



House of Commons
European Scrutiny Committee

**Ninth Report of Session
2019–21**

*Documents considered by the Committee on
21 May 2020, including the following COVID-19
related documents:*

Relaxation of EU capital requirements for banks

Report, together with formal minutes

*Ordered by the House of Commons
to be printed 21 May 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/>.

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1 2020 Fishing Opportunities¹

These EU documents are legally and politically important because they:

- raise issues concerning implementation of the Withdrawal Agreement;
- apply during the transition period; and
- are relevant to the future EU-UK relationship.

Action

- Write to the Minister.
- Draw to the attention of the Environment, Food and Rural Affairs Committee and the Committee on the Future Relationship with the EU.

Overview

1.1 These documents concern the setting of fishing opportunities for the EU and UK during 2020, and amendments to those opportunities. After our first consideration of both documents, we [wrote](#) to the Government raising a number of issues. First, we were concerned about the extent to which the Commission was consulting the UK on fishing opportunities during the post-Brexit transition period, as required by the Withdrawal Agreement. Second, we sought an update on concerns about “chokes” (the risk that the discard ban can choke economically important fisheries where banned species are caught accidentally as bycatch) in particular fisheries. Finally, we sought clarification on arrangements for negotiations on the 2021 fishing opportunities, given the uncertainty over the future fishing relationship not only with the EU but with other coastal states.

1.2 The Parliamentary Under Secretary of State (Victoria Prentis MP) responded on 13 May. She says that the Government remains concerned about the lack of communication from the Commission on potential changes to 2020 fishing opportunities affecting the UK. Government officials are in contact with the Commission to seek further information on the EU’s plans.

1.3 Regarding concerns about “chokes”, these remain but there is now much greater uncertainty about UK fishing activity this year as the COVID-19 pandemic has heavily affected the UK fishing industry with a drop in fishing activity and many markets affected. While it is unclear how long this situation will last, the Minister indicated that it could reduce the risk of certain fisheries choking. In the meantime, action continues to be taken to manage these choke risks. For example, in England, the Marine Management Organisation (MMO) has set monthly catch limits for Celtic Sea Cod in consultation with industry and with the aim of trying to keep fisheries open for the rest of the year. The Northern Ireland Gear Trials Programme continues to develop and test possible selectivity

¹ (a) Proposal for a Council Regulation fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, (b) Proposal for a Council Regulation amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea and other waters, and correcting and amending Regulation (EU) 2020/123 as regards certain fishing opportunities for 2020 in Union and non-Union waters; (a) [13438/19](#) + ADDs 1–2 COM(19) 483 (b) [6546/20](#) + ADD 1, COM (20) 87; Legal base: Article 43(3) TFEU; QMV; Department: Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: (a) 40907 (b) 41111.

measures to avoid whiting in the Nephrops fishery, though further improvement in selectivity remains challenging. The MMO is also seeking to acquire additional quota from EU Member States via international quota swaps to help alleviate chokes later in the year.

1.4 Turning to the modalities for negotiating the 2021 fishing opportunities with the EU or any other coastal state, the Minister indicates that preparation is already underway for annual negotiations sitting underneath framework agreements with the EU, Norway and Faroe Islands. That preparation is taking place in parallel with negotiations on the framework agreements and is already involving the Devolved Administrations.

Our assessment

1.5 We are pleased to note the work on managing “choke” risks, but the continued lack of communication from the Commission on possible changes to the 2020 fishing opportunities affecting the UK remains a concern to us.

1.6 We note the working assumption that 2021 fishing opportunities will be negotiated under framework agreements successfully concluded with the EU, Norway and Faroe Islands. While we accept that assumption for now, the challenge of negotiating opportunities without any agreement in place will be substantial and the Government will need to make plans for such a “no-deal” negotiation from July onwards — following the publication of annual scientific advice — even if discussion on framework agreements has not been concluded by then.

Action

1.7 We have written to the Minister as set out below, highlighting our continued concern regarding the Commission’s communication with the UK on amendments to fishing opportunities this year and sounding a note of caution about the Government’s approach to negotiating next year’s fishing opportunities.

Letter from the Chair to the Parliamentary Under-Secretary of State (Victoria Prentis MP), Department for Environment, Food and Rural Affairs

We have considered your letter of 13 May.

The Commission’s lack of communication regarding its plans for in-year amendments to the 2020 fishing opportunities relevant to the UK is of serious concern to us. Both the UK and the EU have obligations under the Withdrawal Agreement and it is imperative that both parties meet those obligations. These include the requirement under Article 130(1) of the Withdrawal Agreement that the UK shall be consulted in respect of fishing opportunities affecting the UK. While the nature and timing of that consultation is not identified, we consider that early and regular communication between Commission and UK officials would be within the spirit of the Agreement. We would welcome a further update within ten working days on any engagement with the Commission.

We note your comments on “choke” species. While we regret the impact of COVID-19 on the industry and recognise that this is affecting levels of fishing activity, we welcome the work that has been undertaken to manage such “choke” species.

Turning to the modalities for negotiating the 2021 fishing opportunities with the EU and coastal states, we welcome the information that preparation is already underway for annual negotiations sitting underneath framework agreements with the EU, Norway and Faroe Islands. We note that the preparation is taking place in parallel with negotiations on the framework agreements and is already involving the Devolved Administrations.

We agree that it is a sensible working assumption for now that 2021 fishing opportunities will be negotiated under framework agreements successfully concluded with the EU, Norway and Faroe Islands. The challenge of negotiating opportunities without any agreement in place, however, would be substantial and we consider that the Government will need to make plans for such a “no-deal” negotiation from July onwards — following the publication of annual scientific advice — even if discussion on framework agreements has not been concluded by then.

2 EU-Greenland Fisheries Agreement²

This EU document is politically important because:

- it may be applicable during the transition period; and
- it raises post-Brexit policy questions.

Action

- Report to the House.
- Draw to the attention of the Environment, Food and Rural Affairs Committee.

Overview

2.1 We previously considered the European Commission's document on a new EU-Greenland Sustainable Fisheries Partnership Agreement (SFPA) and put a number of queries to the Minister in our [letter](#) of 30 April 2020. We sought clarification on the possible entry into force of the new agreement before the end of the post-Brexit transition period as well as the potential implications of the agreement for any future UK-Greenland relationship.

2.2 The Parliamentary Under Secretary of State [responded](#) to us on 7 May, noting that:

- the Government does not anticipate any UK vessels operating under any new EU-Greenland SFPA as it would govern post-transition fishing opportunities for the EU and Greenland;
- the UK attended the first round of the SFPA negotiations, which took place in Copenhagen on 15–17 January 2020, as a Member State and part of the EU delegation;
- although the UK supports the EU's recommendations for improving its Agreement with Greenland in principle, particularly the advancement of scientific data and advice, the UK Government does not intend to use a financial model (payments in exchange for fishing opportunities) for future arrangements with Greenland;
- the parameters and shape of any UK-Greenland negotiations are likely to be influenced to some degree by the existing arrangements both partners have with other parties; and
- the UK Government engages regularly with the Greenlandic authorities across a variety of policy areas.

2 Recommendation for a Council Decision authorising the opening of negotiations on behalf of the EU for the conclusion of a sustainable fisheries partnership agreement and a protocol with Denmark and the Home Rule Government of Greenland; EU document references: [13389/19](#) + ADDs 1–3, COM(19) 491; Legal base: Articles 43(2), 218(3) and 218(4) TFEU, QMV; Department: Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: 40911.

2.3 The Minister explained that, in relation to fisheries, recent UK engagement with Greenland has centred on the UK's application for membership of the North East Atlantic Fisheries Commission (NEAFC), the Greenlandic position on North-East Atlantic mackerel, as well as long-term bilateral arrangements. This relationship is likely to evolve further and for the positive as the UK goes forward as a fully independent coastal State.

Action

2.4 While we note that the Minister has not replied to our query about any future UK-Greenland fisheries agreement, she has otherwise provided a helpful response to our query. We raise no further queries at this stage. We report the letter to the House for information and draw it to the attention of the Environment, Food and Rural Affairs Committee.

3 Enhancing trade in the Euro-Mediterranean region: changes to preferential rules of origin³

This EU document is legally and politically important because:

- it concerns changes to an international agreement—the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (“the PEM Convention”)—in which the UK may wish to participate in its own right after transition; and
- it also concerns the application of the Protocol on Ireland/Northern Ireland after the post-exit transition period provided for in the EU/UK Withdrawal Agreement.

Action

- Write to the Minister for Trade (Rt Hon. Greg Hands MP) requesting further information on: the outcome of the Government’s analysis of existing trade structures, including the PEM Convention, the reasons informing any decision to seek to accede to the Convention, and how that decision may be affected by the Protocol on Ireland/Northern Ireland; and also requesting regular updates on the progress made by the UK in concluding bilateral continuity agreements with the EU’s existing third country trading partners.
- Draw to the attention of the International Trade Committee, the Northern Ireland Affairs Committee, and the Committee on the Future Relationship with the European Union.

Overview

3.1 The [Regional Convention on pan-Euro-Mediterranean preferential rules of origin](#) (the “PEM Convention”) entered into force in the European Union in May 2012. It establishes a single set of rules of origin and a system of cumulation which the parties to the Convention—the EU on behalf of its 27 Member States and a further 25 countries in the Euro-Mediterranean region—are expected to apply as part of their free trade agreements with one another.⁴ Rules of origin establish the ‘economic nationality’ of a product. They are used to determine how much local content is needed for a product to qualify for preferential market access under a trade agreement. Cumulation makes it easier to qualify by allowing goods which include components from different countries operating within a regional supply chain to qualify for preferential access. The application

3 Proposal for a Council Decision on the position to be taken by the EU in the Joint Committee established by the Regional Convention on pan-Euro-Mediterranean preferential rules of origin as regards the amendment of the Convention; Council document 13169/19 + ADD 1, COM(19) 482; Legal base — Articles 207(3) and (4) and 218(9) TFEU, QMV; Dept — International Trade; Devolved Administrations — Consulted; ESC number 40897.

