a power which is principally aimed at the cross-border fight against crime? In what circumstances would a Member State be justified in refusing to disclose the relevant information to the requesting Member State?"

Use of the ECRIS-TCN system, both for criminal proceedings or for purposes other than criminal proceedings, is designed to complement the existing ECRIS system. Once it has been established which Member State holds TCN conviction information via the proposed ECRIS-TCN system, information on the previous conviction will be requested via the existing ECRIS system. It is important to note that the legislation governing the existing ECRIS system *already* includes an obligation on Member States to respond, in accordance with national law, to requests made for purposes other than criminal proceedings, such as for immigration purposes and employment vetting. Thus, the circumstances under which a Member State might justifiably refuse to provide TCN conviction information to the requesting Member State (outside of a request made for the purpose of criminal proceedings) will depend on their national law, as is the case already.

"Are you now in a position to confirm that IT experts have indicated that only a centralised system is viable?"

As I mentioned above, IT experts conducted detailed analysis on the technical and practical implementation of the ECRIS-TCN system and concluded that a centralised system would be the most appropriate option.

I trust this addresses the Committee's concerns.

I would also like to take this opportunity to inform you in writing of the Government's decision to opt in to the draft Regulation. Sir Tim Barrow notified the Council of the European Union of the UK's decision on Monday 23 October 2017. A Written Ministerial Statement to this effect will be issued as soon as is practicable and I will arrange for a copy

of this letter to be placed in the House Library, thereby informing the whole House of the Government's decision.

25 October 2017

Letter from the Chairman to Nick Hurd MP, Minister of State for Policing and the Fire Service

Thank you for your letter of 25 October 2017 which was considered by the EU Justice Sub-Committee at its meeting of 14 November. We decided to retain the proposal under scrutiny.

We note that the Government has opted into the proposal. Although we recognise that the European Criminal Records Information System (ECRIS) has been a very useful instrument in the cross-border fight against crime and terrorism, we repeat our concern that currently no non-EU country (including the Schengen countries) has access to the database. In those circumstances (and given the financial implications) we ask what assurances the Government will seek in respect of its continued access to ECRIS post-Brexit and the new ECRIS-Third Country Nationals (TCN) system.

Our letter of 10 October acknowledged that requests for access to TCN conviction information would have to be made "in accordance with national law". On the question of data protection safeguards, if the UK received a request (outside of a request made for the purpose of criminal proceedings) what measures are in place to ensure that information would be disclosed in a reasonable but proportionate way? Will this be impacted by the current legislation to implement the General Data Protection Legislation (GDPR)?

We look forward to a reply within the usual ten days.

15 November 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE IMPORT OF CULTURAL GOODS (11272/17)

Letter from the Chairman to John Glen MP, Parliamentary Under-Secretary of State for Arts, Heritage and Tourism, Department for Digital, Culture, Media and Sport

Thank you for your memorandum dated 16 August 2017 which was considered by the EU Justice Sub-Committee at its meetings of 10 and 17 October. We decided to retain the proposal under scrutiny.

We support fully the aim of reducing the illicit traffic in cultural goods, especially where this is used to finance terrorism. Nonetheless, we also note the potential concerns expressed by the Government about the impact of the proposed Regulation on the UK art market. We are somewhat surprised that no consultation is planned with outside bodies, given that the UK is the second largest market for art in the world and is home to many world class museums very active in international loans. Accordingly this Regulation is likely to have a much greater impact in the UK as against most, if not all, other EU Member States. Why is it not considered useful to hear from interested parties on the merits of these proposals, particularly in the light of the reservations that you yourself acknowledge in your Explanatory Memorandum?

It is worth also noting the very considerable Government efforts at consultation that took place very successfully, which enabled the smooth passage of the *Cultural Property (Armed Conflicts) Act 2017 ("CPACA")* implementing the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 and the Protocols to that Convention of 1954 and 1999.

It is not clear how these proposals would interact with the recently passed *CPACA*. Does the Government predict that there would be any overlap between these two regimes and, if so, would they be complementary? What additional legislation does the Government envisage might be required in order to implement the proposed Regulation?

Does the Government expect that the proposed Regulation will have any impact on the international loan of cultural objects – particularly to museums or for other publicly funded shows? If so, what is being put in place to ameliorate this?

Finally, the Government has observed that it agrees with the Commission's assessment that the proposed Regulation is proportionate insofar as it interferes with property rights and the freedom to conduct business. However, the Government acknowledges that "further information is needed on the level of the trade in illicit goods entering the EU." What analysis of this issue did the Government undertake when proposing the Bill which became the *CPACA*? Is it considered that this legislation is insufficient to combat the problem of illegally trafficked cultural objects?

We look forward to a reply within the usual ten days

17 October 2017

Letter from John Glen MP, Parliamentary Under-Secretary of State for Arts, Heritage and Tourism

Thank you for your letter of 17 October 2017 concerning the above proposal and apologies for the delay in replying to you. I will address the points that you have raised in turn.

I am grateful for the opportunity to clarify our position on hearing from interested parties on the merits of this proposal. While we did not think it appropriate to run a public consultation on the Commission's proposal, the Department is keen to understand the UK art market's views on the proposal. Indeed, I met last month with the Chair of the British Art Market Federation (which represents the interests of the UK's art market in its contacts with government) to hear this perspective.

The Cultural Property (Armed Conflicts) Act 2017 and the proposed EU Regulation are different in scope but complementary in terms of sharing a common goal in protecting cultural property overseas. Under the 2017 Act, it is an offence for a person to deal in cultural property unlawfully exported from occupied territory, knowing or having reason to suspect that it has been unlawfully exported. 'Dealing' includes importing it into the UK. It is important to note, however, that the definition of 'cultural property' under the 2017 Act has the meaning given in the Hague Convention which is that it must be of 'great importance to the cultural heritage of every people'; this is a significantly narrower scope to the proposed EU Regulation which would cover a broad range of cultural objects from any country outside the European Union with a minimum age threshold of 250 years. Therefore we do not anticipate any practical incompatibility between the regimes, but will keep this aspect under review as the dossier progresses.

Similarly, we will need to keep under review the question of what additional legislation might be required to implement the proposed Regulation. As set out in paragraph 19 of the EM, the proposed Regulation would have direct effect in UK law under section 2(1) of the European Communities Act 1972. However, it is anticipated that some domestic implementing measures will likely to be necessary in two respects. Firstly, it will be necessary to ensure that customs officers have the necessary enforcement powers. Secondly, it will be necessary to prescribe penalties. In addition, it is not yet clear how some of the detailed provisions in the Regulation might work in practice, in part because the Commission proposes to set out further detail in implementing acts. We will therefore keep this question under review as the implementing acts are developed by the Commission.

We do not expect that the proposed Regulation will have any impact on the international loan of cultural objects, as the Regulation includes an exemption for the temporary admission of cultural goods for educational, scientific and academic research purposes. However, as the specific 'modalities' of this exemption will be set out by the Commission in implementing acts (article 3(3)), and because the Regulation has not yet completed the legislative process, it is not yet possible to fully and accurately assess the impact on museum loans.

The Government did not make an assessment of the level of the trade in illicit goods entering the EU when proposing the Cultural Property (Armed Conflicts) Bill, as this was not a primary concern of that legislation. The Cultural Property (Armed Conflicts) Act 2017 does cover cultural property unlawfully exported from occupied territory, but in terms of existing UK legislation, the Dealing in Cultural Objects (Offences) Act 2003 is more generally relevant to the field of combating trafficking and dealing in cultural objects. The 2003 legislation was initiated following a recommendation of the Ministerial Advisory Panel on Illicit Trade which was convened (i) to consider the nature and extent of the illicit international trade in art and antiquities, and the extent to which the UK is involved in

this and (ii) to consider how most effectively, both through legislative and non-legislative means, the UK can play its part in preventing and prohibiting the illicit trade, and to advise the Government accordingly.[1]

6 November 2017

Letter from John Glen MP, Parliamentary Under-Secretary of State for Arts, Heritage and Tourism

Thank you for your letter of 6 November 2017 which was considered by the EU Justice Sub-Committee at its meeting of 28 November. We decided to retain the proposal under scrutiny and have a number of further questions:

1. We note your comment about the exemption for the temporary admission of cultural goods for educational, scientific and academic research purposes. Will the UK Government seek reassurances that this exemption provides sufficient guarantees to ensure that there is no impact on the international loan of cultural objects to museums?
2. What processes will be put in place to confirm the return of cultural goods that are only admitted on a temporary basis? Is there any risk that such processes could be used to circumvent licensing controls?
3. On the question of the impact of the Regulation on the art market more generally, we note the fact that you have met with the Chair of the British Art Market Federation. Have any concerns have been expressed by that body (or any other stakeholders) about this proposal?

