

# European Scrutiny Committee

House of Commons London SW1A 0AA

Tel (020) 7219 3292 Email [escom@parliament.uk](mailto:escom@parliament.uk) Website [www.parliament.uk/escom](http://www.parliament.uk/escom)

From: Sir William Cash MP

12 October 2022

Rt Hon. Karen Bradley MP  
Chair of the Procedure Committee  
House of Commons  
London SW1A 0AA

## **Revised EU scrutiny arrangements**

Dear Karen

I hope this letter finds you well.

I write to update you on recent changes to how my Committee undertakes EU document scrutiny.

As you will be aware, the European Scrutiny Committee is charged under Standing Order No. 143 with examining EU documents and the Government's policy towards them. During the UK's EU membership, we reported on a regular basis on the legal and/or political importance of EU legislative proposals and policy initiatives. The Government would 'deposit' these documents in the House and provide an Explanatory Memoranda detailing its views on the proposed EU law or policy under scrutiny.

On 8 July 2022, Rt Hon Elizabeth Truss MP, then Secretary of State for Foreign, Commonwealth and Development Affairs, wrote to us and the House of Lords European Affairs Committee seeking our collective agreement on revised arrangements for the scrutiny of UK/EU affairs. New arrangements were considered necessary in light of the UK's withdrawal from the EU, and new obligations and methods of governance provided for in the UK/EU Withdrawal Agreement and the UK/EU Trade and Cooperation Agreement.

We wrote to the Foreign Secretary, Rt Hon James Cleverly MP, on 12 October and accepted the Government's offer. I attach copies of these letters for your information. Moving forwards, the Government has committed to deposit EU documents relating to: the Northern Ireland Protocol; the

Withdrawal Agreement; and the Trade and Cooperation Agreement. All other aspects of our document scrutiny will remain the same and we will continue to report our assessment of EU proposals and initiatives to the House on a regular basis. Our revised scrutiny arrangements also cover areas in addition to EU document scrutiny, such as commitments on regular Ministerial appearances before the Committee and briefings from officials.

We believe these revised arrangements are appropriate to the UK's legal and political status outside of the EU and its institutions, and that they strike a balance between providing information on important matters—such as binding decisions taken in joint UK/EU bodies set up under the Withdrawal Agreement and TCA—and recognise the limited value of receiving information on EU actions that are no longer directly relevant to the UK after Brexit. They formalise *ad hoc* arrangements that have been in place since the UK's withdrawal from the EU and, in practical terms, will see the number of EU documents we consider each Session settle at around 100. The Committee's Standing Order is unaffected by these changes as they relate to the types of EU documents the Government will facilitate scrutiny of, not the power of the Committee to report on them.

I hope this update proves useful.

I am copying this letter to the Foreign Affairs Committee and the Clerk of that Committee (Chris Shaw); and the Chair (Sir Bernard Jenkin MP) and Clerk (Lloyd Owen) of the Liaison Committee.

With kind regards

**CHAIR**



Foreign, Commonwealth  
& Development Office

**Rt Hon Elizabeth Truss MP**  
Secretary of State for Foreign,  
Commonwealth and Development Affairs

King Charles Street  
London  
SW1A 2AH  
**Tel: 0207 008 5000**

Sir William Cash MP  
Chair, European Scrutiny Committee  
House of Commons  
Westminster, SW1A 0AA

The Earl of Kinnoull  
Chair, European Affairs Committee  
House of Lords  
London, SW1A 0PW

