



House of Commons
European Scrutiny Committee

Thirty-fourth Report of Session 2019–21

Documents considered by the Committee on 20 January 2021

Report, together with formal minutes

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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/>.

Staff

The current staff of the Committee are Ravi Abhayaratne (Committee Operations Assistant), Joanne Dee (Deputy Counsel for European Legislation), Alistair Dillon and Leigh Gibson (Senior Committee Specialists), Nat Ireton and Apostolos Kostoulas (Committee Operations Officers), Luanne Middleton (Second Clerk), Daniel Moeller (Committee Operations Manager), Jessica Mulley (Clerk), Foeke Noppert (Senior Committee Specialist), Indira Rao (Counsel for European Legislation), Paula Saunderson (Committee Operations Assistant), Emily Unwin (Deputy Counsel for European Legislation) George Wilson (Second Clerk), Beatrice Woods (Committee Operations Officer).

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1 EU Climate Policy¹

These EU documents are legally and politically important because:

- they relate to future UK and EU cooperation in the area of climate policy in line with the commitments made in the Trade and Cooperation Agreement.

Action

- Write to the Minister.
- Draw to the attention of the Business, Energy and Industrial Strategy Committee and the Environmental Audit Committee.

Overview

1.1 The Commission’s Communication (document (a)) outlined the EU’s proposed commitment to increase climate ambition by reducing greenhouse gas (GHG) emissions EU-wide by at least 55% by 2030. That is put into legal effect by the proposed European Climate Law (document (b)).

1.2 The Communication also detailed a set of policies across all sectors of the economy required to achieve this target, committing to a review of these and, ultimately, to detailed legislative proposals by June 2021. These include broadening the scope of the EU Emissions Trading System to include international aviation and maritime emissions and introducing a Carbon Border Adjustment Mechanism to mitigate the risk of carbon leakage.²

1.3 More generally, the Communication identified the necessity of including a climate dimension in all future EU policies, in alignment with the ‘do no harm’ principle towards achieving climate neutrality by 2050. Finally, the Commission invited the European Parliament and the Council to consider the Communication as the EU’s Nationally Determined Contribution (NDC) to be submitted to the UN Framework Convention on Climate Change (UNFCCC) as required by the Paris Agreement by the end of 2020. In doing so, the Commission hoped to set an example for the world and drive further global climate ambition ahead of the next meeting of the Conference of the Parties to the UNFCCC (“COP 26”), to take place in Glasgow this year.

1.4 In his [Explanatory Memorandum](#) (EM) on the Communication and [EM](#) on the Climate Law, the Minister for Climate Change and Corporate Responsibility (Lord Callanan) welcomed the proposed EU commitment to a reduction in GHG emissions of at least 55% by 2030 on 1990 levels, increased from the original proposal target of 50–55% emissions reduction and from the current target of 40%. As the incoming COP26

1 (a) Commission Communication: Stepping up Europe’s 2030 climate ambition – Investing in a climate-neutral future for the benefit of our people (b) Amended Proposal for a Regulation establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 (European Climate Law); (a) 10865/20 + ADDs 1–4, [COM\(20\) 562](#) (b) [COM\(20\) 563](#); Legal base: (a)—(b) Article 192(1) TFEU, Ordinary legislative procedure, QMV; Department: Business, Energy and Industrial Strategy; Devolved Administrations: Consulted; ESC numbers: (a) 41521 (b) 41523.

2 Where industrial activity might be outsourced outside of the EU to reduce the EU’s own emissions but leading to an increase in carbon intensive imports from countries with less ambitious climate regulation.

Presidency, said the Minister, the UK was calling on all countries to raise their NDCs under the Paris Agreement. The UK Government had previously committed to coming forward with an increased NDC well ahead of COP26.

1.5 The Minister added that, as more detailed proposals emerge from the Commission on policy changes to deliver the commitment, the UK Government will examine these and consider any implications for the UK.

1.6 Since the Minister submitted his Explanatory Memoranda on these documents setting out the Government’s analysis, the UK and EU have both submitted revised NDCs to the UNFCCC. The EU has confirmed the 55% target by 2030 compared to 1990 levels as its revised NDC,³ and the UK set a revised target⁴ of 68% by 2030.

1.7 The EU and UK are now provisionally applying a “Trade and Cooperation Agreement” (TCA) setting out the terms of their future relationship. With regard to climate change, the TCA includes the following salient elements:

- the “fight against climate change” is one of the five “essential” elements of the TCA, meaning that failure by either party to meet its international commitments in this area—notably compliance with the terms of the Paris Agreement on climate change—is a basis for termination or suspension of the whole Agreement;
- a commitment by both the UK and EU to achieving economy-wide climate neutrality by 2050;
- a commitment to non-regression from standards in place at the end of the transition period, including the 2030 climate change targets as originally agreed in EU legislation (40% greenhouse gas reduction by 2030, but both the EU and UK have since strengthened their targets as set out above);
- systems of carbon pricing must be in place, covering greenhouse gas emissions from electricity generation, heat generation, industry and aviation, and the UK and EU should consider linking their carbon pricing systems;
- effective implementation of the UN Framework Convention on Climate Change (UNFCCC), including its Paris Agreement, which seeks to hold the increase in global average temperature to well below 2°C above pre-industrial levels and pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels;
- the EU and UK must promote the mutual supportiveness of trade and climate policies and measures and must work together to strengthen their cooperation on trade-related aspects of climate change policies and measures bilaterally, regionally and in international fora; and
- the EU and UK must facilitate the removal of obstacles to trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, such as renewable energy, energy efficient products and services,

3 [Update of the NDC of the European Union and its Member States, 17 December 2020.](#)

4 [United Kingdom of Great Britain and Northern Ireland’s Nationally Determined Contribution, 11 December 2020.](#)

for instance through addressing tariff and non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of the best available solutions.