In addition, we refer to the information note from the German delegation to the General Secretariat of the Council (and their suggestion that the Regulation is not sufficiently stringent to preclude the import of illicit cultural goods into the EU).

In your Explanatory Memorandum, dated 16 August 2017, you expressed concerns about the impact of the proposed Regulation on the UK art market, which is the second largest in the world, and the potential burden on licensing authorities. In particular, you said that there were "reservations about the additional requirements that the import rules would place on the customs authorities."

Moreover, you raised the fact that that import licensing would place an administrative burden on specific segments of the art market trading in antiquities, antiquarian books and manuscripts; whilst suggesting that an importer's responsibility for declaring the legal export of goods from a third country (which applies to other categories of cultural goods over 250 years old under this proposal) was likely to involve a further administrative burden for a significant proportion of art market operatives.

Please can you therefore expand on the UK Government's position on this Regulation and whether it believes that it is a useful and proportionate measure to combat the illicit trafficking of cultural goods? We note that, if implemented, the legislation is due to come into force in January 2019. Would the UK Government envisage continuing it in force post-Brexit?

We look forward to a response to our questions within the usual ten days.

29 November 2017

[1] https://www.gov.uk/government/publications/report-of-advisory-panel-on-illicit-trade

PROPOSAL FOR A COUNCIL DECISION AUTHORISING LUXEMBOURG AND ROMANIA TO ACCEPT, IN THE INTEREST OF THE EUROPEAN UNION, THE ACCESSION OF GEORGIA AND SOUTH AFRICA TO THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION. (11305/17)

PROPOSAL FOR A COUNCIL DECISION AUTHORISING CROATIA, THE NETHERLANDS, PORTUGAL AND ROMANIA TO ACCEPT, IN THE INTEREST OF THE EUROPEAN UNION, THE ACCESSION OF SAN MARINO TO THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION. (11307/17)

PROPOSAL FOR A COUNCIL DECISION AUTHORISING ROMANIA TO ACCEPT, IN THE INTEREST OF THE EUROPEAN UNION, THE ACCESSION OF CHILE, ICELAND AND BAHAMAS TO THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION. (11309/17)

PROPOSAL FOR A COUNCIL DECISION AUTHORISING AUSTRIA AND ROMANIA TO ACCEPT, IN THE INTEREST OF THE EUROPEAN UNION, THE ACCESSION OF PANAMA, URUGUAY, COLOMBIA AND EL SALVADOR TO THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION. (11311/17)

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

Further to the Explanatory Memorandum submitted on 31 July 2017, and cleared by yourself on 6 September 2017, I am writing to confirm that the United Kingdom has formally notified the Presidents of the Justice and Home Affairs Council of the Council of the European Union that it intends to take part in the adoption and application of the proposed Council Decisions listed above. This is in accordance with Article 3(1) of the Protocol (No21) to the Treaties on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice.

I am writing in similar terms to Sir William Cash, Chair of the House of Commons European Scrutiny Committee, who cleared this matter from scrutiny on 13 November 2017

16 November 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL REPLACING ANNEX A TO REGULATION (EU) 2015/848 ON INSOLVENCY PROCEEDINGS (11667/17)

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

Further to Richard Harrington MP's Explanatory Memorandum dated 30 August 2017 the government has now considered the proposal and has concluded that it is in the UK's interests to opt-in to the amendments given the UK's existing participation in the underlying Regulation. The Foreign Secretary has now communicated the decision to the Presidency.

I would note that since the initial proposal, a number of other Member States (Belgium, Bulgaria, Latvia and Portugal) requested changes to the annexes to the EU Insolvency Regulation in addition to the original request from Croatia. As with the original request from Croatia, these changes reflect amendments to those Member States' national insolvency laws. The Commission therefore produced a revised proposal incorporating these additional changes.

I have laid a written statement in Parliament communicating this decision. I would like to take this opportunity to thank your Committee for its detailed consideration of the Commission's proposal and related documents.

11 December 2017

PROPOSAL FOR A DIRECTIVE ON COMBATTING FRAUD AND COUNTERFEITING OF NON-CASH MEANS OF PAYMENT AND REPLACING COUNCIL FRAMEWORK DECISION 2001/413/JHA (12181/17)

Letter from the Chairman to the Rt Hon Ben Wallace MP, Minister of State for Security, Home Office

Thank you for your memorandum dated 9 October 2017 which was considered by the EU Justice Sub-Committee at is meeting of 31 October. We decided to retain the proposal under scrutiny.

With regards to the merits of opting-in to the proposed Directive, your Explanatory Memorandum (EM) does not make very clear what factors the Government will take into account.

Given that we did not re-join the Framework Decision as part of the 2014 process, what new considerations would induce you to opt-in to this proposed Directive?

In particular, you note that the Directive is part of the Commission's package of measures to fight the financing of terrorism. What assessment have you made of this claim?

On the timing of the opt-in decision, paragraph 38 of the EM provides two independent statements on the relevant date. Please can you confirm that the correct date is 15 December 2017?

Finally, paragraph 42 of the EM sets out certain concerns about Article 9 of the proposed Directive (Liability of legal persons). You suggest that liability might arise under the Directive "where a lack of supervision or control leads to the commission of an offence". You also say that this "arguably goes beyond domestic law" since under common law principles of corporate liability "the lack of supervision or control would have to be reckless such as to amount to criminal intent". Is the concern that this creates a strict liability offence, or is this more akin to the sort of 'failure to prevent' provision contained in section 7 of the Bribery Act?

We look forward to a reply within the usual ten days.

31 October 2017

Letter from the Rt Hon Ben Wallace MP, Minister of State for Security, Home Office

I am writing in response to your letter of 31 October 2017, and in relation to the above Directive.

You asked what new considerations would induce the Government to opt in to this proposed Directive, given that the 2001 Framework Decision ceased to apply to the UK from December 2014.

The Coalition Government took the decision not to rejoin the 2001 Framework Decision (which this proposal would replace) on the grounds that it was "**not for Europe to impose minimum standards on our police and criminal justice system**".2 The Government will take into account:

- whether the UK law is already broadly compliant with the proposed Directive.
- its position on new legislative proposals in light of the referendum outcome. This position is that until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

[2] See the comments made by the then Home Secretary (Mrs Theresa May) during a debate in the House on 15 July 2013, *HC Deb*, col. 777

- the opportunities that the Directive could provide for cross-border practical operational cooperation, and as a platform for ongoing dialogue on cross-border challenges and prioritisation.

On your second question about the Commission's claim that this Directive will assist in tackling the financing of terrorism, the Commission believes that non-cash payment mechanisms can be used to support terrorism, and that these measures are complementary to other EU measures in this area.

On your third question about the timing of the opt-in decision, the Last Language Version for the non-cash payment dossier was dated 25th September, which means the Opt-in date is 24th December. There would be logistical difficulties with meeting this date and therefore my officials are working to the 15th December as a result.

On your fourth question about Article 9 of the proposed Directive (liability of legal persons), the concern is that if criminal law is to be relied upon, although our common law principles of corporate liability satisfy the requirements of Article 9.1, they may not offer full compliance with Article 9.2 (lack of supervision liability), which, as you surmise, is akin to the "failure to prevent liability" at section 7 of the Bribery Act 2010. Analysis of this provision and assessment of the options continues. We will inform the committee if there are any changes to our approach to Article 9.

21 November 2017

Letter from the Chairman to the Rt Hon Ben Wallace MP, Minister of State for Security

Thank you for your letter of 21 November 2017 which was considered by the EU Justice Sub-Committee at its meeting of 19 December. We decided to retain the proposal under scrutiny.

We note that you have set out the criteria that will be taken into account when considering whether to opt-in to the proposed Directive. Please provide us with an update on the Government's views on the merits of the proposal given that you will be taking the decision whether to opt-in very soon.

We look forward to a reply once you have reached that decision.

20 December 2017

PROPOSAL FOR A REGULATION LAYING DOWN RULES ON THE EXERCISE OF COPYRIGHT AND RELATED RIGHTS APPLICABLE TO CERTAIN ONLINE TRANSMISSIONS OF BROADCASTING ORGANISATIONS AND RETRANSMISSIONS OF TELEVISION AND RADIO PROGRAMMES (12258/16)

Letter from Jo Johnson MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy & Industrial Strategy

In your letter of 25 October 2016 you asked for an update on the abovementioned file as Council negotiations draw to a close. While working-level discussions are currently ongoing on potential compromise proposals, we understand the Estonian Presidency is making preparations to enable trilogues to begin next year. It is therefore likely that the future Bulgarian Presidency will seek a Council agreement in early 2018.