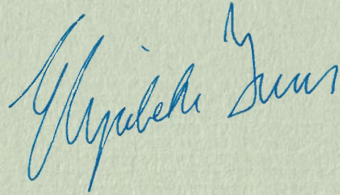
08 July 2022

Dear Charles, Bill

### **EU RELATED SCRUTINY ARRANGEMENTS**

1. I am writing to seek your agreement on future scrutiny arrangements, following the conclusion of discussions between officials on a formal framework for scrutiny arrangements, which provides a balanced approach to parliamentary oversight of our new relationship with the European Union. I am grateful to the officials involved in these discussions for arriving at an agreed approach.
2. I agree with Lord Frost's position when he wrote to you on 23 September 2021, that we should be as open as possible in how we work with your committees, whilst noting that our new relationship with the EU requires a new approach to scrutiny and a move towards a more flexible approach.
3. The scrutiny offer enclosed in the Annex seeks to reflect this and takes into account the clear representations made by your officials, including some reasonable additional requests since Lord Frost wrote to enhance the commitments in several areas. I should note that the additional requests made by the Northern Ireland Protocol Sub-Committee in their report on scrutiny have been responded to separately through the Government's response to the Sub-Committee's report.
4. I am aware that the offer does not go as far as the European Affairs Committee in particular would have liked in terms of automatic deposit of EU documents on a broader range of issues. These arrangements are proportional to our new relationship with the EU, and are part of an evolving process to be kept under review. As set out in the offer, it is sensible to conduct an interim review of these arrangements in nine months' time, and then a full review after two years (or at the end of this Parliament, whichever is sooner), to ensure the process remains relevant and manageable for both sides.
5. I hope that the offer enclosed is acceptable to you, and I look forward to implementing it as quickly as possible. I am grateful to you both for your continued engagement and for the valuable role that your Committees play.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth Truss". The signature is written in a cursive, flowing style.

**THE RT HON ELIZABETH TRUSS MP**  
**Foreign, Commonwealth and Development Secretary**

## **Annex**

### **Final Government Offer on Scrutiny of EU-related Business by the EU Scrutiny Committees**

#### **1. Scrutiny of the Withdrawal Agreement (excluding the Northern Ireland Protocol)**

We are committed to:

- Issuing WMSs before and after WA Joint Committee (WAJC) meetings.
- Providing EMs on European Council Decisions that establish the EU position for the WAJC, before meetings wherever possible.
- Providing official-level briefings to the Committee teams in advance of all Joint Committee meetings, setting out a more in-depth UK position on agenda items and our approach to the discussion. We can also provide a post-WAJC meeting read-out.
- Ministerial appearances before the Committee and ad hoc official-level briefing as required.
- Sharing provisional agendas of WA Specialised Committee meetings in advance (on a confidential basis, unless co-chairs agree to publish them).
- Sharing the WA Annual Report before publication, subject to co-chairs agreeing to publish. The first report was shared with both Committees on 18 June.
- Automatic deposit of EMs on new or amended EU law that has a direct effect on the UK under the WA.
- A Ministerial oral statement following publication of the two reports by the Commission and the Independent Monitoring Authority on the implementation of the citizens' rights chapter of the WA in mid-2022.
- Reporting on the UK's outstanding financial liabilities under the financial settlement and on payments to the EU each year through the annual European Union Finances Statement.
- Writing to the chairs in advance of requesting the establishment of an arbitration panel under the Agreement.
- Issuing WMSs following the establishment of an arbitration panel and after any CJEU rulings made under the WA, and issuing an annual report on disputes raised at the WAJC.
- Providing a quarterly summary of each Specialised Committee's activities, to the extent that there is agreement by both co-chairs of the Committee to make that activity public (for example through joint statements).

#### **2. Scrutiny of the Northern Ireland Protocol**

We are committed to:

- Continuing the submission of EMs on EU proposals which amend or replace existing proposals that fall under scope of the NI Protocol (including tertiary legislation)
- Automatic submission of EMs on new EU proposals falling under the scope of Protocol when agreed by the Joint Committee.
- Automatic submission of an EM when the UK is informed of any draft EU legislation through the JCWG which the EU have indicated they would like to add to the NIP Annexes under the Article 13(4) processes. Any agreement to share an EM is on the understanding that we would not be able to share anything that might reveal our negotiating position ahead of the relevant Joint Committee meeting.
- Officials will work with the Committees' Clerks on tailoring our EM guidance and template used by Departments to better reflect the information the Committees would find helpful to receive.