Our assessment

1.8 We delayed consideration of these documents pending a possible agreement between the UK and EU on their future relationship, including as regards climate and environment. Now that agreement has been reached, we will invite the Minister to update his analysis of the implications of these documents for the UK.

1.9 In the context of the commitments made by the EU and UK in the TCA to promote the mutual supportiveness of trade and climate policies, the EU's proposed Carbon Border Adjustment Mechanism may be a matter on which the UK and the EU should cooperate. We will seek the Minister's particular view on this matter, including the likely timing of such cooperation given that a legislative proposal on the Mechanism is expected in summer 2021. The intended broadening of the scope of the EU Emissions Trading System is also of interest in view of the commitment by the EU and UK to consider linking their carbon pricing systems.

Action

1.10 We have written to the Minister as set out below. We are drawing these documents and our letter to the attention of the Business, Energy and Industrial Strategy and the Environmental Audit Committee.

Letter from the Chair

We considered your Explanatory Memoranda (EMs) on the above documents at our meeting of 20 January 2021, having delayed consideration pending the outcome of negotiations on the future UK-EU relationship.

Since you submitted your EMs, there have been two important developments. First, the UK and EU are now provisionally applying a Trade and Cooperation Agreement (TCA). Second, the UK, EU and others have submitted revised Nationally Determined Contributions (NDCs) to signal their commitments to implementing the Paris Agreement on climate change.

We note that the fight against climate change constitutes an essential element of the TCA, with a particular focus on compliance with the Paris Agreement. We note too that both Parties re-iterated their commitment to achieving economy-wide climate neutrality by 2050.

Now that an Agreement has been reached on the future UK-EU relationship, we would welcome a revised analysis from you in relation to these documents, reflecting on how the EU's plans and the commitments in the Agreement intersect, and identifying any further policy implications for the UK. We have in mind particularly the Commission's plans to revise the EU Emissions Trading System and to develop a Carbon Border Adjustment Mechanism. These intersect with the mutual commitments made on trade and climate

change in the TCA, as well as the commitment to consider linking the respective EU and UK carbon pricing mechanisms. We ask that you set out your plans to cooperate with the EU on these policies in advance of any legislative proposals from the Commission.

We look forward to your response within ten working days.

2 Fisheries discards⁵

These EU documents are politically important because:

- they relate to future UK-EU cooperation on fisheries management measures, including the management of discards, under the UK-EU Trade and Cooperation Agreement.

Action

- Write to the Minister.
- Draw to the attention of the Environment, Food and Rural Affairs Committee.

Overview

2.1 As part of the reform of the Common Fisheries Policy in 2013, the EU agreed that all captured fish should be landed. This is the landing obligation, known as the “discard ban”. It was accompanied by provisions allowing for exemptions for a small “de minimis” volume of discards and for “highly survivable” species (those species with a high chance of surviving if returned to the sea after capture).

2.2 These two Delegated Acts published by the Commission relate to the EU’s implementation of the discard ban in the next three years. They provide for: a new discard plan for demersal and pelagic fisheries in the North Sea 2021–23 (document (a)); and a new discard plan for certain fisheries in the Western Waters (document (b)). Notably, they fix exemptions from the discard ban.

2.3 The two Regulations took effect on 1 January 2021 and so do not apply to the UK. Under the EU-UK Trade and Cooperation Agreement (TCA), however, both Parties have agreed to cooperate on the management of shared fish stocks. The TCA provides for the establishment of a Specialised Committee on Fisheries, which may adopt measures, including decisions and recommendations, in a range of areas, including “measures for fisheries management and conservation.” Any such decisions would be binding on the EU and UK and they would both need to ensure the timely implementation of any agreed measures into their respective regulatory frameworks.

2.4 In her Explanatory Memoranda (EMs),⁶ submitted in early October 2020, the Parliamentary Under-Secretary of State (Victoria Prentis MP) was clear that, post-Transition, the UK can decide what exemptions should be outlined in the UK’s discard plans, regardless of what the EU decides. The Delegated Act would, however, be legally binding on UK vessels fishing in EU waters.

5 (a) Commission Delegated Regulation (EU) .../... of 21.8.2020 specifying details of implementation of the landing obligation for certain fisheries in the North Sea for the period 2021–2023, (b) Commission Delegated Regulation (EU) .../... of 21.8.2020 specifying details of the implementation of the landing obligation for certain fisheries in Western Waters for the period 2021–2023; Council and Commission numbers: (a) [102 29/20](#), C(2020) 5640, (b) [10231/20](#), C(2020) 5645; Legal base: (a) Regulation (EU) 2018/973, (b) Regulation (EU) 2019/472; Department: Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: (a) 41518, (b) 41519.