Background to the Regulation

The proposed Regulation on Online Transmissions seeks to facilitate greater cross-border availability of television and radio programmes, via the internet, within the European Union. The Regulation applies only to online services of broadcasters which are ancillary to an initial broadcast, namely:

- simulcasting (linear simultaneous transmission of a broadcast by the broadcaster);
- catch-up television and radio services (where broadcasts are made available online, on an on-demand basis, for a limited period of time following the initial broadcast);
- material related to the initial broadcast (such as previews).

The Regulation does not apply to standalone video-on-demand services (such as Netflix), where content is unconnected with a broadcast transmission by the same broadcaster. Neither does it apply to pure webcasting services.

The Regulation seeks to enhance cross-border provision of such services via two mechanisms:

First, it proposes a "country of origin" rule. Under this rule, a transmission of an ancillary online service is deemed to take place solely in the country where the broadcasting organisation has its principal establishment, meaning that it does not need to seek additional copyright clearances to broadcast into other Member States. Rightholders would, however, be able to seek additional remuneration via licence agreements to reflect any increased audience for their audiovisual content.

Secondly, the Regulation proposes a system of mandatory collective licensing in relation to online retransmissions of broadcasts. This is limited to internet-protocol-based, mobile, and similar networks. Under this system, rightholders are only able to exercise their rights in relation to retransmissions of broadcasts on a collective basis, via collecting societies, rather than individually. This will allow operators of such services to gain all the relevant rights to retransmit content via a small number of collective licences rather than potentially having to negotiate multiple licences with individual rightholders.

Similar rules already exist in relation to satellite and cable broadcasts under the Satellite and Cable Directive (93/83/EEC).

During the course of the negotiation representatives of the film and television sectors have raised concerns that the country of origin rule may undermine their ability to license content on a territorial basis – something which is a common practice in these sectors, and which they argue is key to financing new productions. Although the Regulation does not expressly affect the freedom of rightholders to license works on a territorial basis, the concern is that a broad country of origin rule could in practice make territorial licensing difficult or impossible. The Government has made it a priority during these negotiations to protect territorial licensing, while still seeking to ensure the Regulation delivers benefits for consumers.

Amendments to the proposed Regulation

In view of the concerns of the audiovisual sector, the scope of the country of origin rule in the Regulation has been reduced since its proposal. In the Estonian Presidency's recent proposal (http://data.consilium.europa.eu/doc/document/ST-14380-2017-INIT/en/pdf), this mechanism has now been limited to cover only subject matter produced by the broadcasting organisation, commissioned by the broadcasting organisation, and certain material (not including extracts of films or television series incorporated in TV or radio programmes) co-produced with third parties (in Article 2(1a), subparagraphs a), b) and c), respectively. Video-on-demand services, and pure webcasts (without a broadcast to which they are ancillary) remain out of scope.

Broadcasters and rightholders continue to push for a narrowing of scope, or deletion, of the country of origin rule. We agree that the current proposal continues to pose possible risks to territorial licensing, though these have been reduced. We expect the rule to be narrowed further, potentially to cover only content produced or commissioned by the broadcasting organisation, or to only apply to news and current affairs broadcasts, and it is possible that such further narrowing could overcome objections from the majority of Member States, including a number which have previously raised concerns about possible risks to territorial licensing.

In the part of the Regulation relating to retransmissions of broadcasts, there is now an explicit obligation that where negotiations take place between broadcasting organisations and operators of retransmissions services, regarding authorisation for retransmission under the Regulation, these must be conducted in good faith. The Regulation has also been limited to apply to retransmissions over open internet access services, only where they are provided to a "controlled circle of users".

We understand that most Member States and many organisations representing rightholders and firms which retransmit broadcasts are broadly content with these changes, and with the proposal on retransmission as it now stands.

Costs, benefits, and impact

Further to the Explanatory Memorandum (EM), which gave a summary of the European Commission's impact assessments (Documents SWD (2017) 302 final; SWD(2016) 301 final (Parts 1-3)), the extension of the country of origin rule, reduced in scope as outlined above, would:

- Have fewer impacts on rightsholders than those set out in the EM. Rightholders' ability to licence territorially would be preserved, and the country of origin rule would only apply to those categories of production referred to above.
- Benefit broadcasters to a lesser extent than set out in the EM. Broadcasters would be able to benefit from reduced and faster rights clearance costs for cross-border online transmissions, but only for those categories of production referred to above. In practice broadcasters are very likely to hold the rights in different territories for their own productions, and will often own the rights for commissioned works or co-productions. If the scope of the country of origin rule is maintained as currently proposed, or reduced further as is envisaged, only a small number of broadcasters are likely to receive additional benefit from the rule.
- Benefit consumers to a lesser extent than set out in the EM. Consumers could benefit from increased access to broadcasters' programmes across borders, but only for the categories of production referred to above.

A reduced scope country of origin rule is unlikely to disrupt current territorial licensing practices to a significant extent and, the more its scope is reduced, the costs and benefits will tend towards zero.

There is effectively no change to the scope of the retransmission provisions, and the impacts on transmission service providers, rights holders, and consumers, is expected to be as the Explanatory Memorandum.

UK alignment post-Brexit

It is unlikely that the Regulation will enter into force before the UK leaves the European Union. It is not possible to replicate the cross border provisions in the Regulation (e.g. the country of origin rule) on a unilateral basis. Therefore our 'alignment' with the Regulation will depend on the terms of our future relationship with the European Union.

Potential Council agreement during the Bulgarian Presidency

We understand the Estonian Presidency of the Council is seeking to reduce the scope of the Regulation's country of origin rule further. A further narrowing of the country of origin rule would help to protect rightholders' ability to license content on a territorial basis, which is a key Government objective, though it would also reduce the potential benefits of this provision. However, the retransmission provisions, if unchanged, will bring benefits as described above and in the Explanatory Memorandum. Consequently, should the text develop in such a way that territorial licensing is protected, the Government's negotiating objectives would be met, and the Government would wish to vote in favour in any subsequent Council meeting under the Bulgarian Presidency.

15 December 2017

PROPOSED REGULATION ON THE CROSS-BORDER EXCHANGE BETWEEN THE UNION AND THIRD COUNTRIES OF ACCESSIBLE FORMAT COPIES OF CERTAIN WORKS AND OTHER SUBJECT-MATTER PROTECTED BY COPYRIGHT AND RELATED RIGHTS FOR THE BENEFIT OF PERSONS WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT DISABLED (12264/16)

PROPOSED DIRECTIVE ON CERTAIN PERMITTED USES OF WORKS AND OTHER SUBJECT-MATTER PROTECTED BY COPYRIGHT AND RELATED RIGHTS FOR THE BENEFIT OF PERSONS WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT DISABLED AND AMENDING DIRECTIVE 2001/29/EC ON THE HARMONISATION OF CERTAIN ASPECTS OF COPYRIGHT AND RELATED RIGHTS IN THE INFORMATION SOCIETY (12270/16)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION, ON BEHALF OF THE EUROPEAN UNION, OF THE WORLD INTELLECTUAL PROPERTY ORGANISATION TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS WHO ARE BLIND, VISUALLY IMPAIRED, OR OTHERWISE PRINT DISABLED (14617/14)

Letter from the Chairman to Jo Johnson MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy and Industrial Strategy

Thank you for your letter dated 7 August 2017. It was considered by the EU Justice Sub- Committee at its meeting of 10 October.

We decided to retain all three legislative proposal under scrutiny.

With regard to your decision on 17 July 2017 to vote in favour of these proposals and override the scrutiny reserve, this negates our decision to clear the proposed Regulation and Directive from scrutiny communicated to you in our letter dated 18 July, hence our decision today, to retain all three proposals under scrutiny. A scrutiny override is disappointing. Whilst we note your apology for doing so in this instance, given that the usual Council practice is to circulate agendas to the Member States in advance of meetings, can you explain to us why "it was not possible to foresee the [Council's] vote taking place at such an early stage"?

The only other issue of substance that merits discussion, concerns your promise to implement this legislation in the UK before the UK exits the EU. In light of your undertaking, we have a number of Brexit related questions to put to you:

- beyond fulfilling our responsibilities as an EU Member State, what are the benefits of the Government implementing this legislation here in the few months before we leave the EU to those in the UK who suffer from print disabilities?
- how does the Government intend to implement this EU legislation in the UK?
- will it be necessary to draw on the proposed delegated powers in the Government's EU withdrawal bill to ensure the post-Brexit application of the provisions of the Marrakesh Treaty in the UK? And,
- does the Government plan to ratify this Treaty in its own right once the UK leaves the EU?