4 The non-EU participating countries are Iceland, Liechtenstein, Norway, Switzerland, Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria, Tunisia, Turkey, Albania, Bosnia and Herzegovina, Croatia, North Macedonia, Montenegro, Serbia, Kosovo, the Faroe Islands, Moldova, Georgia and Ukraine.

of a single set of rules is intended to stimulate trade between the parties to the Convention and simplify the process for updating the rules to take account of changes in trading conditions.

3.2 Changes to the PEM Convention must be agreed unanimously by a Joint Committee in which each of the parties to the Convention is represented. As the PEM Convention falls within the scope of the EU’s common commercial policy and is an area in which the EU has exclusive or sole competence to act, the EU is represented by the European Commission. In October 2019, the European Commission put forward a [proposal for a Council Decision](#) setting out the EU’s position on proposed changes to the PEM Convention. It considered that the changes were consistent with those already agreed by the EU in other recent trade agreements (for example, with Canada, Vietnam, Japan, South Africa) or preferential schemes and that their overall effect would be to simplify existing rules and make them more flexible.⁵ The Government similarly supported the proposed changes, but later informed us that the PEM Convention Joint Committee had failed to reach an agreement.⁶ The European Commission therefore intended to seek to agree the changes on a bilateral basis with other interested parties to the PEM Convention.

3.3 The Government confirmed that the UK would continue to be bound by the PEM Convention after leaving the EU until the end of the post-exit transition period provided for in the EU/UK Withdrawal Agreement—31 December 2020—as, too, would other non-EU parties with trade agreements with the UK, provided they accepted the continuity approach to international agreements envisaged in the Withdrawal Agreement.⁷ After transition, the PEM Convention (and any changes made to it) would only continue to apply if the UK sought to join in its own right. The Government indicated that any decision to become a party to the PEM Convention would be made “in the light of ongoing discussions on the future relationship with the EU as well as future bilateral relationships with other Contracting Parties and third countries that are not Contracting Parties to the PEM Convention”.⁸

3.4 We asked the Government to respond to a number of questions about the UK’s participation in the PEM Convention during and after the post-exit transition period. These questions, as well as further information on the PEM Convention, the changes proposed, and the Government’s position, are set out in our [Fourth Report](#).⁹

The Government’s response

Proposed changes to the PEM Convention

3.5 In his [letter of 5 May 2020](#), the Minister for Trade (Rt Hon. Greg Hands MP) confirms that, as some of the parties to the PEM Convention expressed reservations about the

5 See the Commission’s explanatory memorandum accompanying the proposed Council Decision.

6 See the [Explanatory Memorandum of 28 October 2019](#) submitted by the then Minister for Trade Policy (Rt Hon. Conor Burns MP) and his subsequent [letter dated 7 January 2020](#).

7 Article 129(1) of the EU/UK Withdrawal Agreement stipulates that the UK “shall be bound by the obligations stemming from the international agreements concluded by the Union, by Member States acting on its behalf, or by the Union and its Member States acting jointly”. A footnote adds: “The Union will notify the other parties to these agreements that during the transition period the United Kingdom is to be treated as a Member State for the purposes of these agreements”.

8 See paragraph 28 of the then Minister’s Explanatory Memorandum.

9 See our Fourth Report, HC 229–ii (2019–21), [chapter 9](#) (23 April 2020).

proposed rules changes, they were not agreed. It will be for the PEM Secretariat to decide whether to bring them back to the Joint Committee. Meanwhile, several countries—Bosnia and Herzegovina, Georgia, Iceland, Israel, Jordan, Kosovo, Lebanon, Moldova, Montenegro, North Macedonia, Norway, Switzerland, Serbia, Turkey and Ukraine—as well as the EU have signalled a willingness to agree the rule changes in their bilateral trading agreements.

Application of the PEM Convention to the UK during transition

3.6 We asked how many non-EU parties to the PEM Convention had indicated that they were content to roll over the agreement and treat the UK as if it were an EU Member State (and, as such, still a contracting party) during the post-exit transition period, and whether any had indicated a contrary intention. The Minister says that the response from trading partners has been “overwhelmingly positive”, with a range of third countries having made public statements of support for the continued application of EU trade agreements to the UK during the transition period. He continues:

No member of the PEM Convention has provided a notification to indicate that it is not treating the UK as if it were still an EU Member State for the purpose of international agreements. Though we welcome responses from partner countries as a clear indication of their ability to implement continued application of EU international agreements to the UK during the Transition Period, a response is not a necessary precondition for continuity provided they continue to act accordingly.

UK participation in the PEM Convention after transition

3.7 We requested further information on possible UK participation in the PEM Convention after transition, including what assessment the Government had made of the likely costs and benefits of the UK being a party in its own right, whether it would be feasible to become a party during or immediately after a post-exit transition period,¹⁰ whether the UK would meet the criteria,¹¹ how long the process of joining might be expected to take, and how soon the Government would reach a decision. We also asked the Government to explain how its bilateral relationships with third countries that do not participate in the PEM Convention might be relevant in deciding whether the UK should join in its own right.¹²

3.8 The Minister tells us that the Government is undertaking “a wide range of analysis in support of our negotiations with the EU and preparations for the end of the Transition Period, including the merits of existing trade structures such as the Pan-Euro-Mediterranean Convention on Rules of Origin”, but has yet to determine what its final

10 Article 129(4) of the EU/UK Withdrawal Agreement provides that the UK may “negotiate, sign and ratify international agreements entered into in its own capacity in the areas of exclusive competence of the Union, provided those agreements do not enter into force or apply during the transition period, unless so authorised by the Union”.

11 Article 5 of the PEM Convention provides: “A third party may become a Contracting Party to this Convention, provided that the candidate country or territory has a free trade agreement in force, providing for preferential rules of origin, with at least one of the Contracting Parties. A third party shall submit a written request for accession to the depositary.”

12 See paragraph 28 of the Minister’s Explanatory Memorandum.

approach will be. The Government will take a decision “later this year”, after concluding its analysis, based on a wide range of factors. These include “the importance of global supply chains” with third countries that are not parties to the Convention.

3.9 He confirms that the UK would meet the criteria for participation in the PEM Convention as it has so far concluded trade agreements with 12 countries that are parties to the Convention. The time taken to accede to the Convention varies, requiring both a written request from the candidate country and formal consideration by the PEM Joint Committee.¹³ As well as considering the benefits of the multilateral PEM Convention framework, the Government is working with partner countries to conclude bilateral trade continuity agreements that would “secure continuity for the effects of existing EU free trade arrangements” while also seeking to “strike a deal with the EU based on free trade and friendly cooperation before the end of the transition period”.

Action

3.10 We ask the Minister to:

- inform us of the outcome of the analysis the Government is undertaking on the merits of UK participation in existing trade structures, such as the PEM Convention, and of any decision to seek to accede to the Convention;
- explain how that decision may be affected by the obligations accepted by the UK under the EU/UK Withdrawal Agreement, specifically the Protocol on Ireland/Northern Ireland; and
- provide regular updates on the progress made by the UK in concluding bilateral continuity agreements with the EU’s existing third country trading partners.

Letter to the Minister for Trade (Rt Hon. Greg Hands MP), Department for International Trade

Thank you for your prompt response to my letter of 23 April 2020 requesting further information on the Government’s approach to the PEM Convention during and after the post-exit transition period provided for in the EU/UK Withdrawal Agreement. The European Scrutiny Committee has considered your [letter of 5 May 2020](#) and notes that the Government expects to take a decision on UK participation “later this year”, following the completion of “a wide range of analysis” which will include the merits of existing trade structures for the UK post-transition.

We have no further questions to raise on the EU position on possible changes to the PEM Convention, as set out in the European Commission’s [proposal for a Council Decision](#), but we retain a keen interest in the Convention itself and the factors which will inform the Government’s decision on UK participation, as well as the UK’s wider approach to trade relations with third countries after transition. For this reason, we ask you to provide

13 Article 5(4) of the PEM Convention provides: “The decision of the Joint Committee inviting a third party to accede to this Convention shall be sent to the depositary, which shall, within two months, forward it, together with a text of the Convention in force on that date, to the requesting third party. One single Contracting Party may not oppose that decision.”

us with a summary of the analysis and consultation you are currently undertaking, once completed, as well as details of the decision you reach on UK participation in the PEM Convention and the reasons informing that decision.

If the Government decides that the UK should not participate in the PEM Convention after transition, we note that the Convention would nonetheless continue to apply to and in Northern Ireland under the [Protocol on Ireland/Northern Ireland](#) which forms an integral part of the EU/UK Withdrawal Agreement.¹⁴ We trust that the analysis and consultation being undertaken by the Government will take into account the special position of Northern Ireland under the Protocol. In any event, we ask you to ensure that your response includes an explanation of the legal and practical implications of applying the Convention in one part of the UK customs territory (Northern Ireland) but not the rest.

We note that work continues to conclude bilateral trade continuity agreements with the EU's current trading partners so that the preferential market access terms contained in these agreements continue to apply to the UK after transition. We welcome your offer to provide an update on progress. We consider that an update every two months would be appropriate to track progress.