6 Explanatory Memoranda dated concerning documents [10229/20](#) and [10231/20](#).

Our assessment

2.5 Since the Minister submitted her EMs to us, the EU and UK have completed negotiations on a Trade and Cooperation Agreement (TCA). We note that the TCA provides for cooperation between the EU and UK on the management of shared fish stocks and that a wide degree of flexibility is given to the Specialised Committee on Fisheries in that respect.

2.6 The Minister takes the view that the UK can decide what exemptions should be outlined in the UK's discard plans, regardless of what the EU decides. We agree with this statement of the legal position and will seek information on how the UK's discard plans for 2020–21 differ from those of the EU, as well as where both the EU and UK have made—or plan to make—the same change to their discard plans. The European Commission published a letter from the UK's Mission to the EU explaining changes that would be in place from 1 January 2021 for EU vessels fishing in UK waters.⁷ In that letter, the UK confirmed that, like the EU, it would be amending the exemption for plaice in the North Sea.

2.7 We note the potential for the EU and UK to cooperate in the Specialised Committee for Fisheries and, potentially, to agree mutually acceptable rules concerning discard exemptions. We will seek information from the Minister on the extent to which the new Specialised Committee on Fisheries might discuss rules concerning implementation of the landing obligation for shared stocks in the North Sea and in Western Waters.

2.8 More generally, this is our first opportunity since the entry into force of the TCA to engage with the Minister on the implications of the TCA's Fisheries Heading. We would also therefore welcome the following information:

- the Government's expectations for the work of the Specialised Committee on Fisheries;
- the expected date of the first meeting of the Specialised Committee on Fisheries;
- the process for setting the agenda of meetings of the Specialised Committee on Fisheries, including its initial priorities;
- the expected composition of the UK's delegation; and
- the Government's intentions for parliamentary scrutiny of the work of the Specialised Committee on Fisheries, including notice of agenda items and intended UK positions.

The powers and remit of the Specialised Committee on Fisheries are notable as they contrast markedly with the much lighter-touch approach to cooperation proposed in the UK's draft text for a future fisheries agreement. For that reason, I suggest using this Chapter as a forum for raising various questions about the work of the Specialised Committee. As the Specialised Committee is able to take binding decisions which would then need to be incorporated into UK legislation, questions of parliamentary scrutiny also arise.

⁷ [Information about access of EU fishing vessels to the UK waters as of 1 January 2021](#), European Commission, 31 December 2020 [Note that the link to the letter from the UK Mission is located at the foot of the Commission's webpage].

Action

2.9 We have written to the Minister as set out below raising our queries. We are reporting these documents and our letter to the House as politically important and we draw them to the attention of the Environment, Food and Rural Affairs Committee.

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

We considered your Explanatory Memoranda on the above documents at our meeting of 20 January 2021, having delayed our consideration of these documents pending any agreement on the future EU-UK fisheries relationship. We note that the EU-UK Trade and Cooperation Agreement provides for cooperation between the EU and UK in the management of shared fish stocks and that a wide degree of flexibility is given to a Specialised Committee on Fisheries in that respect.

We agree with you that, from 1 January 2021, the UK is able to set its own exemptions from the discard ban and need not follow those set by the EU. It would be helpful if you could set out:

- where the UK's exemptions now differ from those of the EU; and
- where the UK and EU have adopted identical changes to exemptions (such as that for plaice in the North Sea so that the exemption also covers mesh sizes of 100–119 mm).

We note the potential for the EU and UK to cooperate on fisheries management measures in the Specialised Committee for Fisheries. To what extent might the Specialised Committee on Fisheries discuss rules concerning implementation of the landing obligation for shared stocks in the North Sea and in Western Waters, and potentially adopt decisions binding on the EU and the UK?

As this is our first opportunity since the entry into force of the TCA to engage with the Minister on the implications of the TCA's Fisheries Chapter, we would also welcome the following information:

- your expectations in general terms for the work of the Specialised Committee on Fisheries, including its initial priorities;
- the expected date of the first meeting of the Specialised Committee on Fisheries;
- the process for setting the agenda of meetings of the Specialised Committee on Fisheries;
- the expected composition of the UK's delegation; and
- the Government's intentions for parliamentary scrutiny of the work of the Specialised Committee on Fisheries, including notice of agenda items and intended UK positions.

We would welcome a response within ten working days.

3 Northern Ireland Protocol: Batteries Regulation and Electric Vehicles⁸

This EU document is politically important because:

- it will apply in Northern Ireland under the terms of the Ireland/Northern Ireland Protocol annexed to the Withdrawal Agreement;
- it has implications for UK-wide batteries and electric vehicle policy given the Government’s desire to avoid any legislative divergence from Northern Ireland which could have a negative effect on the UK internal market; and
- it is a potentially significant step towards attracting investment in the EU’s electric vehicle battery industry, which is important because—under the terms of the EU-UK Trade and Cooperation Agreement—rules of origin requirements mean in practice that batteries for electric vehicles will need to be sourced from the EU or UK from 2027 in order to benefit from tariff-free trade between the EU and UK.

