



House of Commons
European Scrutiny Committee

COVID-19 pandemic: the EU's policy response and its implications for the UK

Second Report of Session 2019–21

*Report, together with formal minutes
relating to the report*

*Ordered by the House of Commons
to be printed 26 March 2020*

Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee) *
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the parliamentary website. Documents awaiting consideration by the Committee are listed in "Remaining Business": www.parliament.uk/escom. The website also contains the Committee's Reports.

*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: <http://europeanmemoranda.cabinetoffice.gov.uk/>.

The European Scrutiny Committee

The European Scrutiny Committee is appointed under Standing Order No. 143 to examine European Union documents.

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Publication

Committee reports are published on the Committee's website at www.parliament.uk/escom and in print by Order of the House. Evidence relating to this report is published on the relevant inquiry page of the Committee's website.

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Summary

As of 26 March, the coronavirus pandemic that has swept the globe has infected at least 462,000 people and caused 99,000 deaths. The crisis has triggered an unprecedented political and policy response in the UK, across Europe and indeed globally. We have produced this Report to briefly summarise the EU's policy and legal measures adopted in response to the COVID-19 crisis to date, and make an initial assessment of their implications for the UK during the transition period.¹

The EU's response has focussed on three broad areas: the movement of people and goods, including supplies of medical and protective equipment and restrictions on travellers' entry into the Schengen zone (chapter 2), supporting the fiscal measures implemented by individual EU countries to limit the economic shock caused by the pandemic, including by tailoring EU State aid, budgetary and aviation rules (chapter 3), and accelerating the release of €29 billion (£27 billion) of direct financial support from the EU's structural funds to help affected countries and businesses (chapter 4).

The UK will be affected by the EU's policy and legal measures adopted in response to COVID-19 in much the same way as the remaining 27 Member States. It can access EU funding and apply the new flexibilities in the EU's normal restrictions on government subsidies just as the EU27 countries can, but is expected to apply new regulatory measures such as the recent EU-wide export authorisation requirement for medical supplies.

However, there are important differences. For example, with respect to the entry restrictions into the Schengen Zone (see chapter 2), the UK can decide its own policies and controls on the admission of non-EU/EEA nationals. The current crisis is also highlighting the difficulties of the post-Brexit transition arrangement, which means the UK has no formal say in shaping new EU law. Important policy decisions that affect the UK directly, such as the Commission's new "Temporary Framework" for special State aid measures (chapter 3), are being made in Brussels, at speed, but without formal UK input.

Lastly, the COVID-19 crisis has shone a spotlight on the Government's approach to the post-transition relationship with the EU on cooperation in emergency situations, and in particular its apparent decision not to seek UK involvement in EU systems deployed during the pandemic, such as the EU's Civil Protection Mechanism, which the Cabinet Office praised as a way of "enhancing the UK's capabilities to respond to crises" as recently as November 2018,² or its Early Warning & Response System (EWRS) for pandemics (chapter 2).

This Report raises important issues about the EU's response to COVID-19 and its implications for the UK. Unusually, we are publishing it before receiving the Government's Explanatory Memoranda³ on the different EU proposals and documents we refer to in the chapters that follow. Our aim is to ensure that the information the Government provides, when preparing its Memoranda, is as comprehensive as possible

¹ We do not cover policy or legal measures adopted by individual EU Member States, although UK Government decisions are referenced where relevant.

² [Letter](#) by Oliver Dowden MP to Sir William Cash, 12 November 2018.

³ The individual EU documents and proposals considered in this Report, and the deadline for the submission of the accompanying Explanatory Memoranda by the Government, are shown in the Annex.

and sets out clearly the impact of the EU's response on the UK. Given the urgency of the situation, and the pace at which events are moving, it is of the utmost importance that the Government submits its Explanatory Memoranda without delay.

1 Introduction

Purpose of this Report

1. The European Scrutiny Committee has a responsibility to assess, on behalf of Parliament, the development of European Union policy in areas of political and legal importance. The purpose of this Report is to describe the key policy and legal measures taken by the EU in response to the COVID-19 public health emergency to date, and to indicate their potential or actual implications for the UK.⁴

2. COVID-19, also known as coronavirus, is a viral infection that can cause severe respiratory complications in a significant sub-set of patients. It most likely originated in the Wuhan region of China in autumn 2019, and by January 2020 the World Health Organization [declared](#) it a “Public Health Emergency of International Concern” (PHEIC), “in view of significant increases in numbers of cases and additional countries reporting confirmed cases”. As of 26 March 2020, there have been over 462,000 known cases of infection and nearly 21,000 deaths.⁵ Measures to prevent the pandemic from overwhelming national healthcare systems, including limits on travel and public events, have had significant consequential effects on economic activity worldwide.

3. As the pandemic spread into Europe in February and March this year, many EU countries introduced restrictions on entry via land, sea and air,⁶ banned exports of certain medical items,⁷ and began ramping up public spending and tax breaks to help their economies weather the impact of coronavirus.⁸ The EU, by contrast to its individual Member States, has very limited legal powers (“competence”) in the area of public health or safety.⁹ The Union does have certain policy levers in other relevant areas to address the consequences of the pandemic (both in terms of the immediate medical response, and the wider economic fallout). The European Commission published a policy paper on the EU’s “coordinated economic response” on 13 March, which announced some of the regulatory, budgetary and legal measures described in this Report to address the COVID-19 pandemic.¹⁰

4. The particular implications for the UK of specific measures adopted by the EU during the transition period in response to this public health crisis are set out in the remainder of this Report.

4 Given the fast-moving nature of the crisis, it cannot—and does not aim to be—completely comprehensive. This Report also does not cover in any detail policy measures taken by individual EU countries, which are beyond our remit.

5 World Health Organization, “[Coronavirus disease \(COVID-2019\) situation reports](#)” (accessed 23 March 2020).

6 EU Observer, “[Nine EU states close borders due to virus](#)” (16 March 2020). Production of medical personal protective equipment in the EU is concentrated in Germany, France, Czechia and Poland.

7 Politico EU, “[EU fails to persuade France, Germany to lift coronavirus health gear controls](#)” (6 March 2020).

8 See for example: Bloomberg, “[Italy Announces \\$28 Billion Plan to Cushion Virus-Hit Economy](#)” (10 March 2020) and Financial Times, “[France ready to nationalise virus-stricken companies](#)” (17 March 2020).

9 See Title XIV of the Treaty on the Functioning of the European Union. There is [European legislation](#) on “serious cross-border threats to health”, which notably allows for exchange of information on disease outbreaks via the pandemic Early Warning & Response System, which is discussed further in chapter 2.

10 European Commission document COM(2020) 112, “Coordinated economic response to the COVID-19 outbreak” (13 March 2020).

5. Given the exceptional nature, and speed, of these EU policy developments, we have made the decision to make this Report before having received the customary Explanatory Memoranda from the Government setting out its position on the EU's individual policy measures and documents described. The Government, in its Memoranda, must stipulate explicitly whether it agrees or disagrees with the EU's proposition in each case.

6. The coronavirus outbreak is now global, necessitating intensive cooperation between the UK and other countries to limit its spread, secure adequate supplies of medical equipment, develop the most effective treatment plans, and cushion the wider economic shock triggered by the pandemic. The Committee takes note of the European Commission's paper of 13 March on the EU's "coordinated economic response" to the COVID-19 pandemic.