¹⁴ See Article 5(4) of the Protocol and Annex 2, point 4, final indent, which provides that "Obligations stemming from the international agreements concluded by the Union, or by Member States acting on its behalf, or by the Union and its Member States acting jointly, insofar as they relate to trade in goods between the Union and third countries" will apply "to and in the United Kingdom in respect of Northern Ireland".

4 Market access for goods from African, Caribbean and Pacific countries¹⁵

This EU document is legally and politically important because:

- it concerns the operation of a 2016 Regulation which will continue to apply in Northern Ireland, but not the rest of the UK, after the post-exit transition period has ended; and
- it raises questions about the relationship between the Protocol on Ireland/Northern Ireland and future UK trade arrangements with third countries.

Action

- Write to the Minister of State (Rt Hon. Greg Hands MP) at the Department for International Trade requesting a fuller response to the questions raised in our [earlier Report](#) once discussions in the EU/UK Joint Committee and bodies working under it (the Specialised Committee on the implementation of the Protocol on Ireland/Northern Ireland and the Joint Consultative Working Group) are further advanced.
- Draw to the attention of the Northern Ireland Affairs Committee, the International Trade Committee, the International Development Committee and the Committee on the Future Relationship with the European Union.

Overview

4.1 This [report](#) describes how the European Commission has exercised powers conferred on it by a [2016 Regulation](#) setting out the market access arrangements for goods originating in certain countries which form part of the African, Caribbean and Pacific (“ACP”) group of States.¹⁶ These arrangements apply in the period between the conclusion of negotiations on an Economic Partnership Agreement (“EPA”) with the EU and its ratification and entry into force. EPAs are trade and development agreements. Their purpose is to encourage sustainable development and poverty reduction in ACP countries through preferential (duty- and quota-free) access to the EU market and rules of origin which encourage the integration of regional supply chains. The 2016 Regulation provides a bridge to these preferential terms. It gives the European Commission power to amend the list of ACP countries to whom the market access arrangements set out in the Regulation apply (for example, by removing a country if it has failed to ratify an EPA within a reasonable period of time) and to make other technical changes. The conclusions of the report state that the European Commission has properly exercised the powers conferred by the Regulation, a necessary pre-condition for extending the delegation of power to the Commission for a further five-year period.

15 European Commission report on the exercise of delegated powers under Regulation (EU) 2016/1076; Council document 5253/20, COM(20) 7; Legal base —; Dept — International Trade; Devolved Administrations — not consulted; ESC number 41031.

16 See Regulation (EU) 2016/1076 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, economic partnership agreements.

Application during and after the post-exit transition period

4.2 The 2016 Regulation and delegated acts made under it continue to apply to the whole of the UK during the post-exit transition period provided for in the [EU/UK Withdrawal Agreement](#).¹⁷ They also form part of the EU law that will continue to apply to Northern Ireland, but not the rest of the UK, after the post-exit transition period ends.¹⁸

The Government’s position

4.3 The former Minister for Trade Policy (Rt Hon. Conor Burns MP) told us in his [Explanatory Memorandum of 29 January 2020](#) that the 2016 Regulation had in many cases been superseded by EPAs with ACP countries. These EPAs would apply to the UK during the post-exit transition period. After transition, the UK would aim to bring into force agreements with ACP countries that “replicate the effects of the EU EPAs”. He added that the 2016 Regulation would, in any event, cease to apply to the UK as a whole after transition (which is expected to end on 31 December 2020) but would continue to apply to goods originating in relevant ACP countries that enter Northern Ireland from outside the EU (including from other parts of the UK) and are considered to be ‘at risk’ of entering the EU market, under the terms of the [Protocol on Ireland/Northern Ireland](#).

Our analysis and questions

4.4 As we explained in our [Fourth Report of Session 2019–21](#) and [letter of 23 April 2020](#) to the then Minister, there will be no change to existing market access arrangements for goods traded between the UK and ACP countries at least until the end of 2020.¹⁹ The position *after* transition is more complex. The Protocol on Ireland/Northern Ireland states that Northern Ireland is part of the UK’s customs territory and may therefore be covered by any trade agreements which the UK concludes with third countries, “provided that those agreements do not prejudice the application of this Protocol”.²⁰ The Protocol also requires the application of EU customs law to goods brought into Northern Ireland from outside the EU (including elsewhere in the UK), as well as the payment of EU customs duties if the goods are “at risk” of subsequently moving into the EU.

4.5 To assist our understanding of how the Protocol on Ireland/Northern Ireland would apply in practice after transition, we asked the Government to explain what customs duties and/or regulatory checks would apply where:

- the UK has concluded agreements with ACP countries which “replicate the effects of the EU EPAs”;
- the UK has concluded agreements with ACP countries which differ from the EU’s EPAs or from the 2016 Regulation in their treatment of goods originating in the relevant ACP countries; and
- no bilateral agreements between the UK and the relevant ACP countries are in place at the end of transition.

17 See Article 127 of the EU/UK Withdrawal Agreement.

18 See Article 5(4) of the Protocol on Ireland/Northern Ireland and Annex 2.

19 HC 229–ii (2019–21), chapter 10 (23 April 2020).

20 Article 4 of the Protocol on Ireland/Northern Ireland.

4.6 Similarly, for goods exported from Northern Ireland to the relevant ACP countries, we asked:

- whether they would continue to be governed by the rules set out in the 2016 Regulation and EU EPAs, or by any new arrangements and agreements negotiated by the UK after transition; and
- what regulatory and other customs checks or duties would apply to these exports.

4.7 We also requested details of any assessment made (or planned) by the Government to quantify trade flows (imports and exports) between the ACP countries covered by the 2016 Regulation and/or EU EPAs on the one hand, and (i) the UK as a whole and (ii) Northern Ireland separately, on the other. We asked if safeguard measures similar to those set out in the 2016 Regulation were likely to be needed in any new trade arrangements put in place by the UK after transition and whether these measures could depart from those established by the EU without prejudicing the application of the Protocol on Ireland/Northern Ireland. Finally, we sought an update on the process for negotiating new bilateral agreements with the ACP countries covered by the 2016 Regulation, the progress being made in negotiations, and how soon the Government expected the agreements to be made available to Parliament for scrutiny.

The Minister's response

The negotiation and conclusion of bilateral agreements with ACP countries

4.8 In his [letter of 6 May 2020](#), the Minister of State at the Department for International Trade (Rt Hon. Greg Hands MP) confirms that the Government is seeking to replicate the effects of the EU's EPAs in the UK's bilateral agreements with ACP countries. The UK has signed four Economic Partnership Agreements with four groups of ACP states: the CARIFORUM states, Eastern and Southern African states, Pacific states, and Southern African Customs Union (SACU) member states and Mozambique.²¹ The Government has published reports for each of these agreements detailing any changes needed to ensure their “operability and an orderly transition” from 1 January 2021 (when the UK will no longer participate in the EU's EPAs) and completed parliamentary scrutiny processes in the UK. The Government “continues to work on finalising trade agreements with other ACP partners who wish to do so in a way that reflects the reality of the current situation and respects public health”.

The application of the Protocol on Ireland/Northern Ireland

Goods imported into Northern Ireland

4.9 The Minister reiterates that “Northern Ireland is and will remain part of the UK's customs territory” under the Protocol.²² He notes that the Joint Committee established by the EU/UK Withdrawal Agreement is required (under Article 5(2) of the Protocol) to establish the criteria for determining which goods brought into Northern Ireland from outside the EU are *not* at risk of subsequently being moved into the European Union and,

21 See the Government's [guidance](#) on existing UK trade agreements with non-EU countries.

22 See Article 4 of the Protocol.

as a consequence, are *not* subject to EU customs duties when entering Northern Ireland. These criteria must be agreed before the end of transition. The Minister acknowledges the possibility that goods originating in ACP countries with which the UK has concluded a bilateral Economic Partnership Agreement may fall within the category of “at risk” goods, depending on the decisions taken by the Joint Committee under Article 5(2) of the Protocol. If this were the case, he says the Government would inform its ACP trading partners of the customs duties as well as other customs and regulatory requirements applicable to these goods on entering Northern Ireland. He continues:

Discussions on both customs and regulatory points will form part of ongoing work with ACP partners to ensure that the necessary operability arrangements are in place for when UK-ACP agreements enter into effect. We have been transparent with ACP partners throughout the negotiation of UK-ACP EPAs about the possibility of needing to return to clarify the approach to [the] operation of these agreements alongside the Withdrawal Agreement.

As a result of operating the Protocol, there will be some practical and administrative changes for traders in Northern Ireland. The UK wants to work with NI businesses and the Executive to ensure new administrative procedures are streamlined and do not affect the flow of trade.

4.10 The Minister says the Government has “always been clear that checks on live animals and agri-food will be needed, building on what already happens at ports like Larne and Belfast, as it makes sense to protect supply chains and disease-free status on the island of Ireland”. Preserving Northern Ireland’s place in the United Kingdom and protecting the Belfast [Good Friday] Agreement is the Government’s “top priority”, and this will be reflected in the work underway on bilateral agreements with ACP countries.

Goods exported from Northern Ireland

4.11 The Minister notes that the 2016 Regulation only makes provision for goods imported into the EU from ACP countries, not goods exported to them from the EU. However, in transitioning the EU’s EPAs with ACP countries into bilateral UK-ACP Economic Partnership Agreements, the Government has sought to ensure that provisions relating to the export of goods to the ACP countries concerned operate appropriately in a bilateral context. Any arrangements for customs checks and duties which the Government introduces will reflect the fact that Northern Ireland “is and remains part of the UK’s customs territory” and will ensure “unfettered market access for goods moving from Northern Ireland to GB”.