Action

- Write to the Minister.
- Draw to the attention of the Northern Ireland Affairs Committee, Transport Committee, Environmental Audit Committee and the Business, Energy and Industrial Strategy Committee.

Overview

3.1 The European Commission has proposed a wide-ranging new Regulation to promote the development, and sustainability, of batteries, notably for use in electric vehicles. Once in force, the Regulation will apply in Northern Ireland as it replaces the existing EU Batteries Directive, with which Northern Ireland is already required to remain aligned. The Regulation could affect the UK as a whole both because of the impact of Northern Ireland’s alignment on the UK internal market but also because of the provisions in the EU-UK Trade and Cooperation Agreement limiting how much of an electric car may contain materials not sourced from either the UK or the EU.

3.2 In summary, the Regulation seeks to ensure that: battery raw materials are supplied sustainably and responsibly; battery cells, modules and packs are manufactured using clean energy, contain low amount of hazardous substances, are energy efficient and designed to last long; and that batteries are properly collected, recycled or repurposed so that the materials they contain feed back into the economy.

⁸ Proposal for a Regulation concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020; [13944/20](#) + ADDs 1–4, COM(20) 798; Legal base Article 114 TFEU, QMV, Ordinary legislative procedure; Department: Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: 41721.

3.3 The proposed new Regulation suggests mandatory requirements on:

- sustainability and safety (such as carbon footprint rules, minimum recycled content, performance and durability criteria and safety parameters);
- labelling and information (such as storing of information on sustainability and data on state of health and expected lifetime), including a “passport” scheme from 2026 for industrial and electric vehicle batteries;
- end-of-life management (such as extended producer responsibility, collection targets and obligations, targets for recycling efficiencies and levels of recovered materials);
- obligations of economic operators linked to product requirements and due diligence schemes; and
- electronic exchange of information.

3.4 In addition, the proposal contains provisions on mandatory green public procurement, on facilitating the enforcement of product rules, namely rules on conformity assessment, notification of conformity assessment bodies, market surveillance and economic instruments.

3.5 It is proposed to phase-in the various changes between 2023 and 2030. For portable batteries, for example, the current 45% collection target is increased to 65% from 2025 and 70% from 2030.

3.6 In her [Explanatory Memorandum](#), the Parliamentary Under-Secretary of State (Rebecca Pow MP) observes that the proposal is “wide-ranging, extending some way beyond the requirements of the existing 2006/66/EC Batteries Directive”. The UK Regulations transposing the 2006 Directive are currently being reviewed, says the Minister, to consider how to strengthen the approach. As the UK would also like to drive and support the circular economy, the proposed EU Regulation will inform the UK’s process.

3.7 Noting that the requirements introduced by the Regulation will need to be applied in Northern Ireland, the UK’s review of existing batteries regulations “will have due regard to the application of this EU Regulation in Northern Ireland”. This includes understanding and avoiding any legislative divergence between GB and Northern Ireland which could have negative impacts on the UK internal market.

3.8 The Minister goes on to indicate that the UK’s review is also considering how to improve arrangements related to the collection of portable batteries, particularly those that are classified as portable batteries of general use under the Commission’s proposal. The current collection target for portable batteries of 45% is proposed to increase to 65% in 2025 and 70% in 2030 under the Commission’s proposal, both of which the Minister describes as “challenging”.

3.9 Finally, the Minister notes that the Regulation would set new requirements that batteries, particularly industrial and automotive batteries, will need to meet before being placed on the EU market. There are accompanying conformity assessment processes, including “CE” marking, to demonstrate compliance with these requirements. The Minister says that batteries are an international product and many battery manufacturers

are located outside both the UK and the EU. It is anticipated that these manufacturers will choose to meet the new EU conformity assessment requirements to continue to place batteries on the EU market. UK-based battery manufacturers are likely, she says, to do the same.

Our assessment

3.10 We agree that the draft Regulation is wide-ranging and it consequently merits close scrutiny by the Government. In adopting a life-cycle approach and in regulating lithium-ion batteries, its scope is much broader than the existing Directive. To implement such a Regulation will undoubtedly be a substantial step for Northern Ireland even though, as the Minister says, the broad approach is in line with the UK's desire in any case to support and promote the circular (life-cycle) economy. Applicable targets and obligations on economic operators will require particularly detailed examination. From the perspective of the UK internal market, we anticipate that labelling obligations, including the proposed passport scheme from 2026, and new rules concerning sustainability and safety will be of interest given their implications for the placing of products on the market.