We look forward to considering response within the usual 10 day deadline.

10 October 2017

Letter from Jo Johnson MP, Minister of State for Universities, Science, Research and Innovation

Thank you for your letter of 10 October 2017.

I take Parliamentary Scrutiny seriously, and was concerned by the expression of disappointment in your letter. With regard to your decision to negate your scrutiny clearance of the Regulation and Directive, my letter of 3 July 2017 was sent as soon as the nature of the expected Council agreement became clear, so that it could be considered by your Committee. Regrettably, this was ahead of publication, on 07 July, of the agenda of the Permanent Representatives Committee (Doc 11136/17), and the publication on 14 July, of the agenda of the Council (Doc 11102/17). Thus, at the time of the letter of 3 July it was not possible to foresee the vote taking place when it did, and I apologise that it was not possible to inform the Committee in advance.

With regard to the proposal for a Council Decision on conclusion, on 12 October 2017 we were informed that the Council Secretariat has provisionally tabled this for the EPSCO Council on 23 October 2017. As the question of competence to ratify the Treaty has now been settled (see my letter of April 2017) and the implementing Directive and Regulation meet our negotiating objectives (see my letter of 03 July 2017), the Government intends to vote in favour of the proposal for the EU to conclude the Marrakesh Treaty.

I therefore request the Committee lift its scrutiny reserve on the above documents, to enable the Government to vote in favour in Council.

With regard to your Brexit related questions: as you will be aware from previous correspondence, the United Kingdom signalled its support for the Marrakesh Treaty in 2013 by signing it at the Diplomatic Conference which saw its adoption. The Government is and has long been a strong supporter of the Marrakesh Treaty, and is committed to increasing access to copyright works for visually impaired people. Were it not for the competence questions raised by this Treaty, which were addressed by Opinion 3/15, the Government would have sought to ratify the Treaty sooner.

The Marrakesh Treaty will benefit blind and visually impaired people in the UK by making it easier for them to acquire accessible format books made in other countries around the world. For example, it would enable the transfer of accessible format copies made in Australia and Canada, which are both parties to the Treaty, to blind and visually impaired people in the United Kingdom. It would also allow organisations producing accessible format copies in the United Kingdom, such as the RNIB, to save money by reutilising copies made in other countries. Similar benefits would flow to blind and visually impaired people in third countries which are party to the Treaty, as they would be given greater access to material produced for blind and visually impaired people in the United Kingdom.

Notwithstanding our continuing obligations as an EU Member State, the Government does not want to delay these benefits, and intends to implement the Regulation and Directive irrespective of the proximity of the transposition deadline to the date of EU exit.

It is anticipated that implementation will rely on regulations made under section 2(2) of the 1972 European Communities Act (ECA). It is also anticipated that the implementing regulations under the ECA will be preserved by the provisions of the EU (Withdrawal) Bill. The Government is preparing a consultation on how the Directive should be implemented in UK law, and intends to publish this before the end of 2017.

As a consequence of its strong support, the Government would intend to ratify the Marrakesh Treaty in its own capacity, following EU exit.

19 October 2017

Letter from Jo Johnson MP, Minister of State for Universities, Science, Research and Innovation

In my letter dated 19 October 2017, I informed you that we were expected to vote on the abovementioned Proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Marrakesh Treaty, on 23 October 2017.

I take Parliamentary Scrutiny seriously, and appreciate that in view of the tight timetable set by the Council Presidency, it was not possible for the Committee to consider the matter ahead of the Council vote. Subsequently, in view of the benefits the Marrakesh Treaty will bring to visually impaired people (as set out in previous correspondence), I took the decision to override the scrutiny reserve of the Committee and vote in favour on conclusion of the Treaty.

Please let me know if there are any further matters I can assist the Committee on in relation to the above mentioned documents.

30 October 2017

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

Thank you for your letters dated 19 and 30 October 2017. They were considered by the EU Justice Sub-Committee at its meeting of 14 November.

We decided to retain all three legislative proposals under scrutiny.

Yet again, despite your repeated reassurances that you take Parliamentary scrutiny "seriously", we find ourselves having to express our disappointment with your handling of the scrutiny of this matter and your repeated decisions to override the scrutiny reserve at the Councils held on:

- 17 July 2017, when the Regulation and Directive were agreed; and,
- 23 October, when the Decision was agreed.

If there is another occurrence, we will consider calling you to appear before us to explain your handling of parliamentary scrutiny.

Writing to us on 19 October requesting clearance ahead of a Council on 23 October is unacceptable and would not have afforded the Committee sufficient time to consider your request to clear this matter from scrutiny and thus avoid an override. The fact that our secretariat only received your letter on 26 October, three days after the Council, made it impossible for us to consider your request and further undermines your repeated claim that you take parliamentary scrutiny seriously. Given your conduct of the scrutiny of this matter we ask you to explain, in writing, your repeated decisions to override the scrutiny reserve.

We thank you for your replies to our questions focussing on the post-Brexit application of the Marrakesh Treaty to the UK and ask you to clarify why, if the EU (Withdrawal) Bill will suffice in this context, it will be necessary for the Government to ratify the Marrakesh Treaty in the UK "in its own capacity" following Brexit.

We look forward to considering your response within the usual 10 day deadline

15 November 2017

Letter from Jo Johnson MP, Minister of State for Universities, Science, Research and Innovation

Thank you for your letter of 15 November 2017.

I regret your disappointment in the handling of the above-mentioned files.

I therefore want to explain why it was so important to engage fully in the passage of this treaty and thus to override scrutiny. The Marrakesh Treaty aims to benefit blind and visually impaired people around the world by making it easier for them to acquire accessible format books made in other countries. For example, it would enable the transfer of accessible format copies made in Australia and Canada, which are both parties to the Treaty, to blind and visually impaired people in the United Kingdom. It would also allow organisations producing accessible format copies in the United Kingdom, such as the RNIB, to save money by reutilising copies made in other countries. Similar benefits would flow to blind and visually impaired people in third countries which are party to the Treaty, as they would be given greater access to material produced for blind and visually impaired people in the United Kingdom.

The Government has long been a supporter of the Marrakesh Treaty, and has worked to see it enter into force as soon as possible. The Government engaged actively in negotiations over the Directive and Regulation, and worked hard to ensure these met its negotiating objectives, so that the EU could be in a position to satisfactorily implement and ratify the Treaty.

I also wanted to explain why it was not possible to update the Committee any sooner in both July and October.

With regard to the override of the scrutiny reserve at the Council of 17 July 2017, when the Regulation and Directive were agreed:

- Following the 2017 General Election, I understand the Committee reformed the week commencing 3 July 2017. I wrote to the Committee on 3 July 2017, the earliest opportunity, to answer its outstanding questions regarding the Regulation and Directive, and highlight that we expected to vote on compromise texts of both the Regulation and Directive at a forthcoming meeting of the Council. I requested that the Committee consider lifting its scrutiny reserve to allow voting in favour in Council. At the time of writing it was not possible to foresee at exactly which Council meeting the decision would be tabled.
- On 14 July 2017 the agenda of the Agriculture and Fisheries Council (11102/17) was published, indicating that the Regulation and Directive would be considered on 17 July. As soon as the date of the vote became apparent, my officials passed this information on immediately to the Clerks of both Committees.
- On 17 July 2017, the Committee had not responded to my request of 3 July 2017 to lift its scrutiny reserve. As discussed above, given the importance of the Marrakesh Treaty on both a humanitarian and diplomatic level, I took the decision to override the Scrutiny Reserve Resolution and vote in favour. To have abstained or voted against could have called into question the Government's commitment to the aims of the Treaty, and suggested that it had outstanding objections to the substance of the implementing legislation, which it did not.
- On 18 July 2017, the Committee wrote to waive its Scrutiny Reserve in relation to the Regulation and Directive.

With regard to the override of the scrutiny reserve at the Council of 23 October 2017, when the Council Decision on the conclusion of the Marrakesh Treaty was agreed:

- On 10 October 2017 the Committee wrote to retain all three above mentioned documents under scrutiny.
- On 12 October 2017 we were informed that the Council Secretariat had provisionally tabled the Council Decision for consideration at the EPSCO Council on 23 October 2017.
- As soon as the possibility of the accelerated date for conclusion became apparent, my officials updated the Committee Clerks informally to this effect.
- On 19 October 2017, I wrote to the Committee to inform them formally of the likely date of the vote.
- On 20 October 2017, the agenda for the EPSCO Council of 23 October 2017 was published, indicating that the Council Decision on conclusion would be considered.