7. On the basis of the assessment of the potential or actual implications of the EU's response to the pandemic for the UK set out in this Report, the Committee asks the Government to provide the requested information and clarifications into its forthcoming Explanatory Memoranda on the EU documents referred to.¹¹ In particular, the Committee expects the Government to explain which of the EU's policy measures adopted in response to the crisis are applicable to, or will be applied by, the UK, and to provide an assessment of their expected impact on the UK.

8. The European Scrutiny Committee is aware of course that the COVID-19 policy response of public authorities in the UK and the EU will continue to develop rapidly in the coming days and weeks, and this Report therefore only provides a snapshot of the EU's approach at the time of it being agreed. The Committee will keep any further developments in the EU's response to COVID-19 under review and report to the House again when necessary.

¹¹ Where the Committee has raised questions in relation to EU documents that are not formally deposited for scrutiny, notably the Commission's guidelines on border management and or the use of the EU's Civil Protection Mechanism and Early Warning & Response System (all discussed in chapter 2), we ask the Government to incorporate its response into the Explanatory Memorandum on either the Commission Communication of 13 March 2020 setting out the EU's general approach to COVID-19, or in a Memorandum on any related document which is subject to scrutiny.

2 Movement of people and goods

9. The primary objective of Governments and other public authorities in addressing the COVID-19 pandemic has been to limit casualties resulting from infection with the disease. The role the EU has been able to play in this has been evolving rapidly since the start of 2020.

10. In late January, the EU's [Civil Protection Mechanism](#) (CPM) was triggered.¹² This provides a system for asking Member States to provide equipment for use by other Member States or overseas to tackle an emergency. The Mechanism has provided financial support for flights repatriating EU nationals from overseas, and was recently used to start stockpiling medical and protective equipment for use by Member States (see below). The UK remains a part of the CPM for the duration of the transition period.¹³ European countries have also been systematically exchanging information on the epidemiological element of the pandemic via the EU's [Early Warning & Response System](#) (EWRS).¹⁴

11. Although the Cabinet Office previously told Parliament of the many “benefits of [...] future cooperation with the EU on civil protection” after Brexit in cases of natural disasters and other emergencies,¹⁵ the Prime Minister's detailed negotiating objectives for a new relationship with the EU, published on 27 February 2020, omit specific mention of either the CPM or the EWRS.

12. Given that both the EU's Civil Protection Mechanism and EWRS have taken on renewed importance and focus given the potential for the coronavirus outbreak to last many months, potentially beyond the scheduled end of the post-Brexit transition period, we ask the Government to provide an update on its assessment of the costs and benefits with respect to continued UK participation in these EU systems after the end of the transition, and to clarify what form of formalised “cooperation” it is seeking with the EU on health security more generally.

Guidelines for border management

13. Although the EU's mechanisms for exchange of information and coordination of the response to COVID-19 initially functioned as intended, following the rapid spread of the pandemic the EU's practical response began to fragment rapidly along national lines in early March. By mid-March EU governments were pursuing decidedly national approaches. Countries including Denmark, Hungary and Germany had begun imposing unilateral entry bans to avoid the introduction of new sources of introduced infection. Some countries also instituted export bans to protect their domestic supplies of certain medical items necessary to treat cases of respiratory disease, notably personal protective equipment such as gloves and facemasks.

12 See also the European Scrutiny Committee's [Report of 21 November 2018](#), which contains more details about recent reforms to the EU's Civil Protection Mechanism.

13 In early February 2020, the Mechanism provided [financial support](#) for Member States chartering flights to repatriate EU citizens from China, and later that month it [co-financed](#) the delivery of personal protective equipment to China to help fight the outbreak. However, in February criticism also emerged that the EU's requests via the CPM for other Member States to donate additional medical supplies to Italy had not yielded results. See for example The Guardian, “[Italy criticises EU for being slow to help over coronavirus epidemic](#)” (11 March 2020).

14 The ERWS mechanism was established by See [EU Decision 1082/2013](#) on serious cross-border threats to health.

15 [Letter](#) by Oliver Dowden MP to Sir William Cash, 12 November 2018.

14. Within the EU, the effect of these measures was to disrupt travel and movements of goods not only with non-EU countries, but also within the Single Market, where border controls between Member States on the movement of people and trade restrictions on medical supplies are normally absent. In particular, the European Commission warned that the export limits and border closures combined had an “immediate and severe” impact on supply chains, especially those for “critical supply materials and perishable goods”.

15. On 13 March the European Commission called on Member States to implement “Europe-wide coordinated solutions”. This was followed swiftly by Commission guidelines on “health-related border management measures”; a legal measure enabling Member States to limit exports of personal protective equipment to non-EU countries; and a proposal to introduce “temporary restrictions” on travel into the Schengen area. The Commission also warned that it could “take legal action” before the Court of Justice if Member States maintained export restrictions that went beyond the emergency measures permitted under EU law.

16. On 16 March, the European Commission published [guidelines](#) for border management measures to protect health and ensure the availability of goods and essential services.¹⁶ EU leaders endorsed them via videoconference on 17 March. The Commission underlines the need for effective coordination at EU level so that national measures do not obstruct vital supply chains or impede the work of the emergency services. It makes a number of operational suggestions, such as providing “green lanes” to give emergency and freight services priority access at border crossings, and loosening supply-side restrictions (for example, weekend bans) on deliveries.

17. With respect to border restrictions to limit the spread of COVID-19, the Guidelines note that systematic controls—which can include health checks—on all individuals entering and leaving the Schengen free movement area already apply at the EU’s external borders.¹⁷ The Commission recommends that EU Member States establish procedures to screen all arrivals and departures to identify travellers at risk of exposure to COVID-19 or displaying symptoms of infection.¹⁸ Non-resident third country nationals may be refused entry if they are considered a threat to public health.¹⁹ Because of the existence of controls at the Schengen external border, the Commission considers that temporary internal border controls between Schengen countries should be the exception and are justified only “in an extremely critical situation” to respond to a risk posed by a contagious disease.²⁰

18. The Commission’s Guidelines on border management seek to strike a balance between justified checks at the EU’s borders, both internal and external, to limit the spread of coronavirus, and the effective functioning of the Single Market so that essential transport, travel and supply chains within the Schengen zone are not disrupted. However, they are advisory and, as such, create no legal obligations. We would nonetheless welcome the

16 European Commission document C(2020) 1753.

17 See Article 8(3) of the Schengen Borders Code, [Regulation \(EU\) 2016/399](#).

18 The Commission notes that this will require countries to make available protective equipment to those involved in screening, provide information to passengers and staff at points of entry and exit, and ensure that any individuals presenting a public health risk have access to appropriate health care

19 See Article 14 of the Schengen Borders Code, [Regulation \(EU\) 2016/399](#).

20 As of 19 March, 12 EU or Schengen associated countries were applying temporary controls at some or all of their internal borders with other EU/Schengen countries for reasons related to COVID-19. The latest details are available on the [European Commission’s website](#).

Government's view on their content and impact on the operation of supply chains for essential goods. We are particularly interested to hear whether the Government intends to follow the guidelines on health screening and checks at the UK border.