3.11 We consider the information provided by the Minister to be incomplete. On the one hand, the Minister concludes that the draft Regulation is wide-ranging, she confirms that it will apply in Northern Ireland and she indicates that it will inform the UK's own review, particularly with a view to avoiding any legislative divergence between Northern Ireland and Great Britain which could have negative impacts on the UK internal market. On the other hand, the Minister does not explain:

- how the Government will assess the implications of the proposal for Northern Ireland;
- how the Government will approach those implications, including how it will address any concerns to the EU institutions;
- whether it has already identified any concerns and drawn them to the attention of the EU institutions given that the Commission had already signalled its intention to propose this legislation;
- how it will approach an assessment of the impact on the UK internal market, and when; and
- how the Government defines “negative impacts” on the UK internal market, noting that it is not a concept that it is incorporated into the UK Internal Market Act 2020.

3.12 In our engagement with the Minister, we will emphasise the need for the Government to engage closely with this draft Regulation given its direct applicability in Northern Ireland and its potential regulatory implications for the rest of the UK. We will ask her to explain the Government's intended approach and to provide any initial analysis that the Government may have undertaken to establish likely areas of interest to the UK.

3.13 Under the terms of Article 15(3)(b) of the Protocol, the EU is required to inform the United Kingdom about planned Union acts within the scope of the Protocol, including Union acts that amend or replace the Union acts listed in the Annexes. The obligation

should be fulfilled within the Joint Consultative Working Group, which—to the best of our knowledge—is yet to meet. We will seek clarity on whether the EU has informed the UK about this planned act and if the EU has invited the UK to comment on it at all.

3.14 Turning to the EU-UK Trade and Cooperation Agreement (TCA), electric vehicles (EVs) are treated differently from combustion engine cars, largely because neither the UK nor the EU currently has the capacity to supply them with battery cells. Those are mainly produced in China, South Korea and Japan, and make up about 40% of the value of an EV. The deal therefore phases-in rules of origin requirements for electric vehicles, including the contents of battery packs. To qualify for tariff-free trade between the UK and EU, a maximum of 60 percent of the components in finished electric vehicles can come from outside the EU or the UK by the end of 2023. That will be reduced to 55 percent by the end of 2026 and to 45 percent from 2027.

3.15 Given the significance of batteries as a proportion of the value of EVs, the TCA rules of origin provisions mean in practice that EV batteries will need to be sourced from either the UK or the EU by 2027 in order to secure tariff-free trade, thus requiring the swift development of both UK and EU batteries markets. While there are signs of developments in both markets—including the announcement in December 2020 that Britishvolt (a start-up battery manufacturer) will build the UK’s first battery Gigafactory by the end of 2023⁹—the EU’s establishment of a full life-cycle regulatory framework may encourage investment there rather than in the UK. It is consequently important that the UK moves quickly to clarify its own framework even if—as the Minister acknowledges—UK battery manufacturers choose to follow EU conformity assessment requirements in any case in order to be able to place batteries on the EU market.

Action

3.16 We have written to the Minister as set out below. We are reporting this document to the House as politically important and drawing it to the attention of the Northern Ireland Affairs Committee, Transport Committee, Environmental Audit Committee and the Business, Energy and Industrial Strategy Committee.

Letter from the Chair

We considered your Explanatory Memorandum on the above draft EU Regulation at our meeting of 20 January 2021.

You describe the draft Regulation—which will apply directly in Northern Ireland—as “wide-ranging”. You also identify the need, as part of the UK’s review of batteries regulation, to understand and avoid any legislative divergence between Great Britain and Northern Ireland which could have negative impacts on the UK internal market. That being the case, we were surprised that you did not set out any further analysis of the proposal or, at least, the steps that you intend to take.

9 [“Britishvolt will start construction on UK’s first Gigafactory next year”](#), Auto Express, 11 December 2020.

We remind you that your EM concerns an EU act which will be directly applicable in Northern Ireland and may in practice have regulatory implications for the rest of the UK. As such, we expect the UK Government to be analysing the text closely—working with the devolved administrations and stakeholders—and engaging with EU decision-makers as necessary. We therefore ask that you send the following information to us:

- any initial analysis that you may have undertaken, including identification of areas that are likely to be of greatest interest to the UK;
- how you will assess the implications of the proposal for Northern Ireland;
- how you will address any identified concerns to the EU institutions;
- whether you had already identified any concerns and drawn them to the attention of the EU institutions given that the Commission had previously signalled its intention to propose this legislation;
- how you will approach an assessment of the impact on the UK internal market, and when; and
- how the Government defines “negative impacts” on the UK internal market, noting that it is not a concept that it is incorporated into the UK Internal Market Act 2020.

Under the terms of Article 15(3)(b) of the Protocol, the EU is required to inform the United Kingdom about planned Union acts within the scope of the Protocol, including Union acts that amend or replace the Union acts listed in the Annexes. The obligation should be fulfilled within the Joint Consultative Working Group, which—to the best of our knowledge—is yet to meet. Has the EU informed the UK at all about this planned act, and has the EU invited any comment on it from the UK?

Your EM did not reference the EU-UK Trade and Cooperation Agreement (TCA), but it is of some relevance. The TCA phases-in rules of origin requirements for electric vehicles, including the contents of battery packs. From 2027, a maximum of 45 percent of the components in finished electric vehicles can come from outside the EU or the UK in order to qualify for tariff-free trade between the UK and EU. Given the significance of batteries as a proportion of the value of EVs, this means in practice that EV batteries will need to be sourced from either the UK or the EU by 2027 in order to secure tariff-free trade, thus requiring the swift development of domestic markets. To what extent is there a risk that the EU’s establishment of a full life-cycle regulatory framework may encourage investment there rather than in the UK? Will the publication of the EU’s proposal accelerate the UK’s domestic regulatory considerations, particularly given the potential linkages between the two frameworks?