Trade flows—trade in goods

4.12 The Minister says that the value of total UK trade flows for goods with ACP countries covered by the 2016 Regulation was £3.2 billion in 2019,²³ consisting of £1.5 billion in exports and £1.7 billion in imports.²⁴ He continues:

Our general estimate for goods trade flows in Northern Ireland for countries where the UK has signed, or is seeking to sign, a continuity trade agreement, is that these make up to 2% of the trade between these continuity countries and the UK as a whole.²⁵

Safeguard measures

4.13 The Minister says that the Government’s intention is to replicate the EU’s trade agreements with ACP states which include bilateral safeguard provisions. The advantage of these provisions is that they are reciprocal, meaning that the UK or ACP countries may apply protective measures against each other’s imports if necessary. By contrast, the 2016 Regulation operates on a unilateral basis, allowing the EU to defend its domestic industry from an increase in import surges from ACP countries should it so wish. The Government does not consider it necessary to replicate this provision.

Action

4.14 Ask the Minister to provide a fuller response to the questions raised in our earlier Report once discussions in the EU/UK Joint Committee and bodies working under it (the Specialised Committee on the implementation of the Protocol on Ireland/Northern and Ireland and the Joint Consultative Working Group) are further advanced.

4.15 Draw to the attention of the Northern Ireland Affairs Committee, the International Trade Committee, the International Development Committee and the Committee on the Future Relationship with the European Union.

Letter from the Chair to the Minister of State (Rt Hon. Greg Hands MP), Department for International Trade

Thank you for your [letter of 6 May 2020](#) in which you respond to questions we raised in our [Fourth Report of Session 2019–21](#) and [letter of 23 April 2020](#) concerning market access arrangements for goods traded between the UK and certain African, Caribbean and Pacific (ACP) countries after the transition period provided for in the EU/UK Withdrawal Agreement has ended, as well as the customs and/or regulatory checks that might apply to these goods under the Protocol on Ireland/Northern Ireland.

You emphasise that Northern Ireland “is and will remain part of the UK’s customs territory” and, as such, may be included in any trade agreements concluded by the UK. However, the Protocol also provides that the 2016 Regulation itself, as well as obligations

23 Source HMRC Overseas Trade Statistics, Q4 2019 release. Countries covered: Antigua and Barbuda; Bahamas; Belize; Botswana; Cameroon; Cote D’Ivoire; Dominica; Dominican Republic; Fiji; Ghana; Grenada; Guyana; Jamaica; Kenya; Madagascar; Mauritius; Namibia; Papua New Guinea; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Seychelles; Suriname; Swaziland (Eswatini); Trinidad and Tobago; Zimbabwe.

24 Source HMRC Overseas Trade Statistics, Q4 2019 release.

25 Source HMRC Overseas Trade Statistics, Q4 2019 release.

relating to trade in goods which stem from the EU’s international agreements (such as the EU’s Economic and Partnership Agreements with certain ACP countries), will apply to and in Northern Ireland after transition.²⁶ The purpose of our previous letter was to understand how these two elements of the Protocol would work, in practical terms, if (i) there were a difference in the obligations flowing from the UK’s own trade and development agreements concluded with ACP countries which become applicable at the end of transition and the EU’s Economic Partnership Agreements, or (ii) the UK had not concluded its own bilateral agreement with one or more of the ACP countries covered by the 2016 Regulation, or the agreements it had concluded were not in force from 1 January 2021. The wider context is also important because of the Government’s commitment, recently reiterated by the Secretary of State for Northern Ireland (Rt Hon. Brandon Lewis MP) to the House on 13 May 2020, “not [to] put borders down the Irish sea or anywhere else”.²⁷

We welcome your acknowledgment of the relevance and importance of the decision to be taken by the EU/UK Joint Committee (established under the Withdrawal Agreement) in determining whether goods traded between the UK and ACP countries after transition fall within the category of “at risk” goods on which EU customs duties will be payable if brought into Northern Ireland from outside the EU (including from elsewhere within the UK). We also welcome your commitment to transparency with ACP trading partners in communicating details of any other customs and regulatory requirements that may apply to goods moving into Northern Ireland under the Protocol, as well as your determination to work with businesses and the Northern Ireland Executive to ensure that any practical or administrative requirements do not affect the flow of trade

We understand that a fuller response to the questions we have raised will depend on discussions within the Joint Committee and bodies working under it (the Specialised Committee on the implementation of the Protocol on Ireland/Northern and Ireland and the Joint Consultative Working Group) and the criteria the Joint Committee agrees on “at risk” goods. We therefore ask you to provide a further progress report, by September 2020 at the latest, explaining how these criteria will affect the customs duties payable on “at risk” goods traded between the UK and ACP countries which are brought into Northern Ireland on the terms applicable under the Protocol. We trust that you will also be able, by then, to provide further information both on the nature of any other customs or regulatory checks that might be required for goods entering Northern Ireland and on how and where they will be carried out.

26 See Articles 4, 5(4) and Annex 2, point 4, final indent of the Protocol on Ireland/Northern Ireland.

27 See [Hansard](#), 13 May 2020.

5 UK participation in EU funding programmes post-Brexit (update)²⁸

This EU document is politically important because:

- it affects the EU’s conditions for any continued UK participation post-Brexit in certain European funding programmes, in areas such as scientific research and nuclear energy. As of mid-May 2020, the Government has failed to respond to a series of questions put to it on these matters in late March, especially with respect to the programmes chosen for UK participation, the required financial contribution, and the powers of the EU institutions to police UK management of European funding.

Action

- Write to the Chief Secretary to the Treasury (Rt Hon. Steve Barclay MP) to reiterate the need for the Government to provide information on the terms and scope of possible continued UK participation in EU programmes.
- Draw the Treasury’s failure to answer the Committee’s questions to the attention of the Business, Energy and Industrial Strategy Committee, the Science and Technology Committee and the Committee on the Future Relationship with the EU.

Overview

5.1 At the end of 2020, the UK will by default stop being a participant in all programmes, schemes and funds financed from the European Union budget, including the Common Agricultural Policy, the Framework Programme for Research and the Structural and Cohesion Funds.²⁹

5.2 However, as part of its negotiating objectives for a new relationship with the EU, [published on 27 February 2020](#), the Government is seeking continued UK participation, formally known as “association”,³⁰ in four EU programmes — the “**Horizon Europe**” research programme; the **Euratom nuclear research programme**; the **Copernicus earth observation project**; and the “**PEACE PLUS**” cross-border cooperation scheme on

28 Proposal for a Council Regulation laying down the multiannual financial framework for the years 2021 to 2027; 8354/18 + ADD 1, COM(18) 322; Legal base: Article 312 TFEU; special legislative procedure; unanimity; Department: HM Treasury; Devolved Administrations: consulted; ESC number: 39683.

29 Although the UK left the European Union on 31 January 2020, it remains a participant in EU funding schemes until the end of 2020 because it has agreed to honour, in full, its share of the EU’s 2014–2020 Multiannual Financial Framework and a share of other EU liabilities accrued during the period of the UK’s EU membership. On 11 March 2020, the Office for Budget Responsibility estimated that the total net cost of that settlement will amount to approximately £32.9 billion from 1 February 2020 until its resolution.

30 “Association” is the EU’s term for formal participation by “third countries” in many of its funding programmes. This would give British organisations and individuals the same eligibility to receive EU funding from a particular programme as counterparts based in the European Union itself, in return for a British financial contribution.

the island of Ireland — from the start of 2021.³¹ The option of seeking involvement in other EU programmes, such as the Erasmus+³² student mobility scheme, was couched in conditional terms or dropped altogether.³³ The Government also repeatedly said it would “not agree [...] for the EU’s institutions, including the Court of Justice, to have any jurisdiction in the UK”.³⁴

5.3 The UK’s continued involvement in those programmes selected by the Government is, however, not automatic, and needs to be negotiated with the EU. Based on the [draft text for a UK-EU agreement](#) published by the European Commission on 18 March 2020, and the precedent of its existing cooperative arrangements with “third countries”,³⁵ the EU appears to be setting the following conditions for continued British participation in the programmes selected by the Government:

- a yearly financial contribution, calculated by taking the EU’s own annual budget for each of the programmes in which the UK is participating (which will of course be set without Treasury input)³⁶ and multiplying it by Britain’s GDP as a proportion of that of the EU (which is approximately 15.6 per cent). Based on the four EU programmes in which the Government is seeking UK involvement, this could lead to an estimated gross cost to the UK taxpayer of £2 billion annually, before funding received back from the EU budget by British beneficiaries is taken into account;³⁷
- a new ‘correction’ mechanism that would automatically require the UK to pay more into EU-funded schemes in which it participates if the money it receives outstrips its contribution by a — yet to be specified — proportion, preventing

31 The Government had long indicated the UK might seek continued involvement in specific EU schemes post-exit. However, the final list of programmes selected is very different from the indications given in the October 2019 [Political Declaration](#) on the new UK-EU relationship, which specifically referenced possible British participation in “Union programmes” in areas as varied as “science and innovation, youth, culture and education, overseas development and external action, defence capabilities, civil protection and space”.

32 The Government’s negotiating objectives of 27 February 2020 noted that continued involvement in the Erasmus+ student mobility programme could be an option “on a time-limited basis, provided the terms are in the UK’s interests” (which it did not define further).