Temporary restriction on non-essential travel into the EU

19. The same day as it issued its guidelines on border management in response to the COVID-19 crisis, the European Commission also [suggested](#)²¹ that the EU and Schengen-associated countries (Iceland, Norway, Switzerland and Liechtenstein) should collectively impose a temporary restriction—initially for 30 days—on travel from third countries to the EU (and also discourage outward travel from the EU). The following day, EU leaders jointly agreed to apply coordinated travel restrictions on the basis proposed by the Commission.²²

20. The restrictions apply to all “non-essential” travel from third countries to the EU, with an exception made for returning EU citizens, their family members, and long-term residents.²³ As the UK and Ireland do not participate in the Schengen free movement area, the EU Treaties recognise their right to determine the controls that apply at their borders.²⁴ The European Commission nonetheless has encouraged both to apply the same restrictions as EU and Schengen-associated countries to limit the global spread of COVID-19. As the UK and Ireland together operate a Common Travel Area, it is imperative that they act in tandem. The Commission has made clear that the restrictions on travel to the EU would not apply to UK nationals—their right to free movement is protected under the [EU/UK Withdrawal Agreement](#) at least until 31 December 2020, the date on which the post-exit transition period is expected to end.²⁵

21. The Government has not imposed similar entry restrictions on travellers arriving at the UK border from outside the EU. On 19 March, the Foreign Secretary said the Government does not at this stage anticipate taking similar action to restrict entry as it would “not be in the UK interest” and would not affect the spread of the virus. He added that the Government also had to consider the impact on supply chains and on airlines.²⁶

22. When it comes to the management and control of its external borders, the UK is not bound by the rules applicable to EU Member States and countries associated with the Schengen rulebook. The decision taken by EU and Schengen states to introduce a temporary restriction on entry is nonetheless pertinent to the UK because it recommends action which goes beyond the formal powers conferred on the EU by the EU Treaties and therefore depends on countries voluntarily agreeing to coordinate

21 COM(20) 115; ESC No. 41142

22 The decision to apply a ban non-essential travel to the EU is one that had to be taken at national level, because the EU Treaties only give the EU powers to determine the checks and controls that apply at the external EU/Schengen border, not to decide who to admit.

23 There are further exceptions envisaged for those who fulfill “an essential function or need”, such as health and social care workers, or whose journey is necessary for “imperative family reasons”.

24 See [Protocol No. 20 to the EU Treaties](#). The Government has updated its own [guidance](#), advising against all non-essential foreign travel from the UK for an initial period of 30 days, with effect from 17 March. At the time of writing, there are no new restrictions on travel to the UK.

25 Article 132 of the EU/UK Withdrawal Agreement allows the EU and UK to agree a single extension of the transition period for “up to one or two years”. [Section 15A of the European Union \(Withdrawal\) Act 2018](#) prevents a Minister from agreeing to an extension in the EU/UK Joint Committee established by the Withdrawal Agreement. An extension would therefore require an amendment of the 2018 Act.

26 Oral evidence by the Rt Hon Dominic Raab MP, Foreign Secretary, to the Foreign Affairs Committee (19 March 2020; transcript not yet available).

their response to reduce the spread of COVID-19. We ask the Government to clarify whether it considers that the coordinated entry restrictions agreed by the Schengen states are an appropriate response to the COVID-19 epidemic, whether the Government will consider applying the same or similar restrictions on travel to the UK, and to what extent the UK is coordinating with EU partners (especially Ireland) in determining its own response.

Supplies of medical and personal protective equipment

23. As noted, the supply of medical and personal protective equipment necessary to combat the pandemic has been a controversial issue within the EU after individual Member States imposed export restrictions (even on the provision of such supplies to other EU countries). The European Commission has said it has persuaded some (unnamed) Member States to amend their export restrictions to bring them in line with EU law.

24. However, despite its concerns about restrictions on free trade in medical supplies within the EU, the Commission has sought to give Member States some flexibility in deciding whether relevant equipment can leave the EU for export to “third” countries. To counteract a potential shortage triggered by the pandemic,²⁷ on 14 March the European Commission passed a legal act introducing a new requirement for EU businesses to obtain prior government authorisation before exporting personal protective equipment—face masks, gloves and other protective items—outside the European Union.²⁸ These new EU-wide trade restrictions do not apply to the sale of PPE goods to the UK for the duration of the post-Brexit transition period.

25. The EU is also taking other steps to increase the availability of supplies of medical and protective equipment to its Member States. Most prominently, under the EU’s legal framework for cross-border threats to health,²⁹ 26 EU Member States plus the UK are signatories to a [Joint Procurement Agreement](#) on “medical countermeasures” (with the last Member State, Finland, in the process of joining).³⁰ Based on this agreement, specific procurement exercises were launched in February and March 2020 for personal protective equipment and COVID-19 testing supplies. It is unclear if the UK—where there have been press reports of inadequate amounts of protective gear for frontline NHS staff³¹—although able to participate in these arrangements as a non-Member State during the post-Brexit transition, has agreed or declined to do so.³²

26. On 19 March, the European Commission was also given the green light by Member States to purchase and stockpile medical supplies directly from early April, for distribution

27 The Commission has noted that EU imports of personal protective equipment from overseas has fallen as other countries restrict their exports, EU-based production is concentrated in a limited number of Member States (the Czech Republic, France, Germany and Poland), and existing stocks and manufacturing capabilities are insufficient to meet demand within the EU.

28 See Commission Implementing Regulation (EU) 2020/402 making the exportation of certain products subject to the production of an export authorisation. ESC No 41141. The requirement for an export authorisation applies for six weeks from 15 March. Under the EU’s usual trade rules, this equipment can be exported without restriction. See [Regulation \(EU\) 2015/479](#) on common rules for exports.

29 Article 5 of [EU Decision 1082/2013](#).

30 See for more information the [European Commission website](#). Sweden and Poland also only signed after the coronavirus outbreak.

31 For example: BBC News, “[Coronavirus: NHS staff ‘at risk’ over lack of protective gear](#)” (18 March 2020) or the Guardian, “[‘Not fit for purpose’: UK medics condemn Covid-19 protection](#)” (16 March 2020).

32 The UK was among the original signatories to the Joint Procurement Agreement in 2014 and continues to be covered by it during transition.

to Member States as needed, under the EU's Civil Protection Mechanism.³³ The UK is able to call on the supplies of the CPM until the end of the post-Brexit transition period, but its role in the mechanism beyond that is unclear (see above).

27. The European Commission has introduced a new mechanism to enable Member States to limit the export of personal protective equipment (PPE) to preserve a supply within the EU. In responding to our Report, we ask the Government to explain whether it agrees with the Commission's assessment that existing stocks of PPE and manufacturing capabilities within the EU are insufficient to meet demand; whether it also agrees that the introduction of a prior authorisation requirement is a necessary and proportionate response to the COVID-19 epidemic; effect it will have on supplies of personal protective equipment in the United Kingdom; and whether/how it will affect export businesses in the UK.

28. The EU in February and March 2020 also launched a joint procurement exercise for protective equipment and coronavirus testing supplies, to build up sufficient stockpiles and obtain them more cheaply than its individual Member States could. The UK, during the transition, is eligible to participate in such joint acquisition schemes. Given reports of inadequate supplies of medical equipment for frontline hospital staff in the UK, we ask the Government to clarify whether the UK is participating in the procurement exercises and, if not, to stipulate the reasons why.