We look forward to a response to our queries within ten working days.

4 EU financial support for regions and sectors affected by the UK's withdrawal: the Brexit Adjustment Reserve¹⁰

This EU document is politically important because:

- it creates a €5.4bn (£4.8bn) [support fund for EU Member States](#), to help them finance policies necessary to adjust to their new, less integrated trading relationship with the UK as of 1 January 2021 under the new Trade and Cooperation Agreement. This money, more than €1 billion of which is earmarked for Ireland alone, could be used by countries for a variety of Brexit-related “measures to support the most affected economic sectors”, with the EU fisheries industry in the North Sea singled out for assistance in particular;
- while neither the UK Government nor UK businesses are eligible for support from this “Brexit Adjustment Reserve”, it is still of direct relevance as the financial support being planned by the EU could help European businesses deal with the new barriers to trade with the UK more easily, or conversely help them diversify their supply chains or customer base away from the UK; and
- the Reserve may also serve to highlight similarities or contrasts in the approach taken by the EU and the UK Government to support businesses adjusting to the new economic relationship with the EU.

Action

- Draw the EU's proposed Brexit Adjustment Reserve to the attention of the Business, Energy and Industrial Strategy Committee, the Environment, Food and Rural Affairs Committee and the Treasury Committee.

Overview

4.1 The UK left the European Union on 31 January 2020 and formally exited its Single Market and Customs Union at the end of the post-Brexit transitional period on 31 December 2020. A new trading relationship took effect on 1 January 2021, based on a UK-EU Trade and Cooperation Agreement (TCA) agreed by both sides in the last week of 2020.¹¹ This agreement provides for tariff-free trade in goods and various other facilitations related to trade between the UK and the EU, as well as rules on access to each other's fishing waters.

4.2 Compared to the situation up until 31 December 2020, the TCA still constitutes a fundamental change in the economic relationship between the UK and the EU. Many non-tariff barriers now apply to trade between the two that were absent until the end

10 [Proposal for a REGULATION establishing the Brexit Adjustment Reserve](#); COM(20) 854; Legal base: Articles 175 TFEU and 322(1)(a) TFEU; ordinary legislative procedure; QMV; Department: HM Treasury; ESC number: 41771.

11 Special arrangements apply in and to Northern Ireland with respect to trade in goods with the EU under the Protocol on Ireland/Northern Ireland in the Withdrawal Agreement.

of the transition period, such as the need for sanitary formalities for agri-food exports¹² and the requirement for EU businesses to account for import VAT on goods sent to UK shoppers.¹³ These new regulatory, customs and tax requirements have disrupted the flow of goods between the two.¹⁴ Similar effects have also been observed in Northern Ireland, which – under the terms of a [Protocol to the Withdrawal Agreement](#) on the UK’s exit from the EU – has remained in the EU’s Single Market for goods to avoid a ‘hard border’ on the island of Ireland.¹⁵

4.3 As such, there are potentially significant economic – and social – implications of this significant change in what remains a key trading relationship for both the UK and the EU (and despite the preparations on both sides ahead of the UK’s exit from the Single Market).

4.4 To mitigate any negative impact, the European Council – the Heads of State and Government of the remaining 27 EU Member States - in July 2020 [called](#) for a €5.4 billion (£4.8 billion)¹⁶ “Brexit Adjustment Reserve”.¹⁷ Financed by the EU budget, and therefore ultimately by the Member States, the aim of this Reserve would be to give EU countries financial support to “counter unforeseen and adverse consequences in [countries] and sectors that are worst affected”. Such a support mechanism was considered necessary irrespective of whether a trade agreement with the UK could be reached by the end of that year, given the level of disruption to trade and economic activity expected either way.¹⁸ This financial support will be additional to EU funding Member States are due to receive from ‘routine’ European programmes like the Cohesion and Regional Development Funds, as well as coming on top of their share of the special €750 billion [EU Coronavirus Recovery Instrument](#).

The EU’s Brexit Adjustment Reserve

4.5 The Brexit Adjustment Reserve, as a new funding programme under the EU budget, requires dedicated European legislation to allow the money to be spent. Although the European Council had asked the European Commission to “present a proposal by

12 Department for the Environment, Food & Rural Affairs guidance, “[Export or move food, drink and agricultural products](#)” (January 2021).

13 BBC News, “[EU firms refuse UK deliveries over Brexit tax changes](#)” (4 January 2021). See also the European Scrutiny Committee [Report of 30 January 2019](#) on changes to EU VAT rules for online shopping and how these might affect UK-EU trade in a post-Brexit context.

