



HOUSE OF LORDS

European Affairs Committee

3rd Report of Session 2022–23

Future Scrutiny Arrangements for EU-Related Business

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European Affairs Committee

The European Affairs Committee was appointed to consider matters relating to the United Kingdom's relationship with the European Union and the European Economic Area, including the implementation and governance structures of any agreements between the United Kingdom and the European Union; to consider European Union documents deposited in the House by a minister; and to support the House as appropriate in interparliamentary cooperation with the European Parliament and the Member States of the European Union.

Membership

The Members of the European Affairs Committee are:

Baroness Couttie	Earl of Kinnoull (Chair)	Baroness Scott of Needham Market
Lord Faulkner of Worcester	Lord Lamont of Lerwick	Viscount Trenchard
Lord Foulkes of Cumnock	Lord Liddle	Lord Tugendhat
Lord Hannay of Chiswick	Lord Purvis of Tweed	Lord Wood of Anfield
Lord Jay of Ewelme		

Declaration of interests

See Appendix 1.

A full list of Members' interests can be found in the Register of Lords' Interests:

<https://members.parliament.uk/members/lords/interests/register-of-lords-interests/>

Publications

All publications of the Committee are available at:

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Committee staff

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SUMMARY

As a consequence of the United Kingdom's departure from the European Union, previous arrangements underpinning select committee consideration of EU-documents deposited in Parliament for scrutiny ceased to apply. It has therefore been necessary to agree a replacement for this system: one that balances the UK's new status as a third country outside the EU with a recognition of the unique relationship between the UK and the EU, and the fact that some EU legislation continues to apply in Northern Ireland under the terms of the Protocol on Ireland/Northern Ireland.

Following a series of discussions between officials, Committee Chairs, and Government Ministers, a new scrutiny arrangement has been agreed at Committee level. This agreement covers documents falling within the scope of the Withdrawal Agreement and the Trade and Cooperation Agreement, Ministerial appearances before select committees, and ad hoc requests for a limited number of key documents created in the context of the UK's new relationship with the EU.

We regret that the new arrangement does not go further but we recognise that the new arrangement is a reasonable compromise under the current circumstances and that it serves as a strong foundation for the future of Committee scrutiny of EU-related matters. Two review points will also allow for a full evaluation of the implementation of this arrangement and leave open the possibility of renegotiation at a later stage.

Future Scrutiny Arrangements for EU-Related Business

CHAPTER 1: INTRODUCTION

Background

1. On 19 October 2019, the Government laid before Parliament the ‘Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and from the European Atomic Energy Community’ (the Withdrawal Agreement).
2. On 24 December 2020, negotiators representing the two sides agreed the terms of the future UK-EU relationship, publishing the EU-UK Trade and Cooperation Agreement (TCA). The TCA established arrangements for future cooperation across a broad range of areas including aviation, fisheries, and security.
3. On 31 January 2020, the United Kingdom left the European Union and entered an 11-month transition period during which EU law continued to apply.
4. Within the Withdrawal Agreement was a revised Protocol on Ireland/Northern Ireland (Protocol). The Protocol came into effect 1 January 2021 setting out Northern Ireland’s post-Brexit relationship with both the EU and Great Britain, ensuring the free movement of goods across the Irish land border.

Changes to EU-related Select Committees in the House of Lords

5. Between May 1974 and March 2021, the House of Lords European Union Committee and its various policy-focussed sub-committees¹ were appointed each session to consider:
 - EU documents and draft laws; and
 - other matters relating to the UK’s relationship with the EU, including the implementation of the UK/EU Withdrawal Agreement, and the Government’s conduct of negotiations on the United Kingdom’s future relationship with the European Union.²
6. Following the implementation of the TCA, the European Union Committee was disbanded and succeeded by the European Affairs Committee, which was appointed to:
 - consider matters relating to the United Kingdom’s relationship with the European Union and the European Economic Area, including the implementation and governance structures of any agreements between the United Kingdom and the European Union;

1 Four at the time the Committee was disbanded: the EU Environment Sub-Committee, EU Goods Sub-Committee, EU Security and Justice Sub-Committee, and EU Services Sub-Committee.