33 European Commission, "[COVID-19: Commission creates first ever rescEU stockpile of medical equipment](#)" (19 March 2020).

3 Economic support measures

29. Aside from its tragic consequences for individuals infected and their loved ones, the outbreak of the virus has also caused a severe economic crisis that is likely to tip the world economy into a recession in 2020. Restrictions on travel and large gathering have had dramatic consequences for the profitability of entire sectors, notably aviation, tourism and retail, and by extension for the livelihood of millions of workers employed in those industries. Although banks also face particular challenges, no specific EU proposals to change or relax prudential rules for the banking sector has been put forward to date to help them weather an increase in loan defaults.³⁴

30. In recognition of these severe economic pressures, individual countries have announced a range of domestic policy measures seeking to limit the long-term economic damage. For example, on 17 March 2020, the Chancellor of the Exchequer [announced](#) that the UK Government would provide “unprecedented support” to British businesses, including a scheme to subsidise 80 per cent of the wages of all businesses’ employees who would otherwise be at risk of redundancy (the “Coronavirus Job Retention Scheme”), and a year-long business rates “holiday” for the retail, leisure and hospitality sectors.³⁵ Further measures appear likely.

31. As set out in more detail further below, the European Commission has proposed a number of steps in recent weeks in a bid to support such efforts undertaken at Member State (and UK) level. These are mostly general in nature, for example by waiving normal restrictions on use of subsidies, loans or tax breaks to help struggling businesses (“State aid”), or by relaxing the EU’s rules on public debt and deficit under the Stability & Growth Pact. The European Central Bank has also launched a massive bond-buying programme, and use of the European Stability Mechanism, established to prevent another Eurozone sovereign debt crisis, is under consideration to boost EU countries’ spending power.

32. In addition, the Commission has proposed a specific amendment to EU law to relieve the struggling aviation industry from an obligation to operate empty flights. The EU is also preparing to use its own budget to provide direct financial support to affected countries and businesses. This is discussed further in chapter 4.

33. The Committee notes the potential knock-on effects on the stability of the banking sector of the economic damage caused by COVID-19 if borrowers begin to default on their loans on a large scale. We note that at present neither the Government nor the EU appears to consider legal changes to regulation or supervision of the banking sector necessary at EU level. We would welcome the Government’s confirmation of this assessment.

34 The European Commission’s special State aid framework created in response to the COVID-19 pandemic contains the option for EU countries—and the UK—to introduce “safeguards to maintain bank lending levels”. Eurozone Finance Ministers have also said they will offer guarantees worth €1 trillion collectively to incentivise banks to provide loans they would otherwise consider too risky.

35 HM Treasury, “COVID-19: support for businesses” (accessed 23 March 2020). Within the EU, other countries have also announced policies as varied as suspension of mortgage and rent payments, cuts in VAT and other taxes, and fiscal stimulus packages, including for the self-employed.

Relaxation of EU State aid rules

34. One of the European Commission's core functions is to monitor the application of [EU competition and State aid laws](#) in the Member States. Generally speaking, EU rules prohibit governments—be they national, regional or local—from providing financial support to individual businesses or sectors (for example in the form of a selective subsidy, tax break or loan on non-commercial terms) where this distorts or threatens to distort competition and affects trade between Member States, subject to certain exceptions. The European Commission has to approve State aid schemes which do not fall within any of the agreed exemptions, and has extensive powers to block, or demand adjustments to, Government support measures it considers in breach of EU rules.

35. Doubts around the application of these EU rules in the current circumstances could hinder the fiscal stimulus packages being implemented by EU countries and the UK to deal with the economic fall-out of COVID-19. Those are designed, after all, to keep individual businesses hit by the economic repercussions of the pandemic solvent. On 13 March, the European Commission stated that EU State aid rules would not prevent Member States from taking “swift and effective action”.³⁶ It identified several routes of financial support that would be in line with (or outside the scope of) EU law, including emergency liquidity assistance for businesses facing bankruptcy due to the coronavirus to help them restructure,³⁷ and compensation to companies for actual losses suffered because of the pandemic.³⁸

36. The Commission has also noted that the EU Treaties allow the Commission to approve further derogations from European State aid rules if there is a “serious disturbance in the economy of a Member State” under Article 107(3)(b) TFEU.³⁹

37. Having already enabled Italy to make use of this option earlier in the month, on 19 March the Commission published [new interpretative guidance](#) on the application of EU State aid rules to any such “exceptional” support granted by EU countries and the UK in response to the pandemic under Article 107(3)(b).⁴⁰ This so-called “Temporary Framework” sets out guidance for four different types Government support schemes which fall within the scope of EU State aid law,⁴¹ but which the Commission considers to be in line with those rules in the current circumstances.⁴² It does not apply to support provided by Governments that is available to all businesses, such as the UK's Coronavirus Job Retention Scheme to help firms pay their furloughed employees' wages.

36 Commission document COM(2020) 112, p. 6.

37 Article 107(3)(c), as interpreted by the European Commission's “Rescue and Restructuring Guidelines”, allow EU Member States to grant “urgent and temporary assistance in the form of loan guarantees or loans to all types of companies in difficulty”. This was used, for example, in February 2019 to approve a €400 million support scheme in Ireland to cover “acute liquidity and rescue and restructuring needs of SMEs as a Brexit preparedness measure”.

38 Article 107(2)(b) TFEU permits “aid to make good the damage caused by natural disasters or exceptional occurrences”.

39 This option was last invoked during the financial crisis. See: [“Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis”](#) (22 January 2009).

40 European Commission document [C\(2020\) 1863](#): “Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak”.

41 The “Temporary Framework” deals with four different types of State aid usually subject to restrictions under EU law, including direct grants and selective tax advantages, government-backed guarantees for loans taken by companies from banks, subsidised public loans to companies, and safeguards to maintain bank lending levels.

42 The Commission's temporary relaxed interpretation of EU State aid rules will apply, at first instance, only to Government support provided before the end of 2020.

38. The key category of Government support covered by the new Framework is that of *selective* State aid measures in the form of grants or tax breaks, i.e. taxpayer-funded support targeted at specific sectors or indeed firms. For these, the Commission has listed five cumulative conditions which, if met, mean that the scheme will be considered compatible with European law. This includes for example a rule of thumb that support for a company should not amount to more than €800,000 (£740,000).⁴³ However, the Commission also notes that Member States can seek rapid approval of different approaches that do not meet these predefined criteria.⁴⁴ For example, as of 23 March, the Commission is known to be processing an application by the UK Government for the business rates ‘holiday’ for all retail, hospitality and leisure companies (which is a sector-specific tax advantage, and therefore in the scope of EU State aid law and the Temporary Framework). The fact that a particular scheme does not meet the five conditions set out in the Framework does therefore *not* automatically mean that the EU would block it.⁴⁵

39. A draft of the Temporary Framework for EU State aid rules during the COVID-19 crisis was circulated to Member States for comment a few days before its formal publication on 19 March, but it is unclear if the UK Government and Competition & Markets Authority were also consulted in advance.