33 This means that the Government is not currently seeking UK participation in other programmes including the [European Defence Fund](#) for defence industrial development, the [Creative Europe](#) programme for the cultural industries, the [Neighbourhood, Development & International Cooperation Instrument](#) for development assistance, the [Union Civil Protection Mechanism](#), and of course the [Galileo satellite navigation programme](#). The European Commission [published an overview](#) of which EU programmes are open to non-EU countries in January 2020.

34 See for example “[Our approach to the Future Relationship with the EU](#)”, (27 February 2020). On 3 February 2020, the Prime Minister had already laid a [Written Statement](#) in Parliament which said: “Any [UK-EU] agreement must respect the sovereignty of both parties and the autonomy of our legal orders. It cannot therefore include any regulatory alignment, any jurisdiction for the CJEU over the UK’s laws, or any supranational control in any area”.

35 See for example the [EU-Switzerland agreement](#) on participation in the ‘Horizon 2020’ research programme, or the dispute resolution clauses of the European Commission’s [model grant agreement](#) for funding awarded from that programme.

36 The budget for individual EU funding programmes would be set under the Union’s normal annual budgetary procedure, in which the UK no longer participates as a non-Member State.

37 See for more information the Committee’s Report of 26 March 2020. The Commission has proposed an “operational contribution”, consisting of the UK’s proportion of the EU’s own budget for a specific programme, plus a “participation fee” for each EU programme in which it is involved, calculated as a fixed percentage of the operational contribution referred to above. See: European Commission, “Draft text of the Agreement on the New Partnership between the European Union and the United Kingdom” (12 March 2020), Part Four.

it from becoming a significant net recipient of EU funds.³⁸ Although this mechanism would be entirely new (since it is not included in the EU’s current agreements with other countries on participation in its programmes), the European Commission has made clear to the Government since at least May 2018 that it would be part of the EU’s demands;³⁹ and

- some limited powers for the EU institutions within the UK for the “protection of the Union’s financial interests”, including jurisdiction for the Court of Justice (CJEU) in relation to dispute settlement between the European Commission and British funding recipients, and on investigatory powers for the Commission’s anti-fraud unit OLAF to examine potential misuse of EU money.

5.4 The issue of continued British participation in “Union programmes” has been discussed during each of the three UK-EU negotiations rounds on a new economic relationship to date, in March, April and May 2020.⁴⁰ Although EU Chief Negotiator Michel Barnier has reported “convergence” on this matter within the negotiations,⁴¹ it is not known to what extent the two sides are close to an agreement on the UK’s rights and obligations as part of continued involvement in EU programmes. The Government has not publicly commented on the Commission’s proposed conditions (including the controversial issue of any continued Court of Justice jurisdiction, however limited). In any event, EU consent for UK participation in its programmes is likely also dependent on the wider outcome of the UK-EU trade negotiations, where little progress is reported to have been made.⁴²

5.5 In addition, continued UK participation is dependent on the EU itself agreeing its next long-term budget, the Multiannual Financial Framework 2021–2027, because such a budget is a necessary precondition for the EU establishing the programmes in which

38 The UK as a Member State was a significant net contributor to the EU budget. From European Commission figures, it appears its share of receipts from specific EU programmes in a given year during the 2014–2020 budgetary cycle only outstripped its proportional contribution to the EU budget that year (which averages approximately 12.5 per cent of all Member States’ contributions, due to the rebate) in a limited number of cases, primarily for the Euratom research programme for nuclear power because of the presence of the EU-funded Joint European Torus fusion energy project in Culham, Oxfordshire.

39 In May 2018, the European Commission published its [proposals](#) for the next generation of specific EU funding programmes for the 2021–2027 budgetary cycle, which explicitly included a reference to “ensur[ing] a fair balance as regards the contributions and benefits of the third country participating in the Union programmes” by means of an “automatic correction of any significant imbalance compared to the amount that entities established in the associated country receive through participation in the Programme, taking into account the costs in the management, execution and operation of the Programme”.

40 See the UK-EU negotiating agendas for [3–4 March](#), [20–24 April](#) and [11–15 May](#).

41 On 5 March 2020, EU Chief Negotiator Michel Barnier [said](#): “We note convergence on some of our objectives and on some specific points, such as cooperation in civil nuclear matters and the UK’s participation in some EU programmes”. The Government’s Written Statements on the negotiations to date, published on [9 March](#) and [28 April 2020](#), respectively, have only referred to the fact that the negotiations “covered all work streams, including [...] general terms for UK participation in programmes, including provisions for financial contribution”.

42 We noted in our Report of 26 March 2020: “The process of seeking “association” could also easily become politicised by developments in the wider negotiations between the UK and the EU on a new economic and security relationship. The example of Switzerland, which was suspended from significant parts of the EU’s research funding programme over its refusal to extend free movement to Croatian nationals after the country joined the EU in 2013, is instructive in this regard. UK and EU scientific cooperation could easily become a casualty of the wider negotiations even if participation in the relevant EU programmes is in both sides’ interest”.

the UK wants to participate from the start of next year.⁴³ Discussions between the 27 Member States and the European Parliament have been on-going since spring 2018, with no agreement currently in sight. As we noted in our Report of 7 May 2020, MFF 2021–2027 talks have become more complex because of the COVID-19 crisis, which has triggered a difficult debate about the use of the EU budget to contribute to a Coronavirus Recovery Fund (and how it should be paid for by the EU’s national governments).

5.6 As a consequence of the above, there is no clarity yet — especially for potential beneficiaries of participation in EU programmes — on whether the UK will remain part of the EU funding schemes prioritised by the Government from early 2021, or on which terms.

The Government’s position

5.7 The European Scrutiny Committee [wrote to the Chief Secretary to the Treasury](#) (Rt Hon. Steve Barclay MP) — as the Minister responsible for any questions relating to UK contributions to the EU budget — on 26 March 2020, asking for more information about the reasons for selecting some EU programmes for continued UK participation but not others;⁴⁴ the Government’s position on the Commission’s proposed methodology for the UK’s budgetary contribution in return for “association”, including the new financial correction mechanism; and whether the EU’s likely insistence that participation in its programmes requires acceptance of some limited jurisdiction of the Court and Commission would breach the Government’s rejection of “any jurisdiction by the CJEU over the UK’s laws, or any supranational control in any area”.

5.8 As of [20 May], the Minister has not replied to the Committee’s request for information by 10 April, nor provided any explanation as to the significant delay in responding. More generally, the Government has not yet publicly commented on the draft legal text on UK participation in EU programmes circulated by the European Commission in March, or provided further context to Michel Barnier’s remark that there was a degree of “convergence” on this issue.⁴⁵

Action

5.9 The Committee is extremely disappointed that the Government has been unable to provide the requested clarifications about UK policy towards participation in EU programmes, as set out in the Committee’s letter of 26 March 2020. The Committee is of course acutely aware of the pressures the on-going coronavirus pandemic and associated

43 The Multiannual Financial Framework is also directly relevant to the UK because it will establish spending limits for the EU’s annual budgets during the 2021–2027 period, including for those programmes in which continued British participation is sought. Under the methodology proposed by the European Commission, the UK’s financial contribution to the specific programmes in which it wants to be involved would be calculated on the basis of those annual budgets.

44 In particular, we asked the Government if the UK is still seeking participation in Erasmus+, the student mobility programme; in the EU’s ‘Fusion for Energy’ agency, its contribution to the international [nuclear fusion research programme](#) ITER; and in the EU’s “[Connecting Europe Facility](#)”, which funds cross-border infrastructure projects, especially with respect to energy infrastructure.

45 On 9 May 2020, UK Chief Negotiator David Frost [tweeted](#) that the UK had sent the EU draft legal texts for “a complete draft Free Trade Agreement”, as well as “agreements on: air transport, air safety, civil nuclear cooperation, energy cooperation, law enforcement, unaccompanied asylum-seeking children, readmissions, [and] social security”, and a “Fisheries Framework Agreement”. There was no reference to alternative proposals with respect to UK participation in Union programmes.

economic crisis are placing on the Government’s resources. However, the Government continues to insist that, despite these circumstances (and the reported lack of any meaningful progress towards a trade agreement with the EU so far), it expects to secure a deal on the UK’s future relationship with the EU by the end of 2020.⁴⁶

5.10 Moreover, we consider that the specific issues on which we sought further information in our letter of 26 March — on the reasons for seeking involvement in certain EU programmes but not others on the one hand, and the EU’s likely demands in respect of both a financial contribution and continued CJEU jurisdiction over beneficiaries of EU funding on the other — should have been considered by the Government prior to the publication of the negotiating objectives on 27 February. One relates to a domestic policy decision, and the other is an issue that the EU was expected to raise as soon as the UK set the objective of obtaining continued participation in any “Union programmes”. The questions put to the Government by the Committee should therefore have been straightforward to answer.

5.11 In light of the above, the Committee has again written to the Chief Secretary to the Treasury to request the information previously sought in our letter dated 26 March, to provide an update on the negotiations with the EU on UK participation in its programmes, and to explain the reasons for the failure to respond to that letter. It is also considering requesting the Minister to provide evidence to the Committee in person about the issues raised in this Report should there be further delays in any, or an unsatisfactory, response.

46 On 5 May 2020, the Chancellor of the Duchy of Lancaster (Rt Hon. Michael Gove MP) [told the House of Lords EU Committee](#) that “the Government have now developed a rhythm of decision-making that [...] allows [Ministers] to carry on with other business-as-usual activity” despite COVID-19, including negotiations with the EU, and that the Government is therefore “confident that we will be able [...] to secure agreement in good time” with the EU without needing to extend the post-Brexit transitional period into 2021.