2 European Union Committee, ‘Summary’: <https://committees.parliament.uk/committee/176/european-union-committee/>

- consider European Union documents deposited in the House by a minister; and
 - support the House as appropriate in interparliamentary cooperation with the European Parliament and the Member States of the European Union.³
7. At the same time, the Sub-Committee on the Protocol on Ireland/Northern Ireland (the Protocol Committee) was established to consider all matters related to the Protocol, including scrutinising EU legislation applying to Northern Ireland under the Protocol, and the Protocol's overall impact on Northern Ireland.⁴
 8. In the House of Commons, the Committee primarily responsible for the scrutiny of EU documents and legislation is the European Scrutiny Committee, chaired by Sir William Cash MP.

Scrutiny of EU-related business by Select Committees

9. Prior to the UK's departure from the EU, the EU Select Committee and its sub-committees scrutinised significant EU legislation and documents on the basis of arrangements described in Appendix L ('Scrutiny Reserve Resolution Relating to the Work of the European Union Committee') of previous editions of the Companion to the Standing Orders and Guide to the Proceedings of the House of Lords.⁵ The Chair of the EU Select Committee, on the basis of advice from the Legal Adviser, undertook a weekly 'sift' of all relevant documents deposited in Parliament, assessing them for importance and, where necessary, delegating to the relevant Sub-Committee for scrutiny.⁶
10. The Scrutiny Reserve Resolution stipulated that:

"No Minister of the Crown shall give agreement in the Council [of the European Union] or the European Council in relation to any document subject to the scrutiny of the European Union Committee in accordance with its terms of reference, while the document remains subject to scrutiny".

In essence, this Resolution meant that Ministers were bound to ensure proposals had undergone Committee scrutiny before they were able to give consent for them to be enacted at the EU level, with any deviation from this process requiring an explanation or waiver.

3 European Affairs Committee, 'Summary': <https://committees.parliament.uk/committee/516/european-affairs-committee/>

4 Protocol on Ireland/Northern Ireland Sub-Committee, 'Summary': <https://committees.parliament.uk/committee/520/protocol-on-irelandnorthern-ireland-subcommittee/>

5 House of Lords, Companion to the Standing Orders and Guide to the Proceedings of the House of Lords (2017): <https://www.parliament.uk/globalassets/documents/publications-records/house-of-lords-publications/rules-guides-for-business/companion-to-standing-orders/companion-to-standing-orders-2017.pdf> [accessed 24 November 2022]

6 Three sift options available to Chairs for each deposited item: the document is sifted for examination by the relevant committee; the document is sifted for information to the relevant committee; or the document is cleared requiring no further action: House of European Affairs Committee, 'House of Lords European Affairs Committee Scrutiny Process 2021': https://www.parliament.uk/globalassets/documents/lords-committees/european-affairs/new-items-scrutiny/hol_eu_committee_scrutiny_process-2021-01.png [accessed 24 November 2021]

11. Following the end of the Withdrawal Agreement Transition Period on 1 January 2021, this scrutiny arrangement ceased to apply. Nevertheless, the Chairs of the European Affairs Committee and the Protocol Committee (the Earl of Kinnoull and Lord Jay of Ewelme respectively) continued to sift all relevant documents recently deposited in Parliament by the Government on an ad hoc interim basis, pending the negotiation of these new arrangements.