40. In the context of the transition period, we ask the Government to explain whether the Government was sighted of the draft Temporary Framework for exceptional State aid measures when it was circulated by the Commission to the EU’s Member States on 17 March, or in any event before its final publication; set out its position on this new emergency approach to EU competition rules; and clarify whether its views were taken in account when the Commission finalised the formal Framework.

Waiver of fiscal rules under the Stability & Growth Pact

41. The Stability and Growth Pact (SGP) requires all EU Member States to comply with budgetary discipline with respect to both public debt and deficit.⁴⁶ For Eurozone countries, breaches of the Pact can result in financial sanctions.

42. To provide legal certainty, and avoid damaging rows about whether EU fiscal rules prevented Member States from taking action to stabilise their economies, the European Commission initially announced on 13 March that it would to a large extent ignore COVID-19-related expenditure when assessing public debt and deficit figures this year. On 19 March, the Commission went a step further and [proposed](#) triggering the Pact’s “general escape clause”. This would in effect suspend the previous (strict) “fiscal adjustments”—

43 The other four interpretative criteria established by the Commission for selective grants and tax breaks to companies are that the scheme must have an “estimated budget”; it cannot be provided to firms already at risk of collapse before 2020; the support is only granted up until 31 December 2020; and special rules apply for the agricultural sector.

44 Paragraph 16 of the Temporary Framework states: “The Commission sets out in this Communication additional temporary State aid measures that it considers compatible under Article 107 (3)(b) TFEU, which can be approved very rapidly upon notification by the Member State concerned. Moreover, notification of alternative approaches—both aid schemes and individual measures – remains possible”.

45 The European Commission has in recent days already approved a number of schemes that went beyond the “a priori” conditions of the Temporary Framework, including an [Italian scheme](#) to support the production of medical equipment, a [Portuguese scheme](#) for small businesses and a [Danish plan](#) to compensate the organisers of large-scale events cancelled because of the pandemic.

46 Unless the debt-to-GDP ratio is “sufficiently diminishing and approaching the reference value at an acceptable rate”.

spending cuts and tax increases—required of EU Member States to decrease their public debt and deficit to meet EU limits, giving them more flexibility to spend without formally breaching European rules.⁴⁷ EU Finance Ministers are expected to endorse this proposal in the coming days.

43. The Committee takes note of the Commission's triggering of the flexibilities in applying the public debt and deficit adjustments EU countries were required to make under the Stability and Growth Pact following the COVID-19 crisis. It further notes that these EU measures have no implications for the Treasury's fiscal response, due to the UK's non-participation in the euro and its opt-out from key elements of the Pact.

Pandemic Emergency Purchase Programme

44. The COVID-19 has also spurred Central Banks across the world into action, leading to interest rate cuts in a bid to keep money flowing in the real economy. Moreover, on 19 March, the European Central Bank announced that it would launch a "Pandemic Emergency Purchase Programme", a €750 billion (£704 billion) bond-buying scheme that aims to increase demand for Eurozone sovereign debt.⁴⁸ This will also make it easier for those Governments to finance the necessary fiscal measures to respond to the COVID-19 crisis through borrowing.⁴⁹

45. The exact operation of the ECB's bond-buying programme is unclear, but—given its scale—is likely to have to be carried out through the extensive financial markets infrastructure provided by the City of London with its proven indigenous systems, particularly after Brexit. More generally, the economic crisis caused by the COVID-19 pandemic has also once again put a spotlight on the relative fragility of the Bank's position as a lender of last resort for the Eurozone, given that it has to develop a monetary policy response taking into account the divergent demands of the individual countries of the Eurozone, which are all represented on the ECB Governing Council and whose positions are driven to a large extent by their different national economic contexts.⁵⁰

46. The impact of this fragmented governance structure is also clear from the further discussions taking place with respect to the coordination of the Eurozone's overall fiscal response to the pandemic. For example, the 19 Euro area countries are engaged in difficult discussions about the potential use of common debt obligations in the form of "Eurobonds" or the European Stability Mechanism (ESM), a body that provides financial assistance to Eurozone governments facing balance-of-payment difficulties established after the previous sovereign debt crisis, as a way of boosting governments' spending power through an Enhanced Conditions Credit Line.⁵¹ The outcome of those talks is not yet clear, but the Netherlands in particular appear to be opposed to using the ESM for such a purpose because it believes it would be creating a moral hazard for other countries to forego structural economic reforms to improve their fiscal position instead.

47 Monitoring of countries' compliance with the Pact is done by their peers in the EU's Council of Finance Ministers, on the basis of information provided by the European Commission.

48 European Central Bank, "[ECB announces €750 billion Pandemic Emergency Purchase Programme \(PEPP\)](#)" (18 March 2020)

49 As noted elsewhere in this Report, any fiscal measures to boost the economy are primarily a Member State, rather than EU, responsibility.

50 See for example Barnabas Reynolds, David Blake and Robert Lyddon for Politeia, "[Managing Euro risk: saving investors from systemic risk](#)" (27 February 2020) and Barnabas Reynolds for Politeia, "[A template for enhanced equivalence](#)" (July 2017).

51 See for more information the ESM website: www.esm.europa.eu.

Amendment to the Airport Slots Regulation

47. Within the Single Market, EU law governs airport “slots”—the times at which commercial passenger planes can take off and land.⁵² In the context of the COVID-19 crisis, which has led to a dramatic decrease in demand for air travel, the Regulation has caused problems for the aviation industry because of its “use-it-or-lose-it” rule. This states that airlines must use 80 per cent of their allocated slots in a season if they want to retain them in future years, a requirement which is now incentivising carriers to fly empty planes.⁵³ In early March 2020, UK became one of several countries voicing its concern over this unintended side effect of the legislation.⁵⁴

48. On 13 March 2020, the European Commission therefore proposed an amendment to the Slots Allocation Regulation to protect the allocation rights of airlines that have not been able to meet the 80 per cent threshold for slots during the current seasonal period.⁵⁵ In essence, the draft legislation would require EU Member States—and the UK—to consider all slots for the period 1 March 2020 until 30 June 2020 as having been operated by the air carrier to which they were initially allocated, even if they were in practice not used.⁵⁶ These time-frames could be amended rapidly if the pandemic causes disruption in air travel beyond June this year.⁵⁷ Airlines have called on the EU to go further and suspend the “use-it-or-lose-it” rule altogether.⁵⁸ Although the legislation would apply to the UK during the post-exit transition, the Government has no role in the EU legislative process.

49. The Government called on the EU to amend the Airport Slots Regulation in view of the drop in demand for air travel caused by COVID-19 and will therefore, in principle, have welcomed the recent European Commission proposal to that effect. We ask the Government to include in its forthcoming Explanatory Memorandum on the proposal its assessment of whether it goes far enough in terms of the amount of time for which slot allocation rules would be relaxed, or whether a suspension is required and set out how it is engaging with the European Commission and the other EU institutions to ensure its views on the proposal are accounted for in the legislative process.

52 These rules are intended to ensure that airlines have access to the busiest EU airports on the basis of (competitive) neutrality, transparency and non-discrimination. Slots are allocated by independent coordinators—e.g. Airport Coordination Limited in the UK—and are governed by Regulation (EEC) No 95/93 (the Slots Allocation Regulation).