14 For example, the Scottish fisheries sector has encountered difficulties in exporting catch to the EU due to new sanitary controls as reported in the Press & Journal: “[Urgent meeting sought to resolve Brexit mess which has left fishing industry suffering huge losses](#)” (11 January 2021). There have also been reports of decreases in levels of commercial traffic more generally, such as BBC News, “[Brexit: UK-Ireland lorry traffic at Holyhead port slumps](#)” (9 January 2021).

15 Financial Times, “[Northern Ireland shoppers face empty shelves as Brexit snags supply chains](#)” (11 January 2020).

16 The European Council set the amount at €5bn in 2018 prices, which amounts to €5.37bn in current prices when adjusted for inflation.

17 [Conclusions of the European Council of 17–21 July 2020](#), paras. A26 and 136. The Brexit Adjustment Reserve is part of the EU’s new “Multiannual Financial Framework” (MFF), its long-term budget for the 2021–2027 period. It sits outside the expenditure ceilings the MFF sets out for different areas of EU policy, meaning that it is an additional item of expenditure rather than being funded by reducing EU spending in other areas.

18 Prior to the ratification of the Withdrawal Agreement, the Commission had previously proposed changes to the EU’s Solidarity Fund and Globalisation Adjustment Fund to give the remaining Member States €750m of EU financial support to address the economic and social implications of the UK’s withdrawal. These were “no deal” measures, and rendered moot by the transitional period created by the exit treaty. See for more information the European Scrutiny Committee’s [Report of 16 October 2019](#). Similarly, additional support for fishing communities shut out of UK waters [was envisaged](#) from the European Maritime & Fisheries Fund. The proposed Brexit Adjustment Reserve effectively subsumes those earlier support measures, but with significantly more financial firepower.

November 2020”, in the event the Commission only produced a [formal draft Regulation](#) to establish the Reserve on 25 December 2020, the day after the UK and EU announced they had clinched a bilateral trade agreement. The EU Treaties require the proposed legislation to be approved jointly by both the European Parliament and the Member States in the Council of Ministers before it can take effect and the financial support granted to individual EU countries.¹⁹

4.6 The Commission proposal, subject to any amendments made by the Parliament and Council, envisages a Brexit Adjustment Reserve – with the requested €5.4 billion budget – to support EU Member States address any economic and social fall-out from the UK’s withdrawal with the following characteristics:

- The objective is to give EU Member States additional money to help finance public spending on Brexit-related measures. National or regional government spending eligible for support from the Reserve would in particular include measures to assist businesses, sectors and local communities “adversely affected by the withdrawal”, especially those “dependent on fishing activities in the United Kingdom waters”. As such, while the Reserve itself will not be directly open to funding requests from businesses, individual EU countries could decide to pass on the financial support to the private sector.
- As a first step, in early 2021 the Commission will distribute an initial support package totalling €4.2 billion (£3.8 billion), approximately 75 per cent of the Reserve’s budget, between all Member States to help them deal with the immediate impact of Brexit. This money will be distributed on the basis of “allocation criteria” that are designed to favour those EU countries which trade most with the UK and/or whose fishing communities are most dependent on access to British waters (since these countries are due to lose their current entitlement to certain fish stocks in those waters gradually under the terms of the Trade and Cooperation Agreement).²⁰ This means that countries like Ireland, France, Belgium and the Netherlands will receive proportionally more from the Reserve than countries such as Poland, Cyprus or Greece (see below).²¹
- Although the proposal foresees allocation of approximately 15 per cent - €600 million – of this initial support package based specifically on the vulnerabilities of each Member State’s fisheries sector to Brexit (with the remaining 85 per cent, amounting to €3.6 billion, divided on the basis of “dependency” on trade with

19 The legal basis of the Commission proposal is Article 175 TFEU, which allows the EU to take “specific actions” that lead “to the strengthening of its economic, social and territorial cohesion”, and Article 322(1)(a) TFEU, which allows some of the normal financial rules applicable to EU spending to be altered – in particular with respect to the need for measures to be financed to be clearly defined in advance – given the unique circumstances which the BAR is designed to address.

20 The allocation criteria to divide the available €4.2bn in “pre-financing” are set out in an annex to the draft Regulation. Support based on the fisheries element will amount to €630m (15%), while €3.6bn (85%) will be for the trade element.

21 The Commission proposal itself does not contain an illustrative example of how much each EU Member State may receive under the proposed allocation criteria, but the Commission has since [made such an overview public](#). The formal allocation criteria can also be amended by the European Parliament and the Council before the Brexit Adjustment Reserve becomes operational. Exceptionally, individual EU countries do not need to submit spending proposals before receiving this initial round of support, which will be made available by the Commission by means of an Implementing Act – a type of EU statutory instrument – soon after the Regulation establishing the Reserve is approved.

the UK), the draft legislation does not appear to mandate that EU countries would actually need to apportion their share of money along the same lines (or indeed require the funds to be spent on particular measures or in a specific way).