CHAPTER 2: A NEW SCRUTINY ARRANGEMENT

Identifying the need for a new scrutiny arrangement

12. Given its remit, the European Affairs Committee has a duty to scrutinise EU documents deposited in Parliament by the Government.⁷ Ad hoc arrangements have been in place on an interim basis since the Committee was established but, in 2021, the Committee identified six documents it felt should have been deposited for scrutiny but were not. These documents (described in Appendix 2) are those known to the Committee; others may also exist.
13. As the UK is no longer party to EU decision-making, not all EU legislative proposals and documents are of direct relevance to the UK. As under the terms of the Protocol on Ireland/Northern Ireland contained within the Withdrawal Agreement Northern Ireland remains subject to EU legislation relating in particular to the application of the EU Single Market for goods, a greater number of EU legislative proposals apply to Northern Ireland. It was agreed that the new arrangement must recognise these new circumstances.

Negotiations between the Government and select committees

14. Following a series of discussions between Committee and Government officials, on 23 September 2021, Rt Hon Lord Frost (then Minister of State at the Cabinet Office) wrote to the Chairs of the Lords European Affairs Committee and Commons European Scrutiny Committee seeking agreement on future scrutiny arrangements.⁸
15. In his letter Lord Frost argued that:

“... we should be as open as possible in how we work with your committees, whilst noting that a new relationship with the EU requires a new approach to scrutiny and a move towards a more flexible approach, and of course in a way that is consistent with the Government’s overall approach to Select Committees”.

Lord Frost added that a scrutiny offer described in his letter sought to reflect this, and that he viewed the arrangements “as part of an evolving process [...] commit[ing] to keep them under review to ensure [they] remain relevant and manageable for both sides”.

16. The Government’s scrutiny offer contained five main headings (full text available in Appendix 3):
 - scrutiny of the Withdrawal Agreement (excluding the Protocol on Ireland/Northern Ireland);
 - scrutiny of the Protocol on Ireland/Northern Ireland;
 - scrutiny of the Trade and Cooperation Agreement;
 - ad-hoc requests for information; and

⁷ See para 4.

⁸ Letter from the Rt Hon Lord Frost CMG to Earl Kinnoull and Sir William Cash MP re. EU related scrutiny arrangements: <https://committees.parliament.uk/publications/8797/documents/88964/default/>

- Ministerial appearances before the Committee.
17. In response to Lord Frost's letter, we accepted the majority of the Government's proposal, but instructed officials to seek six additional/modified commitments. These were:
- a quarterly summary of Withdrawal Agreement Specialised Committee work;
 - the automatic deposit of new or amended EU law that has a direct effect on the UK under the Withdrawal Agreement;
 - that proposals for new EU legislation or proposals to amend existing EU law be deposited prior to agreement in the Withdrawal Agreement Joint Committee;
 - the automatic deposit, with an Explanatory Memorandum (EM), of any Council Decision establishing the EU's position in respect of a decision taken or to be considered by a Trade and Cooperation Agreement Specialised Committee;
 - for the Government to consider requests for the ad hoc deposit of relevant documents that fall outside the Withdrawal Agreement and EU-UK Trade and Cooperation Agreement; and
 - for arrangements to be reviewed after nine months, and again after two years or at the end of the current Parliament, whichever is sooner.
18. These amendments were agreed via correspondence by the relevant Minister and Committee Chairs.

Box 1: Scrutiny of material relevant to the Protocol on Ireland/Northern Ireland

The revised arrangement described in this report pertains to EU legislative proposals outside the scope of the Protocol on Ireland/Northern Ireland.

Scrutiny of EU legislation applying to Northern Ireland under the Protocol is performed by the Sub-Committee on the Protocol on Ireland/Northern Ireland. On this topic, the Sub-Committee produced a report on 22 March 2022 describing the Government's scrutiny obligations in relation to the Protocol and areas in which it should go further.⁹ The Government responded to this report on 31 May 2022, including the Sub-Committee's recommendations regarding scrutiny.¹⁰

The European Affairs Committee reiterates the recommendations in this report, deferring any future deliberations to the Sub-Committee. The Committee further recognises that the application of areas of EU legislation to Northern Ireland under the Protocol is a live issue in the context of the Northern Ireland Protocol Bill currently before Parliament