I understand that my letter of 19 October reached the Committee by post on 20 October 2017, but that the electronic transmission did not happen until 26 October 2017. I apologise for this, and have asked my officials to take renewed steps to ensure that such delays are not repeated.

I appreciate that even if the Committee had received the letter on the day it was sent, it may not have allowed sufficient time for its consideration. However, since it was only a possibility there would be a vote at the EPSCO on 23 October, I wanted to be able to update the Committee and give it an opportunity to consider the document should the matter have been postponed for consideration at a later Council. To have abstained or voted against would have contradicted the Government's position on the Directive and Regulation, and could have called into question the Government's commitment to ratification of the Treaty.

I will turn now to the Committee's question on why the UK would seek to ratify the Marrakesh Treaty in its own capacity following Brexit. As you are aware, the Court of Justice of the European Union has ruled that the conclusion of the Marrakesh Treaty is the exclusive competence of the European Union. This means that only the EU can ratify and become party to the Marrakesh Treaty. The UK is therefore unable to ratify, and become party to, the Treaty in its own right while still a

member of the European Union. We expect the European Union will ratify the Treaty while the UK is still a member of the European Union, which means that organisations based in the UK will have access to the Marrakesh system via the EU's membership.

The powers in the European Union (Withdrawal) Bill would not enable the UK to become party to a treaty which had been concluded by the EU exercising its exclusive competence. Consequently, once the UK leaves the European Union, the UK will need to seek to become party to the Marrakesh Treaty in its own right to continue to benefit from the Treaty. To become party to the Marrakesh Treaty, the UK will need to ratify the Treaty in its own capacity.

28 November 2017

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

Thank you for your letter dated 28 November 2017. It was considered by the EU Justice Sub-Committee at its meeting of 19 December.

We decided to clear all three legislative proposals from scrutiny.

We are grateful for your apology and explanation for your decisions to override the scrutiny reserve. We also welcome your undertaking that officials in your department will take steps to ensure that in future we receive correspondence in a timely fashion.

Turning to our question regarding the legislative means by which the UK's post-Brexit ratification of this Treaty will be secured, we note your confirmation that, despite the optimism expressed in your letter dated 19 October, the EU (Withdrawal) Bill will not suffice in this instance, and post-Brexit in order to be compliant with Treaty's provisions the UK will have to ratify it here "in its own capacity".

We do not expect a response to this letter.

20 December 2017

PROPOSAL FOR A REGULATION ON THE STATUTE AND FUNDING OF EUROPEAN POLITICAL PARTIES AND EUROPEAN POLITICAL FOUNDATIONS (12308/17)

Letter from the Chairman to Chris Skidmore MP, Minister for the Constitution, Cabinet Office

Thank you for your memorandum dated 13 October 2017 which was considered by the EU Justice Sub-Committee at its meeting of 14 November. We decided to retain the proposal under scrutiny.

We were surprised by the Government's rather negative response to the proposal for the publication of gender diversity data. The nature of any regulatory burden is likely to be small and the transparency requirements, in and of themselves, only appear to require the publication of data of "the gender representation among the candidates at the last election to the European Parliament and among the Members of the European Parliament." This information is likely to be readily available. Moreover, given that a European Political Party (EUPP) would be entitled to up to 90% of its total costs by way of EU funding, it seems a matter of public interest.

We would appreciate it if the Gov9ernment could set out the precise nature of its concerns and whether it has received any representations on this issue by EUPPs or national political parties. Is the Government content with the proposed funding formula which appears to favour larger political groups?

We look forward to a reply within the usual ten days.

29 November 2017

Letter from Nick Hurd MP, Minister of State for Policing and Fire Service, Home Office

Adoption of the European Public Prosecutor's Office (EPPO) Regulation

I am writing to inform the Committee of the formal adoption of the Council Regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office. Following the General Approach that was reached on the text at the June Justice and Home Affairs Council, the European Parliament gave its consent to the setting up of the EPPO on 4th October. The Regulation was then formally adopted at the 13th October JHA Council meeting by those Member States participating in the enhanced cooperation process.

Twenty Member States are currently participating in the EPPO under enhanced cooperation: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Germany, Greece, Spain, Finland, France, Italy, Latvia, Lithuania, Luxembourg, Portugal, Romania, Slovenia and Slovakia. Denmark, Hungary, Ireland, Malta, Poland, The Netherlands and Sweden are not currently participating.

The UK Government has always been clear that we will not participate in the EPPO Regulation, and we will not consider a post-adoption opt-in. The EU legislation establishing the EPPO cannot and does not impose any obligation on states other than those participating in the EPPO. As such, we consider that this EPPO Regulation will not have a significant impact on the UK.

The date on which the EPPO will assume its investigative and prosecutorial tasks will be set by the Commission on the basis of a proposal from the European Chief Prosecutor once the EPPO has been set up. This date will not be earlier than three years after the entry into force of the Regulation.

The Committee should note that Juncker, in his State of the Union address on 13th September, set out that he saw "a strong case for tasking the new European Public Prosecutor with prosecuting cross-border terrorist crimes". This received some support from participating Member States at the October JHA Council and it has now been added to the Commission's 2018 work programme. They plan to issue an initiative in Q3 2018 (during the Austrian Presidency of the EU) to extend the European Public Prosecutor's Office to include the fight against terrorism.

1 November 2017

Letter from the Chairman to Nick Hurd MP, Minister of State for Policing and the Fire Service

Thank you for your letter dated 1 November 2017. It was considered by the EU Justice Sub-Committee at its meeting of 14 November.

We decided to clear this matter from scrutiny.

When you wrote to us in February 2017 you confirmed the triggering of the special legislative procedure governing the creation of the European Public Prosecutor's Office via enhanced cooperation. We note that 20 Member States have decided to participate in the creation of the prosecutor. We also welcome your reassurance that this legislation "cannot and does not impose any obligation" on those states that have chosen not to participate and your view that the "Regulation will not have a significant impact on the UK".

We do not expect a reply to this letter.

15 November 2017

PROPOSAL FOR AN INTER-INSTITUTIONAL AGREEMENT ON A MANDATORY TRANSPARENCY REGISTER (12882/16)

Letter from Lord Callanan, Minister of State for Existing the European Union, Department for Exiting the European Union

Thank you for your letter dated 5 February 2018. It was considered by the EU Justice Sub-Committee at its meeting of 20 February 2018.

We decided to retain the proposal under scrutiny. We note your reassurance that the Government remains committed to Parliamentary scrutiny, nevertheless, that does not change the fact that in this instance your failure to update us on the Council's discussion of this matter meant that we were unable to fulfil our responsibility to scrutinise this proposal; we would ask you to explain what went wrong on this occasion.

On the issue of substance, the narrowing of the Register's scope, we note your view that the text agreed by the Council in December still applies to "meaningful Council participation".

We look forward to considering your response to this letter within the usual 10 day deadline and your Explanatory Memorandum on document 15336/17.

21 December 2017

AMENDED PROPOSAL FOR A DIRECTIVE ON CERTAIN ASPECTS CONCERNING CONTRACTS FOR THE SALES OF GOODS, AMENDING REGULATION 2006/2004 AND DIRECTIVE 2009/22/EC AND REPEALING DIRECTIVE 1999/44/EC (13927/17)

PROPOSED DIRECTIVE ON CERTAIN ASPECTS CONCERNING CONTRACTS FOR THE ONLINE AND OTHER DISTANCE SALE OF GOODS (15252/15)

Letter from the Chairman to Jo Johnson MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy and Industrial Strategy

Thank you for your Explanatory Memorandum dated 21 November 2017. It was considered by the Justice Sub-Committee at its meeting of 19 December.

We decided to retain the Commission's amended proposal under scrutiny (document 13927/17) and to clear from scrutiny the superseded text: document 15252/15.

Further to your update in October, we note that the Commission has now produced its amended proposal which seeks to address the widely held concern about the introduction of a second distinct set of consumer protection rules governing online sales operating in parallel to the existing consumer protection regime applying to face-to-face purchases.

To that extent this new proposal is to be welcomed, but the Commission has not undertaken, as we wished, a new impact assessment necessitated by the considerable extension of the scope of the original proposal to cover face-to-face transactions. Please provide reasons why the Commission has not done so.

With regard to the contents of this new (amended) proposal, we note your statement that the Council's negotiation of this matter is yet to begin and, therefore, your main policy concerns remain "the same as they were when the original proposal" was brought forward by the Commission in December 2015:

(i) the loss of a consumer's rights to reject faulty products;

(ii) the loss of the right to a single repair or replacement before seeking a refund; and,

(iii) a reduction in the UK's liability period to two years.