53 Slots are ‘grandfathered’ to incumbent airlines from year-to-year subject to the use-it-or-loose-it obligations. As a consequence, if an airlines operates 80% or more of their allocated slots, they have, in effect, an indefinite right to their retention. If they do not use 80 per cent of their allocation, they risk losing the slots.

54 Letters from the Secretary of State for Transport (the Rt Hon Grant Shapps MP) to Adina-Iona Valean, European Commissioner for Transport, dated 9 and 12 March 2020.

55 European Commission document [COM\(2020\) 111](#): Proposal for a Regulation amending Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports.

56 Similar changes to slot allocation rules were made by the EU in the immediate aftermath of the 9/11 terrorists attacks, the outbreak of SARS and the onset of the war in Iraq, and the financial crisis in 2009.

57 Such changes would be made by means of EU Delegated Acts under an ‘urgency procedure’, allowing them to enter into force “without delay” rather than being subject to a pre-emptive veto by either the Council or the European Parliament.

58 This is as slot usage is based on an average of slots flown throughout a season; an assumed usage of 100% for the period as proposed by the Commission would still require a significant number of flights to be undertaken towards the tail-end of the summer season for slots to be retained as of right in 2021. See also IATA, [‘IATA Welcomes EU Suspension of Slot Use Rules’](#) (14 March 2020)

4 Financial assistance from the EU budget

50. The economic shockwaves caused by the pandemic have required national governments to step in with rescue packages for affected businesses and employees, which have varied country-by-country. While the fiscal response will primarily be undertaken at Member State and UK level,⁵⁹ the European Commission has proposed some support measures from the EU budget to support individual EU countries.⁶⁰

51. In particular, on 13 March 2020 it tabled a proposal for a “Coronavirus Response Investment Initiative” (CRII). This would essentially use €37 billion (£34 billion) of funding from the European Structural & Investment Funds, like the Cohesion Fund, to support Member States’ medical and fiscal response to the pandemic. In addition, it has proposed to boost investment by the European Investment Bank; expand the EU financial support for coronavirus-related research projects; and make use of the EU Solidarity Fund so that it can provide support during public health emergencies.

Coronavirus Response Investment Initiative

52. The “Coronavirus Response Investment Initiative” (CRII) is the European Commission’s key financial support measure triggered by the COVID-19 pandemic. On 13 March, the Commission proposed⁶¹ to mobilise €29 billion (£x) available cash reserves under the EU structural funds⁶² to respond to the crisis, on top of €8 billion of such funds already paid to the Member States but which they have not yet used. Funds under the CRII could be used for health expenditure including hospital equipment, the provision of working capital to small business, or even short-term employment schemes.⁶³ However, because the initiative does not involve new EU money, Member States will need to decide whether to divert structural funding away from existing, or planned, projects to those relevant to the COVID-19 pandemic.

53. Under the terms of the Withdrawal Agreement, the UK remains eligible to be granted structural funds programmed until the end of this year.⁶⁴ Of the €37 billion in EU structural funding the Commission estimates its proposal would make available to

59 The European Commission is known to be preparing a legislative proposal for an Unemployment Reinsurance Scheme as an EU-level automatic stabilizer, but there is no prospect of this being adopted and implemented sufficiently swiftly to make a difference during the current pandemic.

60 [Conclusions](#) of the extraordinary meeting of the EU Health Council, 10 February 2020.

61 European Commission document [COM\(2020\) 113](#), “Proposal for a Regulation amending Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013 and Regulation (EU) No 508/2014 as regards specific measures to mobilise investments in the health care systems of the Member States and in other sectors of their economies in response to the COVID-19 outbreak”, 13 March 2020.

62 The [EU structural funds](#) are: the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF).

63 The proposal does not create new EU funding. Under existing EU rules, Member States and the UK already receive a small proportion of their national structural funds as “pre-financing” to enable initial payments to projects, but any unspent pre-financing is normally returned to the European Commission by the end of June each year. The Commission now proposes that EU countries and the UK can keep these unspent funds - which amount to roughly €8 billion (£7.3 billion)—and treat them as national co-financing—allowing them to access the further €29 billion of EU structural fund support for projects related to the COVID-19 crisis.

64 Some funding granted before the end of 2020 may not be paid out by the EU until 2021 or later. Under the terms of the Withdrawal Agreement, the UK will also receive those payments.

respond to the economic effects of the pandemic, a total of €555 million (£474 million) would be available for the UK.⁶⁵ The Commission has also noted the UK still has a further €2.4 billion (£2.2 billion) of unused structural fund allocations for 2020, which it could spend on responding to the indirect economic effects of the coronavirus outbreak, or on other economic development projects for which EU structural funds are typically used. The European Investment Bank is also providing financial assistance to EU businesses, but the UK is not eligible for such support under the terms of the Withdrawal Agreement.⁶⁶

54. The Committee has taken note of the European Commission's €37 billion Coronavirus Response Investment Initiative, and its aim of redirecting EU structural funds to assist Member States in addressing the impact of COVID-19.

55. Under the Withdrawal Agreement, the UK remains eligible to be awarded EU funds until the end of 2020. However, the Government has not made clear if it will seek to make use of the €555 million (£509 million) of funding the Commission has proposed to make available for COVID-19 related projects specifically, nor how it intends to spend all or part of the additional €2.4 billion of unallocated structural fund allocation for 2020 the UK has left. We therefore ask the Government, in its forthcoming Explanatory Memorandum on the Commission proposal, to explain its position on the potential benefits of the proposed changes to the allocation of EU structural funds, and indicate to what extent the UK is likely to switch its remaining EU structural funding away from other projects to deal with the repercussions of the coronavirus.

EU funding for research into a coronavirus vaccine

56. The EU has increased its investment in research into COVID-19, especially the potential for a vaccination programme.⁶⁷ The question of new medical treatments related to COVID-19, including a possible vaccine, has also again raised questions about the UK's departure from the EU's systems for the development of pharmaceuticals and the coordinating role played by the European Medicines Agency (EMA)⁶⁸ in facilitating access to new treatments across the EU.⁶⁹ The UK's pharmaceutical industry voiced concerns as far back as January 2018, when it stated that Brexit could lead to "additional delays for UK patients in accessing new medicines", referring to the situation in Switzerland (which is also outside of the EMA).⁷⁰

65 €244 million from unspent pre-financing already held by the Treasury, and an additional €311 million from the EU budget.

66 Article 151 of the Withdrawal Agreement states: "As from the date of entry into force of this Agreement", i.e. 31 January 2021, "neither the United Kingdom nor projects located in the United Kingdom shall be eligible for new financial operations from the EIB group that are reserved for Member States [...]. Entities established in the United Kingdom shall be treated as entities located outside the Union".

67 For example, on 16 March 2020, the European Commission [announced](#) that it had offered €80 million (£74 million) of support for CureVac, a German company thought to be close to the development of a coronavirus vaccine and which was reportedly the subject of a takeover bid organised by the American Government earlier that month.

68 The European Medicines Agency was relocated from London to Amsterdam following the UK's decision to withdraw from the EU.

69 The EMA acts as the central authorisation point for the entire European Economic Area for certain types of new medicinal products, including for viral diseases. On 13 March 2020, the Agency waived its usual fees for [scientific advice](#) to firms with potential vaccines and treatments for COVID-19.