9 European Affairs Committee, [Scrutiny of EU legislative proposals within the scope of the Protocol on Ireland/ Northern Ireland](#) (Fifth Report, Session 2021–22, HL Paper 177). See paras 51, 52, 58, 59, 60, 65, 66, 68, 71, 78, and 79

10 Cabinet Office, *Government Response to the European Affairs Committee Report Scrutiny of EU legislative proposals within the scope of the Protocol on Ireland/ Northern Ireland*: <https://committees.parliament.uk/publications/22479/documents/166063/default/>

The new arrangement

19. Following further discussions between officials, on 8 July 2022, Rt Hon Elizabeth Truss MP (Secretary of State for Foreign, Commonwealth and Development Affairs) wrote to the Chairs of the Lords European Affairs Committee and the Commons European Scrutiny Committee setting out finalised terms¹¹.
20. In her letter, the Minister reiterated Lord Frost's position 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". The letter further noted that the Government had responded separately to additional requests from the Northern Ireland Protocol Sub-Committee (see Box 1).
21. The revised offer (full text described in Appendix 4) was in substance identical to the offer agreed at official level. On the six additional/modified scrutiny commitments sought by the Committee, the Government offered the following:
 - 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);
 - the automatic deposit of EMs on new or amended EU law that has a direct effect on the UK under the WA;
 - the automatic submission of EMs on new EU proposals falling under the scope of the Protocol when agreed by the Joint Committee;
 - consideration of requests from the Lords European Affairs Committee and Sub-Committee on the Ireland/Northern Ireland Protocol and the Commons European Scrutiny Committee for the deposit of documents of direct relevance to the work of the Committees that might fall outside the WA and TCA agreements; and
 - 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).
22. The expanded arrangement was agreed by the European Affairs Committee on 11 October.

¹¹ Letter dated 8 July 2022 from Rt Hon Elizabeth Truss MP, then Secretary of State for Foreign, Commonwealth and Development Affairs to Lord Kinnoull, Chair, European Affairs Committee: <https://committees.parliament.uk/publications/31911/documents/179253/default/>

SUMMARY OF CONCLUSIONS AND RECOMMENDATION

23. **We note that the new scrutiny arrangement is significantly less rigorous than its predecessor. We are concerned by a lack of agreement regarding the automatic deposit of crucial documents falling outside the immediate scope of the Withdrawal Agreement and the TCA, and by periodic delays to ministerial responses to correspondence.**
24. **However, we recognise that this agreement is proportionate to the volume of documents requiring scrutiny and provides a sound basis for the future scrutiny of EU-related documents. The two review points will enable the new system to be evaluated by both sides and adjusted as necessary to ensure it remains fit for purpose.**
25. **We make this report for information.**

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Baroness Couttie
 Lord Faulkner of Worcester
 Lord Foulkes of Cumnock
 Lord Hannay of Chiswick
 Lord Jay of Ewelme
 The Earl of Kinnoull (Chair)
 Lord Lamont of Lerwick
 Lord Liddle
 Lord Purvis of Tweed
 Baroness Scott of Needham Market
 Viscount Trenchard
 Lord Tugendhat
 Lord Wood of Anfield

Declarations of interest

Baroness Couttie
No relevant interests declared

Lord Faulkner of Worcester
HM Government's Trade Envoy to Taiwan

Lord Foulkes of Cumnock
No relevant interests declared

Lord Hannay of Chiswick
Member Advisory Board , Centre for European Reform; Chair European and International Analysts Group; Member European Leadership Network

Lord Jay of Ewelme
Member, Senior Analysts Group Chairman, Advisory Council, European Policy Forum