We take this opportunity to remind you that in May 2016 the consumer organisation Which? told us of its "very grave concerns" with the Commission's original proposal and warned us that if it were

adopted unamended it would result in "a very serious reduction in the level of rights for UK consumers". We do not wish to see this outcome.

We look forward to considering, in due course, your updates on the outcome of the Council's deliberations.

20 December 2017

PROPOSED DIRECTIVE ON CERTAIN ASPECTS CONCERNING CONTRACTS FOR THE ONLINE AND OTHER DISTANCE SALE OF GOODS (15252/15)

Letter from the Chairman to Jo Johnson MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy and Industrial Strategy

Thank you for your letter dated 5 September 2017. It was considered by the Justice Sub- Committee at its meeting of 10 October.

We decided to retain this proposal under scrutiny.

As you know, it has been over a year since we last discussed this matter and, given the "grave concerns" expressed by our expert witnesses with this proposal that we shared with you in June 2016, we welcome the events highlighted in your letter; in particular, the key development that both the Council and the Commission are attempting to avoid potential confusion to consumers caused by the introduction of a distinct set of consumer protection rules for the online sales and distance selling of goods, which would operate in parallel to the existing consumer protection regime applying to face-to-face purchases.

Turning to the choice facing the EU's legislative institutions between the introduction of a new proposal and continuing the Council's negotiations on the basis of the Commission's original text, we agree with your view that a new proposal would represent "a very considerable extension of the scope of the original proposal" because it would "bring in over 90% more sales transactions across the EU", and in our view, these factors alone necessitate the production of a new or revised text supported by its own original impact assessment.

We look forward to considering, in due course, your update on the outcome of the Council's deliberations.

10 October 2017

PROPOSAL FOR A DIRECTIVE ON COUNTERING MONEY LAUNDERING BY CRIMINAL LAW (15782/16)

Letter from the Chairman to the Rt Hon Ben Wallace MP, Minister of State for Security, Home Office

Thank you for your letter dated 11 September 2017 which was considered by the EU Justice Sub-Committee at its meeting of 10 October. We decided to retain the proposal under scrutiny.

We note the Government's decision not to opt into the Directive on the basis that it believes that the UK's domestic legislation is already largely compliant.

Whilst we are pleased to learn that the Government will continue to work closely with other EU Member States on the important issue of money laundering, we are concerned that the Government has yet to provide any detailed response to one of our questions of 9 February 2017, namely: how you foresee the UK co-operating on cross-border money laundering investigations and prosecutions, post Brexit, if the UK does not participate in this proposal?

In your response of 27 February, you indicated that it was "too early to speculate at this stage what future arrangements may look like". Now that negotiations are underway, we hope that you are in a position to update us on this issue.

We also note that in your letter of 27 February 2017 you indicated that the decision on whether the UK should opt in to this measure had to be taken by 3 May 2017. What accounts for the significant delay in notifying your decision to the Committee?

We look forward to a reply within the usual ten days.

11 October 2017

Letter from Rt Hon Ben Wallace MP, Minister of State for Security

I am writing in response to your letter of 10 October 2017, in relation to the above Directive.

You asked how the Government forsees cooperation on cross-border money laundering investigations post-Brexit. As you will be aware, the Government has recently published the future partnership paper "Security, law enforcement and justice". This sets out the Government's plan to seek a new relationship that provides for practical operational cooperation on law enforcement and national security. The paper outlines our ambitions to construct a model for cooperation. This model should be underpinned by our shared principles, including a high standard of data protection and the safeguarding of human rights. We want to ensure that the UK-EU relationship can be kept versatile and dynamic enough to respond to the ever-changing threat environment; create an ongoing dialogue in which law enforcement and criminal justice challenges and priorities can be shared and, where appropriate, tackled jointly. The model should provide for dispute resolution over, for example, interpretation or application of the agreement with the EU; and establish mechanisms to maintain operational capabilities between the UK and the EU and its Member States.

We are confident that continued, practical cooperation between the UK and EU on law enforcement and national security is in the interests of both sides, so we approach these negotiations anticipating success. We do not want or expect a no deal outcome.

On your second question, as to why there was a significant delay in writing to your Committee, this was caused by the calling of the General Election. I must apologise for this delay in notifying you of our decision.

31 October 2017

Letter from the Chairman to the Rt Hon Ben Wallace MP, Minister of State for Security

Thank you for your letter dated 31 October 2017 which was considered by the EU Justice Sub-Committee at its meeting of 28 November.

We note your apology for the delay in notifying the Committee of the decision not to opt in to this measure.

We regret the Government's decision not to opt in. As you know we took the view that the UK's legal system is well developed in this field and that we had much to contribute to the Council's discussion on this proposal. The fact that the UK's domestic legislation is already largely compliant with the Directive is not, of itself, a convincing reason not to opt in.

Nonetheless, in the circumstances, we decided to clear the matter from scrutiny and do not expect a reply to this letter.

29 November 2017

DRAFT REGULATION ON THE MUTUAL RECOGNITION OF FREEZING AND CONFISCATION ORDERS, REPEALING FRAMEWORK DECISIONS 2003/577/JHA AND 2006/783/JHA (15816/16)

Letter from the Rt Hon Ben Wallace MP, Minister of State for Security, Home Office

I am writing in response to your letter of 12 September 2017, about progress of the measure through Council.

The negotiation of the text at Council continues, and the Presidency aims to reach a General Approach in early December. The scope of the measure has been widened to encompass preventive type freezing orders which do not necessarily fall from criminal proceedings, such as those found in Italian law. These types of orders were not originally within scope. However Member States, including the UK, were supportive of their inclusion, providing such proceedings have a clear link to criminal activities, and that procedural safeguards apply.

The choice of legal form of the instrument between a directive or a regulation is still to be determined. The Presidency are still confident that this question will not prevent a General Approach being reached at the December Justice and Home Affairs Council. The Government is content with both options in relation to this measure. We continue to engage positively in the negotiation of the draft text of this regulation and would like to be able to support the General Approach in December. I would be grateful if you could clear this dossier from scrutiny, or provide a scrutiny waiver to enable the UK to vote in favour of the General Approach.

As you will be aware, the Government has recently published the future partnership paper "Security, law enforcement and justice", which sets out the Government's plan to seek a new relationship post exit from the EU, and which provides for practical operational cooperation on law enforcement measures. The details of our future relationship with the EU will be defined in negotiations and agreeing an effective way to work with our EU partners to recognise and execute orders to freeze and confiscate criminal assets will form an important part of those negotiations.

We are confident that continued practical cooperation between the UK and the EU on law enforcement measures is in the interest of both sides, so we approach the Brexit negotiations anticipating success. We do not want or expect a no deal outcome.

4 December 2017

Letter from the Chairman to the Rt Hon Ben Wallace MP, Minister of State for Security

Thank you for your letter dated 19 July 2017, which was considered by the EU Justice Sub-Committee at its meeting of 12 September.

We decided to retain the proposed Regulation under scrutiny.

We note the Government's decision to opt in to this proposal and your view that in so doing the UK stands to benefit from participating because it will strengthen "the ability of our operational agencies to have our asset recovery orders recognised and executed efficiently and effectively". However, we are disappointed, but not surprised, by your inability to reconcile the Government's optimism for this proposed Regulation (which will come into effect after we leave) with the UK's imminent departure from the EU.

We look forward to considering updates on this proposal's progress through the Council in due course.

12 December 2017

Letter from the Rt Hon Ben Wallace MP, Minister of State for Security

I am writing in response to your letter of 12 December, about progress of this measure through Council.

First, I would like to express my sincere apologies for the delay in updating the Committee on the progress of this instrument, which has not been up to the standard I would expect. I understand your concerns in relation to its handling and I would like to reassure you that we remain committed to ensuring we fulfil our scrutiny obligations in this respect.

It may assist the Committee if I give some further information about the inclusion of the preventive type of freezing order within the scope of the instrument. This type of measure is unique within Italian legislation, as it is designed to tackle the proceeds of Mafia-related crime. These types of orders are not made following a conviction in an Italian court. The order is aimed at preventing the re-use of criminal property that is proved to have derived from some offences committed in the past, in order

to finance new offences or legal business for example - in effect the order prevents future money laundering.

However, for such an order to fall within the new scope of the Regulation, there is a need to prove that the property has been obtained due to the person being "dangerous to society" at the time of the acquisition of the property. The preventive confiscation order is made on the basis of proven facts, and clear evidence that a criminal activity has been committed in the past, and that the property has been derived from such criminal activity.