6 COVID-19: Relaxation of EU capital requirements for banks⁴⁷

These EU documents are legally and politically important because:

- they contain a series of amendments to EU rules on capital requirements to “maximise the ability of banks to lend during the coronavirus pandemic, while also ensuring their continued resilience”. The UK is expected to apply these legal changes when they become EU law for the duration of the post-Brexit transition period, but has no formal say in their making and the Government has not yet set out its views on the proposals.

Action

- Write to the Economic Secretary to the Treasury (John Glen MP) to clarify the Government’s position on these changes to EU banking rules, and their implications for the British financial services industry and lending to businesses.
- Draw these developments to the attention of the Treasury Committee and the Committee on the Future Relationship with the EU.

Overview

6.1 Actions taken by governments across the world to contain the coronavirus pandemic, including restrictions on people and businesses, have had severe economic consequences. Many companies have seen business dry up, and both workers and the self-employed have experienced sharp reductions in their income. Although this impact has been to some extent cushioned by government-funded interventions, such as the [Coronavirus Job Retention Scheme](#) in the UK, it has still led to a severe economic contraction globally.

6.2 The Committee has [focussed its work](#) in recent weeks on the European Union’s policy and legislative responses to the coronavirus crisis and their implications for the UK during the post-Brexit transition period (during which the Withdrawal Agreement says at Article 127 that the UK should continue to apply EU law).⁴⁸ This includes scrutiny of EU measures to help ensure that businesses hit by the crisis have sufficient funds to remain going concerns, and prevent workers and the self-employed from loss of income.⁴⁹ The

47 (a); [Proposal for a Regulation amending Regulations \(EU\) No 575/2013 and \(EU\) 2019/876 as regards adjustments in response to the COVID-19 pandemic](#); (b) [Commission Interpretative Communication on the application of the accounting and prudential frameworks to facilitate EU bank lending: Supporting businesses and households amid COVID-19](#); EU reference numbers: (a) 7620/20, COM(2020) 310; (b) COM(2020) 169; Legal base: (a) 114 TFEU; ordinary legislative procedure; (b) -; Department: HM Treasury; Devolved Administrations: not consulted; ESC numbers: (a) 41219; (b) 41220.

48 See the Committee’s [Second Report ‘COVID-19 pandemic: the EU’s policy response and its implications for the UK’ of 26 March](#) and the Committee’s [Seventh Report](#) of 7 May.

49 For example, the European Commission has relaxed its usual “State aid” restrictions on measures that the EU’s 27 national governments — and, for the duration of the transition period, the UK — can provide to businesses at taxpayers’ expense. It has also made €40bn (£37bn) available from the 2020 EU budget to contribute towards economic mitigation efforts, for example by giving countries additional financial support to pass on to small businesses and providing emergency funding for fishermen whose markets have disappeared.

European Commission has, for example, significantly relaxed the rules around taxpayer-funded guarantees for bank loans, which we addressed in our recent Report on EU State aid rules and the coronavirus crisis.⁵⁰

6.3 The EU has also been mindful of the specific implications of the current situation for the banking sector, given its key role in facilitating business and access to funds in the wider economy. Due to the pandemic, lenders are simultaneously facing an increased risk of defaults on their existing loans, and more demand for funding from struggling businesses.

6.4 Under banking laws, a substantial deterioration in the credit risk associated with its loan book has an impact on banks' regulatory capital (shareholders' equity) and other prudential requirements, which they need to maintain their solvency and preserve overall financial stability. For EU Member States and the UK, the current rules determining how banks must assess the risks associated with their loans — and how to adjust their capital in response those exposures — are set out in EU legislation:

- first, and most importantly, the EU has put in place a [Capital Requirements Regulation](#) (CRR) and [Directive](#) (CRD).⁵¹ They determine, among other things, the level of capital banks must have relative to their debt. The Regulation and Directive were originally agreed in 2013 in the aftermath of the financial crisis, but [substantially amended](#) only a year ago, in May 2019, to bring EU law further in line with international financial regulatory standards⁵² (with the bulk of the changes due to take effect in stages from the end of 2020 onwards);⁵³ and
- separately, the EU has also passed [legislation](#) — based on the new international “IFRS9” accounting standard — setting stricter rules from January 2018 on how companies, including listed banks,⁵⁴ should treat expected credit risk related to their commercial activities (i.e. likely losses on loans) on their balance sheet.⁵⁵ In 2017, banks were given a [special transition period](#) to mitigate the impact of this change on their accounts and therefore on their prudential capital.⁵⁶

6.5 Since the coronavirus crisis *increases* the need for banks to lend to businesses, the potentially adverse effects of the EU's prudential legislation under the current circumstances have therefore been the subject of numerous pieces of guidance from regulators in recent

50 See the Committee's [Seventh Report](#) of 7 May 2020 for more information.

51 Although the legislation is set at EU-level and there is a European Banking Authority, the EU has very limited direct supervisory responsibilities for the banking sector: in practice, the rules are monitored and enforced by national regulators of the countries where they apply, like the Bank of England's Prudential Regulation Authority (PRA) in the UK.

52 These international standards are known as “[Basel III](#)”, named after [Basel Committee on Banking Supervision](#) (BCBS), a forum composed of the Central Banks of [28 jurisdictions](#), which sets the global baseline for banking regulation.

53 See [Regulation \(EU\) 2019/876](#), [Regulation \(EU\) 2017/2395](#) and [Directive 2019/878/EU](#). More information on these amendments is available in the European Scrutiny Committee's Reports of [13 November 2017](#) and [24 April 2019](#) on the so-called “Risk Reduction Measures”.

54 Articles 4 and 5 of [Regulation 1606/2002](#), which anchors the full International Financial Reporting Standards — including IFRS9 — into EU law, only makes their use compulsory for listed companies. For non-listed companies, each EU country can decide whether to require their consolidated accounts to be drawn up in conformity with the IFRS or under different standards.

55 See [Commission Regulation \(EU\) 2016/2067](#) and [Regulation \(EU\) 2017/2395](#).

56 [Regulation \(EU\) 2017/2395](#).

months.⁵⁷ For example, the EU has been [working for a number of years](#) to address the financial stability risks arising from the large stock of bank loans unlikely ever to be repaid — called “non-performing loans” — in many of its Member States.⁵⁸ However, despite these efforts, the widespread economic impact of COVID-19 is now causing banks’ “Expected Credit Losses” (ECLs), as calculated under the new IFRS9 standard, to increase again. This in turn would require them to provision more significantly for the expected losses on the loans, and “result in an erosion of [...] their ability to continue lending”.⁵⁹ Other elements of the CRR and CRD could also inhibit the provision of bank credit to businesses during the current unprecedented economic circumstances.

6.6 To address these concerns, the European Commission published an “[interpretative communication](#)” on 28 April 2020, which emphasised the options already available under the EU’s capital and accounting legislation to both banks and their national regulators to limit — insofar as permitted by those laws — the impact of worsening credit risks of lenders’ loans on their ability to continue lending.⁶⁰ It covers, for example, how the granting of payment holidays or other forbearance measures to borrowers should be taken into account when calculating banks’ assets, and therefore their capital requirements.

The proposal to amend the EU’s Capital Requirements Regulation

6.7 In addition to the European Commission encouraging banks and regulators to make use of the existing flexibilities available under EU rules, it has also [proposed](#) a number of amendments to the Capital Requirements Regulation to “maximise the ability of EU banks to lend during the coronavirus pandemic, while also ensuring their continued resilience”.

6.8 The need for amendments to the EU’s existing prudential framework flowed in part from a set of recommendations made in [late March](#) and [early April](#) by the Basel Committee (BCBS) — a standard-setting body for the banking industry composed of the Central Banks of 28 different jurisdictions, including the UK — on how bank regulations should be treated in the context of the coronavirus crisis. In particular, the Committee endorsed a one-year delay to the internationally-agreed deadline to implement the leverage ratio buffer, a specific capital requirement for the largest banks related to their total debt levels under the latest “[Basel III](#)” capital requirement standards. This was due to be applied under EU law via the Capital Requirements Regulation from 2022, but the Committee

57 The EU’s approach to the application of capital requirement and accounting rules to banks in the context of the coronavirus pandemic should also be seen as part of a wider package of measures. Notably, the European Commission has relaxed its usual restrictions on government guarantees for bank lending under EU State aid rules, and including the Bank of England and the European Central Bank, have also provided credit institutions with [additional liquidity](#) and lowered [macro-prudential capital buffers](#) to encourage banks in supporting the real economy.

58 See for more information our predecessors’ [Report of 21 February 2018](#).

59 European Commission, “[Coronavirus response: Banking Package to facilitate bank lending- Supporting households and businesses in the EU](#)” (28 April 2020).

60 European Commission document COM(2020) 169. The Commission guidance focuses on the legal requirements surrounding the assessment of the risk of default, or delays, for the repayment of a particular loan under the applicable accounting standards (and the effect this has on the amount of capital the bank needs to have to balance this risk under the CRD and CRR). It also provides direction on how the IFRS 9 accounting standard, which “sets out, amongst other things, how companies should value financial assets (e.g. loans to households or companies) and how they should measure the risk associated with lending”, should be interpreted and applied to bank loans in light of increased non-repayment of such loans (in some cases on a temporary basis) because of the crisis. Lastly, the guidance also specifically seeks to assuage concerns that the use of forbearance, like payment holidays, or use of government loan guarantees under coronavirus support schemes, legally, trigger higher capital requirements under “[prudential backstop](#)” rules implemented by the EU in 2018.