- We will share Ireland/Northern Ireland Specialised Committee (INISC) agendas, on the same basis as the approach to sharing provisional agendas of WA SC meetings in advance (on a confidential basis, unless co-chairs agree to publish them).

### **3. Scrutiny of the Trade and Cooperation Agreement**

We are committed to:

- Issuing WMSs before and after TCA Partnership Council meetings, using best endeavours to do so seven days in advance for pre-meeting WMSs.
- Automatic submission of EMs on European Council Decisions that establish the EU position for the Partnership Council, before meetings where possible.
- Automatic submission of EMs on EU Council Decisions that establish the EU position for meetings of Specialised Committees; before meetings where possible. For the avoidance of doubt, not all Specialised Committees will require an EU Council Decision to establish the EU's position.
- Providing official-level briefings to your Clerks in advance of all TCA Partnership Council meetings and offering post-meeting readouts.
- Sharing provisional agendas of TCA Specialised Committee meetings in advance.
- FCDO Ministers will write to the Committees periodically with a summary of activity in the Specialised and other Committees established under the TCA.
- Writing to the chairs before requesting the establishment of an arbitration panel or if it is likely that the EU will initiate dispute settlement, adopt a remedial, safeguard, or other unilateral measure, or operate the TCA “rebalancing” clause.
- Ad hoc Ministerial appearances as appropriate.

### **4. Miscellaneous**

We are committed to:

- Sending EMs on the EU’s annual Work Programme as we recognise that the EU Select Committees retain an interest in the wider EU policy direction and potential implications on both agreements.
- Continuing the practice of writing to the EU Committees about incoming EU Presidency priorities every six months, before the start of each Presidency where possible.
- HMG will consider requests from the EAC, NIPC and ESC for the deposit of documents of direct relevance to the work of the Committees that might fall outside the WA and TCA agreements.
- There will be an interim review of arrangements after nine months and then a full review after two years or at the end of this Parliament (whichever is sooner).

### **5. Ministerial appearance before the Committees**

- The Foreign Secretary will appear at least once a year before the ESC and EAC and the Minister for Europe and North America twice a year, with other ad hoc Ministerial appearances as appropriate. In respect of appearances before the Lords Committee and its sub-committee, Government officials and Committee clerks should work together to determine how appearances will best meet the needs of the main Committee and sub-committee according to the issues prevailing at the time. Parity in the number of appearances before each House should underpin this commitment.

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From: Sir William Cash MP

12 October 2022

Rt Hon. James Cleverly MP  
Foreign Secretary  
Foreign, Commonwealth and Development Office  
King Charles Street  
London SW1A 2AH

## Revised EU scrutiny arrangements

Dear James

As you will be aware, your predecessor, Rt Hon Elizabeth Truss MP, wrote to us on 9 July 2022 seeking our agreement on revised arrangements for the scrutiny of UK/EU affairs. This letter was preceded by over a year of discussions. We are grateful to all of those involved for their time, and determination to reach a settlement that facilitates parliamentary scrutiny of the Government's dealings with the EU whilst being appropriate to the new UK/EU relationship.

We believe the Government's offer strikes this balance and, as such, we formally accept. We have informed the House of these revised arrangements. My Clerk will be in contact with your officials shortly to discuss consequent changes to document handling practices, for example, concerning the information provided in Government Explanatory Memoranda on EU documents. As our revised arrangements relate mainly to the types of EU documents the Government will facilitate scrutiny of, our reporting practices will remain largely unchanged.

As suggested, we will review these arrangements with you in nine months' time. These revised arrangements are without prejudice to our powers to send for persons, papers and records, and our ability to consider all European matters. We must also make clear that we expect Ministers to appear before us when they are called, irrespective of how frequently this is or Government arrangements with the Lords Committees.

We look forward to continuing our work with you.

I am copying this letter to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office, Rt Hon. Penny Mordaunt MP, Leader of the House, Cabinet Office; and to Les Saunders in the Cabinet Office.

With kind regards

**CHAIR**