The Earl of Kinnoull (Chair)
No relevant interests declared

Lord Lamont of Lerwick
European Opportunities Investment Trust

Lord Liddle
No relevant interests declared

Lord Purvis of Tweed
No relevant interests declared

Baroness Scott of Needham Market
No relevant interests declared

Viscount Trenchard
No relevant interests declared

Lord Tugendhat
No relevant interests declared

Lord Wood of Anfield
No relevant interests declared

APPENDIX 2: IDENTIFIED NON-DEPOSITED DOCUMENTS

Document	Description	Comment
20.07.2021, COM(2021) 411	Sets out the EU's negotiating mandate for Gibraltar.	In a letter dated 21 July 2021, the Foreign Office Minister, Wendy Morton MP, refused to deposit the document in Parliament for scrutiny stating that it fell outside current arrangements for doing so. In response, the Committee expressed its disappointment with the decision stating: “the Commission’s draft negotiating mandate on Gibraltar is precisely the sort of EU document that falls within our formal remit as agreed between the Government and the House and should be deposited in Parliament, accompanied by an EM, in order to enable us to fulfil our obligations to the House”. ¹²
27.08.2021, COM(2021) 495	Relates directly to the operation of Part Three of the Trade and Cooperation Agreement (TCA) addressing post-Brexit UK/EU cooperation on law enforcement and judicial cooperation in criminal matters. The EU legislation extends the window within which the UK must comply with the TCA's arrangements on so-called Prüm data sharing—the exchange of information held nationally on DNA profiles, fingerprints, and vehicle registration data.	While the Government eventually engaged in correspondence with the Committee on this matter after it was raised in an evidence session with Lord Frost, at no point has the document formally been submitted for scrutiny. ¹³

¹² Letter to the Chair from Wendy Morton MP, Minister for the European Neighbourhood and the Americas, Foreign, Commonwealth & Development Office: <https://www.parliament.uk/globalassets/documents/lords-committees/european-affairs/correspondence-with-ministers/cac-cwm-2021-2022-30.04.22.pdf>

¹³ Oral evidence taken before the European Affairs Committee, The UK-Eu relationship inquiry, 26 October 2021, (Session 2021–22), [QQ 16](#), [17](#) (The Rt Hon Lord Frost)

Document	Description	Comment
08.12.2021, COM(2021) 784	The proposed Regulation (so-called ‘Prüm II’) would update the current Prüm framework, regulating automated access by law enforcement authorities in an EU Member State to DNA profiles, fingerprints, and vehicle registration data, providing a more efficient technical infrastructure for accessing and sharing information across borders. In a significant development, the proposed Regulation would add two new categories of data—facial images and police records—which the Commission considers crucial for effective criminal investigations. The UK continues to participate in the current Prüm system by virtue of Part Three of the TCA which also includes a process designed to deal with ‘substantial reform’ of the system (Article 541 TCA). This is a lengthy process under which Parties ‘engage in consultations’ to agree amending the TCA to reflect EU legislative reform of the Prüm system. If agreement is not reached within nine-months, the EU can suspend the exchange of Prüm based data with the UK for nine months. If no agreement is reached within an 18-month window the EU can suspend all (or part) of the exchange system with the UK established by the TCA unless the former withdraws its legislative amendments.	It is clear that, subject to the time taken by the EU to agree this proposed Regulation, a decision for the Government on whether to mimic EU legislative reform in this area is, at the least, on the horizon. This decision could have serious implications for the exchange of crucial data between the UK and EU. At the time of writing, the Government has not deposited the proposed Regulation for scrutiny and has told the Committee nothing about this significant development which clearly falls within its remit.