70 Association of the British Pharmaceutical Industry, ["Brexit and the impact on patient access to medicines and medical technologies"](#) (January 2018).

57. **The Committee notes the increased financial support provided by the European Commission for research into COVID-19. However, it remains unclear how exactly the UK's exit from the EU's pharmaceutical legal framework and the European Medicines Agency may affect the availability of any new vaccine or treatments, for coronavirus or other emerging health threats, in the UK beyond the end of the post-Brexit transition period. Given the technicalities of this topic, we consider the Health & Social Care Committee may wish to give it further consideration as part of its current inquiry into the UK's preparedness for the coronavirus pandemic.**

Emergency support from the EU budget

58. To complement the national stimulus and compensation packages put together by individual Member States for companies and sectors affected by the COVID-19 pandemic, the European Commission has also proposed some limited support directly from the EU budget via the Solidarity Fund⁷¹ and the Globalisation Adjustment Fund.⁷² These would provide limited financial support to relieve immediate funding pressures in Member States facing difficulties because of the coronavirus. These Funds are not used solely for the coronavirus pandemic and have a combined budget in 2020 of approximately €800 million (£734 million), and their impact when set against national stimulus measures will thus be limited.⁷³

59. **As part of the Withdrawal Agreement on its exit from the EU, the UK remains eligible to apply for funding to help with its economic response to the pandemic from both the EU Solidarity and Globalisation Adjustment Funds, to which it is still contributing to financially. However, the Government has never applied for support from the latter; the overall value of any assistance received would be affected by the UK rebate mechanism; and the total financial support the two Funds deliver is dwarfed by the fiscal measures at the disposal of individual countries.⁷⁴ We ask the Government to clarify if it intends to apply for either the EU Solidarity Fund or Globalisation Adjustment Fund as part of its COVID-19 response.**

71 The [European Union Solidarity Fund](#) (EUSF) provides financial assistance "in the event of major disasters" to the public authorities of Member States or EU accession countries. On 13 March, the Commission proposed an amendment to the Regulation establishing the Fund so that it can also be used in "major public health emergencies", in order to finance emergency medical interventions.

72 The [European Globalisation Adjustment Fund](#) (EGAF) is an assistance mechanism for communities and sectors in the EU hit by redundancies linked to changes in global trade patterns. It can be called on by Member States in relation to unemployment caused by the pandemic.

73 The Commission previously [proposed](#) to make use of both these Funds in the event of a 'no deal' Brexit, before the UK ratified the Withdrawal Agreement.

74 The purpose of the UK rebate is, in essence, to reduce the extent of the UK's net contribution to the EU budget by closing the gap between what the Treasury must pay under the Own Resources Decision and what the UK as a whole (both private and public sector) has received back in EU funding. It follows that an increase in EU funding for use by the Treasury, such as a Solidarity Fund grant, already closes that gap a little and therefore reduces the value of the UK rebate.

Overview of conclusions

Introduction

1. **The coronavirus outbreak is now global, necessitating intensive cooperation between the UK and other countries to limit its spread, secure adequate supplies of medical equipment, develop the most effective treatment plans, and cushion the wider economic shock triggered by the pandemic. The Committee takes note of the European Commission's paper of 13 March on the EU's "coordinated economic response" to the COVID-19 pandemic. (Paragraph 6)**
2. **On the basis of the assessment of the potential or actual implications of the EU's response to the pandemic for the UK set out in this Report, the Committee asks the Government to provide the requested information and clarifications into its forthcoming Explanatory Memoranda on the EU documents referred to.¹¹ In particular, the Committee expects the Government to explain which of the EU's policy measures adopted in response to the crisis are applicable to, or will be applied by, the UK, and to provide an assessment of their expected impact on the UK. (Paragraph 7)**
3. **The European Scrutiny Committee is aware of course that the COVID-19 policy response of public authorities in the UK and the EU will continue to develop rapidly in the coming days and weeks, and this Report therefore only provides a snapshot of the EU's approach at the time of it being agreed. The Committee will keep any further developments in the EU's response to COVID-19 under review and report to the House again when necessary. (Paragraph 8)**

Movement of people and goods

4. **Given that both the EU's Civil Protection Mechanism and EWRS have taken on renewed importance and focus given the potential for the coronavirus outbreak to last many months, potentially beyond the scheduled end of the post-Brexit transition period, we ask the Government to provide an update on its assessment of the costs and benefits with respect to continued UK participation in these EU systems after the end of the transition, and to clarify what form of formalised "cooperation" it is seeking with the EU on health security more generally. (Paragraph 12)**
5. **The Commission's Guidelines on border management seek to strike a balance between justified checks at the EU's borders, both internal and external, to limit the spread of coronavirus, and the effective functioning of the Single Market so that essential transport, travel and supply chains within the Schengen zone are not disrupted. However, they are advisory and, as such, create no legal obligations. We would nonetheless welcome the Government's view on their**

¹¹ Where the Committee has raised questions in relation to EU documents that are not formally deposited for scrutiny, notably the Commission's guidelines on border management and or the use of the EU's Civil Protection Mechanism and Early Warning & Response System (all discussed in chapter 2), we ask the Government to incorporate its response into the Explanatory Memorandum on either the Commission Communication of 13 March 2020 setting out the EU's general approach to COVID-19, or in a Memorandum on any related document which is subject to scrutiny.

content and impact on the operation of supply chains for essential goods. We are particularly interested to hear whether the Government intends to follow the guidelines on health screening and checks at the UK border. (Paragraph 18)

6. When it comes to the management and control of its external borders, the UK is not bound by the rules applicable to EU Member States and countries associated with the Schengen rulebook. The decision taken by EU and Schengen states to introduce a temporary restriction on entry is nonetheless pertinent to the UK because it recommends action which goes beyond the formal powers conferred on the EU by the EU Treaties and therefore depends on countries voluntarily agreeing to coordinate their response to reduce the spread of COVID-19. We ask the Government to clarify whether it considers that the coordinated entry restrictions agreed by the Schengen states are an appropriate response to the COVID-19 epidemic, whether the Government will consider applying the same or similar restrictions on travel to the UK, and to what extent the UK is coordinating with EU partners (especially Ireland) in determining its own response. (Paragraph 22)
7. The European Commission has introduced a new mechanism to enable Member States to limit the export of personal protective equipment (PPE) to preserve a supply within the EU. In responding to our Report, we ask the Government to explain whether it agrees with the Commission's assessment that existing stocks of PPE and manufacturing capabilities within the EU are insufficient to meet demand; whether it also agrees that the introduction of a prior authorisation requirement is a necessary and proportionate response to the COVID-19 epidemic; effect it will have on supplies of personal protective equipment in the United Kingdom; and whether/how it will affect export businesses in the UK. (Paragraph 27)
8. The EU in February and March 2020 also launched a joint procurement exercise for protective equipment and coronavirus testing supplies, to build up sufficient stockpiles and obtain them more cheaply than its individual Member States could. The UK, during the transition, is eligible to participate in such joint acquisition schemes. Given reports of inadequate supplies of medical equipment for frontline hospital staff in the UK, we ask the Government to clarify whether the UK is participating in the procurement exercises and, if not, to stipulate the reasons why. (Paragraph 28)