[agreed](#) an extension until 2023 “in order to free up the operational capacity of banks and supervisors”. The BCBS also approved a two-year delay to the full implementation of the aforementioned IFRS9 accounting standard for banks, softening the impact of the new way of assessing expected credit losses on their capital requirements.⁶¹

6.9 Following these recommendations, in late April the European Commission [put forward](#) a [proposal for a Regulation](#) amending the CRR, to “maximise the capacity of [banks] to lend and to absorb losses related to the COVID-19 pandemic”.⁶² Subject to the approval of the European Parliament and a qualified majority of the EU’s Council of Ministers, the draft legislation would not only implement the BCBS’ suggestions with respect to the leverage ratio buffer and the IFRS9 accounting standard for banks, but also:

- allow for more favourable prudential treatment for bank loans where the borrower is struggling to pay and the loan is covered by a taxpayer-funded guarantee scheme (like the [CBILS](#) and [CLBILS](#) guarantee schemes in the UK), given that the full credit risk to the bank of such loans is lower;⁶³
- modify how the [leverage ratio](#) — the calculation of a bank’s capital expressed as a proportion of its debt — is affected by access to coronavirus-related emergency liquidity assistance provided by monetary institutions like the Bank of England;⁶⁴ and
- make a number of changes to the favourable prudential treatment under the CRR of banks’ software assets, loans backed by pensions or salaries, and loans to small businesses and infrastructure projects.

6.10 Many of the European Commission’s recent proposals to adapt existing EU legislation to the coronavirus pandemic would simply delay their date of application, given resource constraints in both the private and public sector. Examples of this include the postponement of the [Medical Devices Regulation](#) and new [EU VAT rules](#). The Commission’s proposed amendment to the capital requirements framework is, however, substantive in nature. The Council and the European Parliament are still discussing the proposal, and it not yet clear what changes they may make to the legal text or when they will formally adopt the new Regulation. By extension, it is unknown when the new rules may take effect in the EU and, until the end of the post-Brexit transition period, the UK.

6.11 Prior to the current crisis, the European Commission had [already planned](#) a substantive amendment to EU capital requirements legislation to fully implement the aforementioned Basel III standards.⁶⁵ A proposal to that effect had originally been due in the second quarter of 2020, but this appears to have now been delayed. The Commission has also [said](#) that it will “take into account the impact of the Coronavirus pandemic on banks’ financial situation” in its impact assessment accompanying the forthcoming draft legislation.

61 BCBS, “[Measures to reflect the impact of Covid-19](#)” (April 2020).

62 European Commission document [COM\(2020\) 310](#).

63 This element of the changes to the CRR would amend the “[prudential backstop](#)”, a measure introduced in 2019 to force banks to provision appropriately for the likely losses they make on non-performing exposures.

64 The European Commission has provided a fuller picture of the implications of its amendments in the [explanatory notes](#) accompanying the proposed Regulation.

65 The proposal is expected to cover, for example, the Fundamental Review of the Trading Book (a new international standard increasing the capital that banks must hold to compensate for exposure to securities and derivatives).

The Government's position

6.12 As noted, the EU's capital requirement rules for banks apply to the UK for the duration of the post-Brexit transition period. However, the Government no longer has formal representation in the EU institutions that formally adopt those laws. This may be considered particularly problematic for a sector, like the banking industry, where the UK has a significant economic and political interest in ensuring any legislative changes are appropriate.

6.13 The European Commission published its proposal to amend the Capital Requirements Regulation on 28 April 2020. We had already asked the Government, in late March, whether it saw a need for any “legal changes to regulation or supervision of the banking sector [...] at EU level” because of the coronavirus crisis.⁶⁶ On 20 May, the Treasury submitted — with some delay — its customary Explanatory Memorandum setting out the UK's position on the proposal, as it is required to do for all draft EU legislation put forward during the transition period. It does not offer any significant information about the Government's views, noting only that “this package of immediate and longer-term measures provides some additional capital support to banks and should help support lending to the SME and infrastructure sector in the EU and in the UK”.

6.14 The Committee is keen nonetheless to have the Treasury set out its views on the changes to the prudential framework for banks more expansively, in particular with respect to those elements of the Commission proposal that go beyond the recommendations made by the Basel Committee. We consider this important because the UK is represented in the BCBS — where decisions “are taken by consensus among its members”, i.e. with the Bank of England's agreement — whereas the Government is no longer represented in the EU's institutions, in particular the Council of Ministers.⁶⁷ Where the EU goes beyond the measures announced by the Basel Committee, the UK would have to rely on the goodwill of the remaining Member States and the European Parliament to ensure the amendments to Europe's banking rules — which it is expected to apply until the end of the transition — reflect the Government and Bank of England's preferred approach.

Action

6.15 In light of the above, the Committee asks the Economic Secretary to the Treasury (John Glen MP) to supplement his Explanatory Memorandum on the proposed amendments to the Capital Requirements Regulation, in particular by clarifying to what extent the Commission proposal goes beyond the suggested actions agreed by the Basel Committee in March and April 2020 and the Government's position on those discretionary changes. A copy of that letter is shown below.

6.16 We also draw the European Commission's proposal to amend the EU Capital Requirements Regulation to the attention of the Treasury Committee, which may wish to assess its technical details further in the context of its [inquiry into the economic impact of coronavirus, and to the Committee on the Future Relationship with the EU](#).

66 European Scrutiny Committee Report of 26 March 2020: “[COVID-19 pandemic: the EU's policy response and its implications for the UK](#)”.

67 Formally known as the Council of the European Union.

*Letter from Sir William Cash MP to the Economic Secretary to the Treasury
(John Glen MP)*

COVID-19: Amendments to the EU's Capital Requirements Regulation

As you are aware, the European Commission published a proposal on 28 April containing substantive changes to the EU's Capital Requirements Regulation to soften the impact prudential rules may have on banks' ability to lend to businesses and help them weather the economic crisis triggered by the coronavirus pandemic. It appears to go beyond the recommendations for additional flexibility in the implementation of the Basel III standards agreed by the Basel Committee on Banking Standards in March and April this year, especially with respect to the prudential treatment of certain loans and the calculation of banks' leverage ratio.

We are disappointed that the Explanatory Memorandum you provided on the Commission proposal on 20 May was not submitted within the usual 10 working days and, moreover, contained very little information on the Government's position, as any changes to the Capital Requirements Regulation will be of direct relevance to the UK during the post-Brexit transition period.

First, as the Government itself recognises, the UK is in a unique position, affected by EU laws and policies for as long as the transition period lasts, but with no presence or formal say when they are being discussed and agreed by the EU. This is of particular concern in a case such as this, where legislative changes are being considered that affect a key British industry, without Treasury input and UK representation and agreement.

Second, this particular EU proposal is directly linked to the COVID-19 crisis and relates to a sector that is important economically in its own right and plays a vital role in the recovery.

In this context, noting the information provided in your Memorandum, we ask you to write to us by 10 June. We expect this letter to:

- set out the Government's position on the proposed changes made to the EU's prudential framework in more detail, especially with respect to the proposed amendments that do not flow from the Basel Committee's recommendations, and the package's expected impact on business lending by the British banking industry during this crisis; and
- clarify whether the Government has sought or is seeking any changes to the draft Capital Requirements Regulation, and whether it has been successful in securing them.

Letter from the Chair to the Chief Secretary to the Treasury (Rt Hon. Steve Barclay MP)

UK participation in EU funding programmes from 2021

You will be aware that the European Scrutiny Committee wrote to you on 26 March 2020, asking for a number of clarifications from you — in consultation with other relevant Departments — about the scope and terms of the UK’s participation in EU funding programmes from 2021 onwards.

In particular, we asked you to:

- set out the Government’s reasoning for the selection of the four EU programmes in which it wants to obtain continued UK involvement, and why pursuit of British participation in others had been dropped;
- clarify the Government’s position on the EU’s proposals for the calculation of the UK’s financial contribution to the EU programmes in which it chooses to participate, including the new “correction mechanism” that would require the UK to pay more into the EU budget if it became a net beneficiary of EU funds; and
- explain if the Government could accept the EU’s demands for a continued, if limited, jurisdiction for the Court of Justice of the EU and the European Commission’s anti-fraud body OLAF in relation to the spending and management of European funds, despite its explicit insistence that there should not be “any jurisdiction for the CJEU over the UK’s laws [and] any supranational control” under future UK-EU agreements.

Although the question of UK participation in “Union programmes” has featured in every negotiating round with the EU to date, and the latter’s Chief Negotiator Michel Barnier has noted there was “convergence” with the UK on this particular matter, you have so far failed to reply to our questions of 26 March or provide a reason why the requested information has not been provided nearly two months on. This is particularly disappointing in light of the fact that the clarifications we sought related either to the reasons underpinning a Government policy decision (the selection of EU programmes in which the UK wishes to continue participating) or to demands the Government must have known the EU would make in return for such involvement (a financial contribution and a limited role for certain EU institutions, including the CJEU).

You will appreciate that the Government’s apparent inability to facilitate parliamentary scrutiny on this matter, a relatively non-controversial element of the UK’s new relationship with the EU, is deeply worrying. We ask you to provide the information asked for in our initial letter of 26 March urgently, by [] May, including an update on the extent to which the UK and EU have ‘converged’ on an agreement on the conditions for UK participation. We also request that you explain why the provision of the requested clarifications has been subject to such delay. If your response is unsatisfactory, or delayed further, it is likely you will be asked to give evidence about this matter in person.