Document	Description	Comment
24.03.2022, COM(2022) 126	On 24 March 2022, the Commission published its first report on the operation of the TCA. It did so as part of its obligation to produce every year (for five years after the TCA came into force and at least every two years thereafter) a report focussing on “any relevant evolution in the law of the United Kingdom relating to the areas of subsidy control and taxation [covered by the relevant sections of the TCA] as well as any relevant evolution in the levels of protection of labour and social standards, environment and climate”. The report offers an overview of the initial operation of all aspects of the TCA including summaries of: the institutional framework; enforcement and dispute resolution; the impact of the TCA on trade in goods, services, and energy; the operation of the so-called level playing field, including relevant UK legislation dealing with development, labour and social standards, and environmental law; transport; fisheries; social security coordination; law enforcement and judicial cooperation in criminal matters; and, participation in EU programmes.	The Government did not deposit the Commission’s report in Parliament with an accompanying EM for this Committee to scrutinise until it was raised in an evidence session with Rt Hon James Cleverly MP, Minister of State (Minister for Europe and North America) in the Foreign, Commonwealth and Development Office on 21 June 2021. During the session the Minister committed to deposit the report for scrutiny and this has now been done.¹⁴

¹⁴ Oral evidence taken before the European Affairs Committee, The UK-EU relationship, 21 June 2022, (Session 2022–23), [Q 74](#) (Minister of State for Europe and North America, Foreign, Commonwealth and Development Office, the Rt Hon James Cleverly MP)

Document	Description	Comment
11.03.2022, COM(2022) 89	Proposed EU Regulation establishes rules and procedures to ensure an effective and timely exercise of the EU's rights in enforcing and implementing the Withdrawal Agreement and the TCA, additionally laying down relevant rules and committee procedure.	The proposed Regulation potentially raises questions for UK/EU relations and clearly falls within the Committee's remit for scrutinising the "United Kingdom's relationship with the European Union [...] including the implementation [...] of any agreements between the United Kingdom and the European Union". At the time of writing the Government has not deposited the proposal in Parliament for scrutiny nor has it told the Committee anything on this matter.
11.03.2022, COM(2022) 100	Proposed Regulation fulfils the same purpose as document 89 above but in relation to UK/EU post-Brexit arrangements addressing Euratom.	At the time of writing the Government has not deposited the proposal in Parliament for scrutiny nor has it told the Committee anything on the matter.

APPENDIX 3: GOVERNMENT SCRUTINY OFFER

Offer as described in the annex of the 23 September 2021 letter from the Rt Hon Lord Frost CMG, then Minister of State at the Cabinet Office (March 2021 to December 2021).

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 SC 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.
- Consulting with Committee Clerks on submission 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 early 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.

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) and new EU proposals falling under the scope of Protocol when agreed by the Joint Committee.
- Consulting with the Clerks of the Committee on whether an EM should be provided 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).

Scrutiny of the Trade and Cooperation Agreement

We are committed to:

- Issuing WMSs before and after TCA PC meetings, using best endeavours to do so seven days in advance for pre-meeting WMSs.
- Providing EMs on European Council Decisions that establish the EU position for the PC, before meetings where possible.
- Providing official-level briefings to your Clerks in advance of all TCA PC meetings and offer post-meeting readouts.
- Sharing provisional agendas of TCA Specialised Committee meetings in advance.
- I will write to the Committees periodically 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

Ad-hoc requests for information

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.

Ministerial appearance before the Committee

- I am happy to continue to appear before the Lords European Affairs Committee and Commons European Scrutiny Committee on a quarterly basis. In respect of appearances before the Lords Committee and its sub-committee I am happy for my officials to work with the Clerks to determine how my quarterly meetings will best meet the needs of the main Committee and sub-committee according to the issues prevailing at the time.

APPENDIX 4: REVISED AND FINALISED GOVERNMENT OFFER

Revised offer as described in the annex of the 8 July 2022 letter from the Rt Hon Elizabeth Truss MP (Secretary of State for Foreign, Commonwealth and Development Affairs).

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).

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).

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.

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 [Lords European Affairs Committee and Sub-Committee on the Ireland/Northern Ireland Protocol and the Commons European Scrutiny Committee] 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).

Ministerial appearance before the Committees

- The Foreign Secretary will appear at least once a year before the [European Scrutiny Committee and the European Affairs Committee] 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.