Economic support measures

9. The Committee notes the potential knock-on effects on the stability of the banking sector of the economic damage caused by COVID-19 if borrowers begin to default on their loans on a large scale. We note that at present neither the Government nor the EU appears to consider legal changes to regulation or supervision of the banking sector necessary at EU level. We would welcome the Government's confirmation of this assessment. (Paragraph 33)
10. In the context of the transition period, we ask the Government to explain whether the Government was sighted of the draft Temporary Framework for exceptional State aid measures when it was circulated by the Commission to the

EU's Member States on 17 March, or in any event before its final publication; set out its position on this new emergency approach to EU competition rules; and clarify whether its views were taken in account when the Commission finalised the formal Framework. (Paragraph 40)

11. **The Committee takes note of the Commission's triggering of the flexibilities in applying the public debt and deficit adjustments EU countries were required to make under the Stability and Growth Pact following the COVID-19 crisis. It further notes that these EU measures have no implications for the Treasury's fiscal response, due to the UK's non-participation in the euro and its opt-out from key elements of the Pact. (Paragraph 43)**
12. **The Government called on the EU to amend the Airport Slots Regulation in view of the drop in demand for air travel caused by COVID-19 and will therefore, in principle, have welcomed the recent European Commission proposal to that effect. We ask the Government to include in its forthcoming Explanatory Memorandum on the proposal its assessment of whether it goes far enough in terms of the amount of time for which slot allocation rules would be relaxed, or whether a suspension is required and set out how it is engaging with the European Commission and the other EU institutions to ensure its views on the proposal are accounted for in the legislative process. (Paragraph 49)**

Financial assistance from the EU budget

13. **The Committee has taken note of the European Commission's €37 billion Coronavirus Response Investment Initiative, and its aim of redirecting EU structural funds to assist Member States in addressing the impact of COVID-19. (Paragraph 54)**
14. **Under the Withdrawal Agreement, the UK remains eligible to be awarded EU funds until the end of 2020. However, the Government has not made clear if it will seek to make use of the €555 million (£509 million) of funding the Commission has proposed to make available for COVID-19 related projects specifically, nor how it intends to spend all or part of the additional €2.4 billion of unallocated structural fund allocation for 2020 the UK has left. We therefore ask the Government, in its forthcoming Explanatory Memorandum on the Commission proposal, to explain its position on the potential benefits of the proposed changes to the allocation of EU structural funds, and indicate to what extent the UK is likely to switch its remaining EU structural funding away from other projects to deal with the repercussions of the coronavirus. (Paragraph 55)**
15. **The Committee notes the increased financial support provided by the European Commission for research into COVID-19. However, it remains unclear how exactly the UK's exit from the EU's pharmaceutical legal framework and the European Medicines Agency may affect the availability of any new vaccine or treatments, for coronavirus or other emerging health threats, in the UK beyond the end of the post-Brexit transition period. Given the technicalities of this topic, we consider the Health & Social Care Committee may wish to give it further consideration as part of its current inquiry into the UK's preparedness for the coronavirus pandemic. (Paragraph 57)**

16. **As part of the Withdrawal Agreement on its exit from the EU, the UK remains eligible to apply for funding to help with its economic response to the pandemic from both the EU Solidarity and Globalisation Adjustment Funds, to which it is still contributing to financially. However, the Government has never applied for support from the latter; the overall value of any assistance received would be affected by the UK rebate mechanism; and the total financial support the two Funds deliver is dwarfed by the fiscal measures at the disposal of individual countries.⁷⁴ We ask the Government to clarify if it intends to apply for either the EU Solidarity Fund or Globalisation Adjustment Fund as part of its COVID-19 response. (Paragraph 59)**

⁷⁴ The purpose of the UK rebate is, in essence, to reduce the extent of the UK's net contribution to the EU budget by closing the gap between what the Treasury must pay under the EU's "Own Resources Decision" and what the UK as a whole (both private and public sector) has received back in EU funding. It follows that an increase in EU funding for use by the Treasury, such as a Solidarity Fund grant, closes that net payment gap a little and therefore reduces the value of the UK rebate to the Government.

Annex: List of EU documents and proposals related to the COVID-19 crisis

The table in this Annex shows all EU documents and proposals related to the COVID-19 crisis referred to in this Report, including those that have been formally deposited for scrutiny in Parliament by the Government. The final column shows when, under Cabinet Office guidance on EU scrutiny, the Explanatory Memorandum (EM) for each document was received from, or is due to be submitted by, the relevant Government Department.⁷⁵

No.	Document/ proposal and EU reference	Relevant chapter of this Report	Lead Department	EM due date
1	Communication from the Commission: Coordinated economic response to the COVID-19 Outbreak COM(2020) 112	Introduction	Treasury	30 March 2020
2	Communication from the Commission on COVID-19: Temporary Restriction on Non-Essential Travel to the EU COM(2020) 115	Chapter 2	Home Office	2 April 2020
3	Guidelines for border management measures to protect health and ensure the availability of goods and essential services C(2020) 1753	Chapter 2	N/A	N/A ⁷⁶

⁷⁵ Cabinet Office guidance on parliamentary scrutiny of EU documents stipulates that the relevant Government Department should submit an Explanatory Memorandum on EU documents within 10 working days of their deposit in Parliament.

⁷⁶ Implementing Acts adopted by the European Commission are not typically deposited for scrutiny.

No.	Document/ proposal and EU reference	Relevant chapter of this Report	Lead Department	EM due date
4	Commission Implementing Regulation (EU) 2020/402 making the exportation of certain products subject to the production of an export authorisation	Chapter 2	Health & Social Care	30 March 2020
5	Commission Implementing Decision (EU) 2020/414 of 19 March 2020 as regards medical stockpiling rescEU capacities	Chapter 2	N/A	N/A ⁷⁷
6	Communication from the Commission: Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak C(2020) 1863	Chapter 3	Business, Energy & Industrial Strategy	6 April 2020
7	Communication from the Commission on the activation of the general escape clause of the Stability and Growth Pact COM(2020) 213	Chapter 3	HM Treasury	6 April 2020

⁷⁷ Implementing Acts adopted by the European Commission are not typically deposited for scrutiny.

No.	Document/ proposal and EU reference	Relevant chapter of this Report	Lead Department	EM due date
8	Proposal for a Regulation amending Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports COM(2020) 111	Chapter 3	Transport	30 March 2020
9	Proposal for a Regulation establishing the Coronavirus Response Investment Initiative COM(2020) 113	Chapter 4	Business, Energy & Industrial Strategy	30 March 2020
10	Proposal for a Regulation amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States seriously affected by a major public health emergency COM(2020) 114	Chapter 4	HM Treasury	30 March 2020

Formal minutes

Thursday 26 March 2020

Tahir Ali	Mr David Jones
Sir William Cash	Stephen Kinnock
Jon Cruddas	Mr David Lammy
Allan Dorans	Marco Longhi
Richard Drax	Craig Mackinlay
Margaret Ferrier	Anne Marie Morris
Mr Marcus Fysh	Charlotte Nichols
Mrs Andrea Jenkyns	Greg Smith

After consulting all Members of the Committee, the Chair was satisfied that the Report represented a decision of the majority of the Committee and reported it to the House. (Order of the House of 24 March 2020).