7 Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House

Department for Business, Energy and Industrial Strategy

(40904) Report from the Commission to the Council and the European Parliament for the interim evaluation of the Programme for the Competitiveness of Enterprises and Small and Medium-sized enterprises.
13425/19

+ ADD 1

COM(19) 468

(40920) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions The annual Union work programme for European standardisation for 2020.
13548/19

+ ADD 1

COM(19) 486

(40927) Commission Report on the implementation of Directive 2009/31/EC on the Geological Storage of Carbon Dioxide.
13721/19

COM(19) 566

(40928) Report from the Commission to the European Parliament and the Council Report on the functioning of the European carbon market.
13717/19

COM(19) 557

(40929) Report from the Commission to the European Parliament and the Council Preparing the ground for raising long-term ambition EU Climate Action Progress Report 2019.
13711/19

+ ADD 1

COM(19) 559

(40989) The European Court of Auditors on the annual accounts of the Clean Sky Joint Undertaking for the financial year 2018.
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(40991) European Court of Auditors' Report on the annual accounts of the Electronic Components and Systems for European Leadership (ECSEL) Joint Undertaking for the financial year 2018 together with the Joint Undertaking's reply.
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(41008) Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Strategic report 2019 on the implementation of the European Structural and Investment Funds.
15239/19
+ ADD 1

COM(19) 627

(41009) Commission Report on the implementation and impact of voluntary beef labelling arrangements under Regulation (EC) No 1760/2000 as amended by Regulation (EU) No 653/2014.
15233/19

COM(19) 625

(41019) Commission Staff Working Document: Synthesis of the findings of the evaluations of European Structural and Investment Funds Programmes.
15241/19

SWD(19) 445

(41045) Court of Auditors 2020 Special Report no. 2: The SME Instrument in action: an effective and innovative programme facing challenges.
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(41211) European Court of Auditors Report No. 8/2020: Investment in cultural sites: topic that deserves more focus and coordination.
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Department for Digital, Culture, Media and Sport

(41085) Report from the Commission to the European Parliament and the Council: On the implementation, functioning and effectiveness of the .eu Top-Level Domain from April 2017 to April 2019.
6179/20

COM(20) 63

Department for Environment, Food and Rural Affairs

(40916) Proposal for a Council Decision on the position to be taken on behalf of the European Union in the thirty-ninth meeting of the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats, with regards to amendments to Appendices II and III to that Convention.
13470/19
COM(19) 494

(40925) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1139 as regards the introduction of capacity limits for Eastern Baltic cod, data collection and control measures in the Baltic Sea, and Regulation (EU) No 508/2014 as regards permanent cessation for fleets fishing for Eastern Baltic cod.
13679/19
COM(19) 564

- (40982) Commission Staff Working Document Fitness Check of the Ambient Air Quality Directives Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air and Directive 2008/50/EC on ambient air quality and cleaner air for Europe.
14712/19
+ ADD 1
SWD(19) 427
- (40990) European Court of Auditors Special Report No 23/2019: Farmers' income stabilisation.
Special Report
23/2019
- (41009) Report from the Commission to the European Parliament and the Council on the implementation and impact of voluntary labelling provisions under Regulation (EC) No 1760/2000 as amended by Regulation (EU) No 653/2014.
15233/19
COM(19) 625
- (41013) Report from the Commission to the European Parliament and the Council on the implementation of Article 45 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council on information measures relating to the common agricultural policy.
15215/19
+ ADD 1
COM(19) 634
- (41021) Proposal for a Council Decision on the signing, on behalf of the Union, and the provisional application of the Sustainable Fisheries Partnership Agreement and its Implementing Protocol (2020–2026) between the European Union and the Republic of Seychelles.
5050/20
+ ADD 1
COM(20) 3
- (41022) Proposal for a Council Decision on the conclusion, on behalf of the Union, of the Sustainable Fisheries Partnership Agreement and its Implementing Protocol (2020–2026) between the European Union and the Republic of Seychelles.
5051/20
+ ADD 1
COM(20) 2
- (41030) Proposal for a Council Regulation on amending Council Regulation (EU) 2018/1977 opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2019–2020.
5107/20
COM(20) 5
- (41032) Proposal for a Council Decision on the position to be taken on behalf of the European Union in the thirteenth meeting of the Conference of the Parties of the Convention on the conservation of migratory species of wild animals (CMS) with regard to proposals from various parties to amend the Appendices to that Convention, and on the withdrawal of a reservation notified to that Convention.
5232/20
COM(20) 8

Department of Health and Social Care

40942 Commission Report on the implementation of the Council
13858/19 Recommendation on promoting health-enhancing physical activity
across sectors.
COM(19) 565

Department for International Development

(41051) Annual report on the European Union's humanitarian aid operations
5668/20 financed in 2018.
COM(20) 6

Foreign and Commonwealth Office

(40910) Report from the Commission on Progress in Bulgaria under the
13382/19 Cooperation and Verification Mechanism for 2019.
COM(19) 498

(40922) Proposal of the High Representative of the Union for Foreign Affairs and
— Security Policy to the Council for a Council Decision amending Decision
— 2016/2382/CFSP, establishing a European Security and Defence College).

(41027) Council Decision (CFSP) 2017/2303 in support of the OPCW in the
— destruction of Syrian chemical weapons.
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(41065) Communication from the Commission to the European Parliament,
5849/20 the Council, the European Economic and Social Committee and the
Committee of the Regions Enhancing the accession process — A credible
COM(20) 57 EU perspective for the Western Balkans.

(41090) Council Decision (CFSP) 2020/214 of 17 February 2020 amending Decision
— 2012/642/CFSP concerning restrictive measures against Belarus.
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HM Treasury

(40678) Communication from the Commission to the European Parliament, the
10338/19 European Council and the Council Roadmap to an agreement on the
Union's long-term budget for 2021 — 2027 The European Commission's
COM(19) 295 contribution to the European Council meeting on 20–21 June 2019.

(40884) Communication from the Commission Time to decide on the Union's financial framework for 2021–2027 The European Commission's contribution to the European Council meeting on 17–18 October 2019.

13051/19

COM(19) 456

(41066) Communication from the Commission: Economic governance review.

5817/20

+ ADDs 1–2

COM(20) 55

Ministry of Defence

(40954) Report of the High Representative of the Union for Foreign Affairs and Security Policy to the Council on the functioning of the EU Satellite Centre (2014–2019).

13699/19

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Ministry of Justice

(39869) Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

9622/18

+ ADDs 1–3

COM(18) 379

(39870) Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1206/2001 of May 28 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

9620/18

+ ADDs 1–3

COM(18) 378

Annex

Documents drawn to the attention of select committees:

(‘SNC’ indicates that scrutiny (of the document) is not completed; ‘SC’ indicates that scrutiny of the document is completed)

Business, Energy and Industrial Strategy Committee: UK participation in EU funding programmes post-Brexit (update) [Proposed Council Regulation (SNC)]

Environment, Food and Rural Affairs Committee: EU-Greenland Fisheries Agreement [Council Decision (SC)]; 2020 Fishing Opportunities [Proposed Council Regulations (SNC)]

Committee on the Future of the European Union: COVID-19: relaxation of EU capital requirements for banks [(a) Proposed Regulation; (b) Commission Interpretative Communication (SNC)]; Enhancing trade in the Euro-Mediterranean region: changes to preferential rules of origin [Proposed Council Decision (SNC)]; UK participation in EU funding programmes post-Brexit (update) [Proposed Council Regulation (SNC)]; Market access for goods from African, Caribbean and Pacific countries [Commission Report (SNC)]; 2020 Fishing Opportunities [Proposed Council Regulations (SNC)]

International Development Committee: Market access for goods from African, Caribbean and Pacific countries [Commission Report (SNC)]

International Trade Committee: Enhancing trade in the Euro-Mediterranean region: changes to preferential rules of origin [Proposed Council Decision (SNC)]; Market access for goods from African, Caribbean and Pacific countries [Commission Report (SNC)]

Northern Ireland Affairs Committee: Enhancing trade in the Euro-Mediterranean region: changes to preferential rules of origin [Proposed Council Decision (SNC)]; Market access for goods from African, Caribbean and Pacific countries [Commission Report (SNC)]

Science and Technology Committee: UK participation in EU funding programmes post-Brexit (update) [Proposed Council Regulation (SNC)]

Treasury Committee: Trade in financial services: equivalence with the EU (update) [Commission Communication (SNC)]

Formal Minutes

Thursday 21 May 2020

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).

Standing Order and membership

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

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers —

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at www.parliament.uk.

Current membership

[Sir William Cash MP](#) (*Conservative, Stone*) (Chair)

[Tahir Ali MP](#) (*Labour, Birmingham, Hall Green*)

[Jon Cruddas MP](#) (*Labour, Dagenham and Rainham*)

[Allan Dorans MP](#) (*Scottish National Party, Ayr Carrick and Cumnock*)

[Richard Drax MP](#) (*Conservative, South Dorset*)

[Margaret Ferrier MP](#) (*Scottish National Party, Rutherglen and Hamilton West*)

[Mr Marcus Fysh MP](#) (*Conservative, Yeovil*)

[Mrs Andrea Jenkyns MP](#) (*Conservative, Morley and Outwood*)

[Mr David Jones MP](#) (*Conservative, Clwyd West*)

[Stephen Kinnock MP](#) (*Labour, Aberavon*)

[Mr David Lammy MP](#) (*Labour, Tottenham*)

[Marco Longhi MP](#) (*Conservative, Dudley North*)

[Craig Mackinley MP](#) (*Conservative, South Thanet*)

[Ann Marie Morris MP](#) (*Conservative, Newton Abbot*)

[Charlotte Nichols MP](#) (*Labour, Warrington North*)

[Greg Smith MP](#) (*Conservative, Buckingham*)