The inclusion of this type of order was only accepted by Member States into the text on the basis that clear procedural safeguards applied in each case, particularly regarding the need to have effective judicial protection during the proceedings. The UK was supportive of this approach during negotiations to widen the scope to recognise such orders, given the desire to permit freezing and confiscation in as wide a set of cases as possible.

The text of the Regulation does not permit the recognition of orders made in proceedings in civil or administrative matters, which ensures that the UK system of non conviction based recovery, which takes place in our civil courts, is not included.

As my previous letter indicated, the choice of legal form of the instrument was still to be finalised as at the date of my letter. Whilst the issue of legal form was raised at COREPER in October, the discussion focussed over whether Member States had any difficulties in supporting a Regulation.

At the December Justice and Home Affairs Council, only one Member State objected to the General Approach being agreed. This objection was not so much based on the choice of form, but more on the specific lack of reference to fundamental rights in the instrument. The UK informed the Presidency that we would have to abstain in case there would be a vote due to an outstanding Parliamentary Scrutiny Reserve. We, and the other Member States however, supported the Presidency's General Approach on this text, achieving a Qualified Majority in favour of the text. The measure will now progress to trilogue negotiations with the European Parliament.

We will of course keep the Committee fully abreast of developments at the earliest opportunity, and do better to enable the Committee to fulfil its role in parliamentary scrutiny.

21 December 2017

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EU, OF THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (6695/16)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION, ON BEHALF OF THE EU, OF THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (6696/16)

Letter from the Chairman to Sarah Newton MP, Minister for Vulnerability, Safeguarding and Countering Extremism, Home Office

Thank you for your letters dated 24 April and 14 July 2017. They were both considered by the EU Justice Sub-Committee at its meeting of 10 October.

We decided to clear proposal 6695/16 providing for the EU's signature of the Istanbul Convention from scrutiny, but retain document 6696/16 on the EU's conclusion of the Convention under scrutiny.

We did not receive your letter dated 24 April. Its existence only came to light once our secretariat received your letter dated 14 July, which makes references to your earlier letter. Hence our delay in considering this matter.

With regard to the contents of the letters, the events and developments set out in your letter dated 24 April have been overtaken by the confirmation in your letter dated 14 July that the Council adopted these proposals in May. The exception to this, which we note, is your account of the Government's support for the SNP's Private Member's Bill that places a number of additional

responsibilities on you to monitor and report on the UK's progress towards ratification of the Convention. We are also grateful for your view of the Council's decision to split this legislation.

Having adopted the legislation providing for the EU's signature of the Istanbul Convention, our (and your) focus will now fall on the Council's discussion of the accompanying legislation providing for the EU's conclusion of this Convention. Like you, we expect that these negotiations will also see many of the arguments about the extent of the EU's power to adopt this legislation rehearsed.

We look forward to considering your updates on the Council's discussion of this matter in due course.

11 October 2017

COMMUNICATION ON THE 2017 EU JUSTICE SCOREBOARD (8217/17)

Letter from the Chairman to Dominic Raab MP, Minister of State, Ministry of Justice

Thank you for your letter and Explanatory Memorandum dated 7 November 2017 which was considered by the EU Justice Sub-Committee at its meeting of 28 November.

With regard to the merits of the EU Justice Scoreboard, we acknowledge the Government's concerns (which reflect those expressed by the Committee in its letter of 15 December 2015 to the then Lord Chancellor, Rt Hon Michael Gove MP). It is unfortunate that the question of compliance with the Scoreboard seems to be a recurrent issue between the Government and the Commission.

Nonetheless, we accept the Government's argument that the Scoreboard unnecessarily repeats work that is successfully undertaken by the Council of Europe.

However, the reason we are writing is the inexcusable delay in the Department producing an Explanatory Memorandum. We note your apology, and the fact that this 6 month period overlapped with the election and the summer and conference recesses. Nonetheless, this does not justify such a significant delay; particularly in circumstances where the Government's approach to the EU Justice Scoreboard has not changed substantively.

We recall that a similar issue arose in 2015, when the then Lord Chancellor signed an EM on the 2015 EU Justice Scoreboard in November, despite the document having been deposited in March.

We trust that such a delay will not recur in the future. Should such a failure be repeated we will call you to this Committee to explain the Department's approach to EU scrutiny.

We are content to clear the Communication from scrutiny and do not expect a reply to this letter.

28 November 2017

PROPOSED REGULATION ON COOPERATION BETWEEN NATIONAL AUTHORITIES RESPONSIBLE FOR THE ENFORCEMENT OF CONSUMER PROTECTION LAWS (9565/16)

Letter from the Chairman to Lord Prior of Brampton, Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy

Thank you for your letter dated 24 August 2017. It was considered by the EU Justice Sub- Committee at its meeting of 10 October.

We decided to waive the scrutiny reserve ahead of the Council's imminent agreement of this proposal.

As we acknowledged in our most recent letter to you dated 5 July 2017, your summary of these negotiations and the final text suggests that you have secured a proposal that meets the Government's negotiating aims.

Since July, the main substantive development outlined in your letter is the Council's final agreement of the Commission's powers to coordinate and initiate investigations into Union wide consumer

protection infringements. You explain that the Government was an advocate of the imposition of a high threshold before the Commission's powers are instigated. We note that the final text of this Regulation says that the Commission's powers will apply to consumer related infringements with a "Union dimension" that represent more than two-thirds of Member States accounting together for two-thirds of the Union population. Can you tell us how often you anticipate that recourse to this power will be necessary, and, can you offer us a recent example of a consumer related infringement where the requirements introduced by this proposed Regulation would have been met?

Turning to our scrutiny of this proposal, we note your request to clear this matter from scrutiny ahead of the Council's imminent agreement. However, in our view, one key question remains unsolved: precisely how you will secure the post-Brexit application of this quintessentially reciprocal legislation in the UK.

As you know, we are currently taking evidence on our inquiry into Brexit and consumer protection and expect the subsequent report to be published before Christmas. In September, we took evidence from Mr Roland Green and Mr Jason Freeman, both representatives of the CMA. (A copy of the transcript is available on the Committee's website.) Both witnesses acknowledged the importance of this legislation in enforcing consumer protection laws in the UK. For example, Mr Freeman said that, post-Brexit he would "seek to remain a member of the CPC network" (Q 29). Mr Green, who acknowledged problems with the current CPC Regulation that this proposal seeks to amend (Q 30), argued later in the session that "the CPC Regulation has been valuable" (Q 37). Can you tell us how the Government intends to secure the post-Brexit application of this "valuable" legislation that facilitates the enforcement of consumer protection rules in the UK?

We look forward to considering your response within the usual 10 day deadline.

11 October 2017

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

Thank you for your letter of 10 October to Lord Prior in which you waived scrutiny of the above file in anticipation of a Ministerial Council in the near future in which Ministers may be asked to sign-off the final text. The Committee asked some further questions and I am happy to be able to respond. On the basis of these answers, I would like to repeat my request for clearance from scrutiny.

The Committee asked how often the new threshold for joint action by the Commission and relevant Members States against infringements with a Union dimension might be breached. The threshold is defined in the new Regulation as an infringement that harmed, harms or is likely to harm consumers' collective interests in two-thirds of Member States accounting together for two-thirds of the population of the Union.

This would depend on the approach taken, once the new Regulation is in force, to the interpretation of the threshold of 'collective harm'. There may be, for example, scope for requiring that two-thirds of consumers resident in two-thirds of Member States must have been affected directly by an infringement to amount to a case of harm to 'collective interests' and therefore breach the threshold as defined in the new Regulation.

However, a view based on UK caselaw would suggest that a less complex interpretation is that if there is a common practice affecting consumers' interests (as a whole) in a group of Member States accounting together for two-thirds of the EU's population, then this would be sufficient to breach the threshold and the Commission may co-ordinate an action.

It is difficult to estimate how often the threshold might be reached, but there is already an example of one recent case against the five largest companies in the car hire market, which together represented around two-thirds of the UK and European market.

The case, with which the Committee may already be familiar, was coordinated at the EU level by the UK's Competition and Markets Authority under the current Regulation. Following concerns raised about a range of transparency and fairness issues, the coordinated action resulted in several commitments from the five companies to change practices. This included improving the transparency

of the information provided to consumers during the online booking process about the key rental terms and requirements.

Turning to the Committee's question about the post-EU exit application of the CPC Regulation, I can assure the Committee that we are carefully considering how best to continue cooperation on consumer protection with our partners after we leave the EU. We recognise that there will be mutual benefits for all consumers if we can agree suitable future arrangements for cooperating on cross-border enforcement. We are starting from a good place with the arrangements which already exist under the current Regulation, and we are focused on securing the right arrangements for the future so that consumers continue to be protected no matter where or how they buy. I am unable to pre-empt the negotiations before they have begun, but we are prepared for when they do.

It is anticipated that the European Parliament will hold the plenary vote on the file in the middle of November, and I will of course keep you updated on further progress.

23 October 2017

Letter from the Chairman to Margot James MP, Minister for Small Business, Consumers & Corporate Responsibility

Thank you for your letter dated 23 October 2017. It was considered by the EU Justice Sub-Committee at its meeting of 14 November.

We decided (again) to waive the scrutiny reserve ahead of the Council's agreement of this proposal. This will avoid an override when the Council agrees this matter.

Turning to the extent of the Commission's powers to coordinate investigations under the new Regulation, we note that throughout the negotiation of this proposal you have been a keen advocate of a high threshold before the Commission's powers are invoked. In a letter to this Committee dated 23 June 2017 you explained that the Government had sought to preserve the original Commission proposed threshold of three-quarters of Member States accounting for three-quarters of the Union population because this constituted an "appropriate level which prioritised Commission resources towards only the most serious Union-wide cases".

Whilst we recognise that an element of interpretation and compromise is always inherent in the nature of the EU's legislative procedures, it is disappointing to us that, when asked, you were unable to provide us with a clear explanation of what the UK Government (at least) intended when it negotiated this aspect of the proposal in the Council. Your suggestion that its operation will "depend on the approach taken once the Regulation is in force" is, for us, unsatisfactory.

We are grateful however for the recent example of when this power may be relied upon.

Turning to your request to clear this matter from scrutiny, your request is inexorably linked to the question of achieving the post-Brexit application of this legislation to the UK. Our letter to you dated 10 October drew on the evidence we have received in our consumer protection inquiry about the value of this legislation. Whilst the issue of the post-Brexit application of this Regulation to the UK will no doubt be addressed in our subsequent report, there is no guarantee, given the Government's poor recent record of (not) responding to EU Select Committee reports, that you will address this problem as part of the usual inquiry/response/debate process. (In September 2017, the EU Select Committee wrote to the Leader of the House about 10 overdue Government responses to our reports.) In light of this, we did not clear this matter from scrutiny and chose instead to waive the scrutiny reserve ahead of the Council's agreement of this proposal.

We note your reluctance to pre-empt the negotiation of this issue and look forward to considering your response to our question, in due course, once you have completed your careful consideration of "how best to continue cooperation on consumer protection with our partners after we leave the EU".

15 November 2017

GOVERNMENT RESPONSE TO THE COMMITTEE REPORT – BREXIT: JUSTICE FOR FAMILIES, INDIVIDUALS AND BUSINESSES?

Letter from the Rt Hon David Lidington CBE MP, Lord Chancellor & Secretary of State for Justice, Ministry of Justice

Further to my letter of 22 August, please find enclosed the Government's response to the House of Lords European Committee report on "Brexit: Justice for Families, individuals and businesses?"

In the first instance, I would like to thank the committee for its thoughtful analysis of how the Government should approach matters of civil judicial cooperation with the European Union. Please accept my apologies for the delayed response.

Since the committee published its report, the Government has triggered Article 50 and has begun negotiations with the European Union. In addition to this, the Government has published a series of papers which sets out its position on its vision for our future relationship with the EU, including the Future Partnership paper on providing a cross border civil judicial cooperation framework which was published on 22 August 2017. The Prime Minister has also set out proposals for a time-limited implementation period where the UK and EU continue to have access to one another's markets on current terms.

As the United Kingdom leaves the European Union, the Government will seek a deep and special partnership with the EU. Within this partnership, cross-border commerce, trade and family relationships will continue. Building on years of cooperation across borders, it is vital for UK and EU consumers, citizens, families and businesses, that there are coherent common rules to govern interactions between legal systems.

It is the Government's view that international intergovernmental cooperation and mutual recognition benefits all parties. Therefore, we will seek an agreement with the EU that allows for close and comprehensive cross-border civil judicial cooperation on a reciprocal basis, which reflects closely the substantive principles of cooperation under the current EU framework.

Can I once again take this opportunity to thank the Committee for its thoughtful report and look forward to any ongoing contribution it may have as we continue the process of ensuring the UK's successful exit from the European Union

1 December 2017

COMMISSION'S RESPONSE TO SUB-COMMITTEE'S REPORT – THE LEGALITY OF EU SANCTIONS'

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

Thank you for your letter of 14 September. The Committee's interest in the legality of EU sanctions is an important part of ensuring that sanctions are being used responsibly as a tool of foreign policy, with due respect for the rights of those affected. Your letter identifies a number of EU practices that have given rise to some concerns that those subject to EU restrictive measures are being denied an effective remedy: a) the delay between a decision of the EU Court and an annulment; b) the practice of relisting after a successful challenge on similar grounds; and c) the practice of adjusting statements of reasons while a case is still being considered.

Delayed annulment

Where a designation decision has been successfully challenged in the General Court, the Council (or Commission in some limited circumstances) has a time limited right to appeal. That time limit is two months and ten days, the standard time limit on all appeals from the General Court. During this time, unless specifically ordered by the General Court, the restrictive measures are not annulled and will remain in place. General practice is for the annulment to remain until the conclusion of the appeal.

If annulment were to take effect immediately, the designated individual or entity would be able to withdraw any assets from the EU, purchase any number of controlled items, and travel throughout

the EU to conduct whatever business they had there, until such time as the appeal was concluded. This would render ineffective the asset freeze and significantly limit the effectiveness of any re-imposition of sanctions after a successful appeal. The Government therefore supports the current practice and notes that the Courts in England and Wales also have the power to delay the effect of orders in certain circumstances until the appeals process is exhausted.

Redesignation on similar terms after a successful challenge

You have raised concerns that redesignation might be made based on the same evidence but under a new statement of reasons, or on evidence that could have been available at the time of listing, but was not used.

The practice of redesignation after a successful challenge has been upheld in the National Iranian Tanker Company case. The Council cannot ignore the judgement of the Court, and can only redesignate in two circumstances: where new evidence could be relied upon to justify the relisting of a target on the same grounds as in the original listing; and where new grounds for listing were used. The Government continues to believe that this is the correct approach. As set out in the Government's response to the Committee of 6 April 2017, this is necessary to prevent the perverse outcome of an individual being rendered immune from sanctions despite continuing to engage in the unacceptable or threatening behaviour that the sanctions are designed to change.

The UK will propose, or support, designating an individual or entity where there is sufficient evidence to show, using Ms Lester QC's terminology, that there remain "compelling reasons to do so". A compelling reason might be that there are reasonable grounds to suspect that an individual continues to engage in behaviour targeted by EU or UN sanctions.

Renewed designations on the basis of new statements of reasons before a Court decision comes into effect

The EU regularly reviews and updates sanctions listings on the basis of new information. This is essential to ensure that sanctions are targeted in the right way to achieve their political objectives as part of a wider strategy, and that the restrictions imposed on individuals or entities are made on a sound legal basis.

EU sanctions regimes require regular renewal. To agree to the renewal of EU sanctions regimes, Council members must be satisfied both that the sanctions remain appropriate for achieving the political objective, and also that the evidence threshold for sanctions listings continues to be met. As well as the periodic renewal cycle, sanctions are updated on an ongoing basis in response to new developments and information. New information might, for example, indicate that an individual has been involved in another attack against civilians. Statements of Reasons will be amended to reflect this.

Ms Lester QC notes that challenging a case in the EU Courts can take a long time; that "the General Court will not accede to requests that the court should give judgment on the re-listings in addition to the original listings being challenged"; and that there is no administrative procedure, similar to the process in the US, that might allow an individual to resolve concerns about their designation without going to Court.

The Government is not in a position to speak for the General Court on this issue. However, a designated individual or entity may make representations to the Council at any time and will be invited to do so prior to the EU's annual review of sanctions. Individuals and entities who believe that they do not meet the criteria for designation, or that they have been misidentified, can contact the Council Secretariat. The Council will delist where appropriate. The Government has previously acknowledged that this process could be quicker and remains committed to working with EU partners to improve it.

We very much appreciate the work of the Committee on the legal issues around sanctions, which will help inform the debate around the UK's future sanctions legislation. I am keen to ensure appropriate safeguards are in place, and would be very happy, as would Lord Ahmad, to discuss these issues with you, with Baroness Kennedy or with other members of the Committee, at your convenience.

25 October 2017

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

Thank you for your letter dated 25 October 2017. It was considered by the EU Justice Sub-Committee at its meeting of 14 November.

You did not reply to our specific question seeking statistics on the re-listing of individuals post successful annulment.

Please could you supply the Committee with an answer within the usual 10 day deadline.

15 November 2017