- However, this initial €4.2 billion support package would only constitute what is termed “pre-financing” in EU terminology (essentially a cash advance). This means the financial support to be handed out in 2021 is not yet final, but will be subject to an ex-post assessment by the European Commission to determine if the money was spent for valid Brexit-related public policy purposes.
- More specifically, by September 2023, EU Member States will have to submit a formal application for support from the Reserve to help cover public spending actually incurred to deal with Brexit between July 2020 and December 2022. This will need to evidence how the sums of money actually used for relevant Brexit-related measures during that period. The draft Regulation contains an illustrative list of “eligible expenditure”, for example measures to support sectors who have seen a collapse in exports to the Britain, to help fisheries communities affected by a reduction in their catch in UK waters, or to provide resources needed to operate the additional customs and border infrastructure required to handle freight to or from the UK.²²
- Based on the EU Member States’ formal applications in 2023, the European Commission will then determine if the money has been spent as envisaged, principally against the aforementioned illustrative list of eligible measures. This exercise will result in an “accepted amount” of funding from the Reserve to which each Member State is entitled. Where this amount exceeds the initial advance paid by the Commission in 2021 and is more than 0.06% of the Gross National Income of the country in question, that Member State can receive additional financial support from the remaining €1.2 billion surplus of the Reserve.²³ If the “accepted amount” is *less* than the 2021 advance, the Member State will have to repay the difference.
- Individual EU countries are free to spend more than their share of the Reserve to address any Brexit-related economic and social changes at their own expense, provided it is in line with European “State aid” rules governing taxpayer-funded support for individual businesses.

4.7 With respect to the practical impact the Reserve is likely to have in EU Member States, the Commission proposal also contains a specific methodology for the allocation of the initial €4.2 billion from the Reserve between the EU Member States in early 2021.

22 If a Member State does not formally apply for definitive support from the Reserve by September 2023, it will have to repay the entirety of the advance it is due to receive this year.

23 The criterion that the “accepted amount” has to exceed 0.06% of the GNI of the Member State in question to qualify for additional support from the Reserve above and beyond the initial cash advance to be paid in 2021 means that Member States with smaller economies are proportionally more likely to benefit.

This includes various cumulative capping mechanisms to ensure a somewhat equitable distribution of the funds between Member States according to their economic size and needs.²⁴

4.8 On the basis of this methodology, on 12 January 2020, EU Regional Development Commissioner Elisa Ferreira [published an overview](#) showing how much the initial cash advance from the Reserve in 2021 will, in practice, yield for each individual EU country. As shown below, Ireland is set to be the largest beneficiary of the Brexit Adjustment Reserve, accounting for €1.1 billion of the €4.2 initial support package this year. The other major recipients of support from the Reserve will be the UK's North Sea neighbours: the Netherlands (€757 million), Germany (€455 million), France (€420 million), Belgium (€324 million) and Denmark (€247 million). These six countries together account for nearly 80 per cent of the available funding this year.

Brexit Adjustment Reserve allocation per Member State, pre-financing tranche in mEUR					
MS	2018 prices	Current prices	MS	2018 prices	Current prices
AT	15,8	16,8	IE	991,2	1.051,9
BE	305,5	324,1	IT	82,2	87,2
BG	9,2	9,8	LT	7,8	8,2
CY	46,4	49,2	LU	114,4	121,4
CZ	35,5	37,7	LV	7,2	7,6
DE	429,1	455,4	MT	39,4	41,8
DK	233,3	247,6	NL	713,7	757,4
EE	4,2	4,5	PL	112,8	119,7
EL	23,4	24,9	PT	54,9	58,3
ES	173,6	184,2	RO	25,8	27,4
FI	13,6	14,4	SE	94,7	100,5
FR	396,5	420,8	SI	3,0	3,2
HR	4,1	4,3	SK	24,4	25,9
HU	38,3	40,6	EU27	4.000,0	4.244,8

²⁴ More specifically, the proposed Regulation states that no individual Member State could receive more than 25% of the €3.6bn share of the initial cash advance from the Reserve related to trade dependency, nor an amount that exceeds 0.35% of its GNI or €190 per capita. No such capping mechanisms apply to the €600m of the initial advance to be distributed on the basis of each EU country's fishing industry's relative dependency on access to UK waters.

4.9 The final text of the Regulation establishing the Brexit Adjustment Reserve can still be changed by the European Parliament and the Council of Ministers, although there already appears to be broad agreement to follow the substance of the Commission proposal. The two institutions are expected to formally approve the operation of the Reserve in February, which would allow the European Commission to begin disbursing the funds to Member States shortly thereafter. The European Parliament has provisionally scheduled a vote to approve the Reserve on 8 February 2021.

Implications for the UK

4.10 The support from the EU’s Brexit Adjustment Reserve is not available to the UK, as it is now a “third country” vis-à-vis the European Union and no longer generally entitled to financial support from the EU budget.²⁵ Instead, the provision of any support of a similar nature is the responsibility of the Government and the devolved administrations.

4.11 While the Government has spent significant sums on the UK’s Brexit preparations, including support mechanisms for specific sectors and businesses ahead of the end of the transition, there does not appear to be a comprehensive overview of financial support now or in the (near) future. Moreover, to date, Ministers have not set up a cross-sectoral contingency fund analogous to that Reserve specifically to help UK businesses, sectors and communities deal with what the Commission proposal refers to as the “consequences of the withdrawal of the United Kingdom from the [EU] in regions and sectors [...] worst affected” now that withdrawal from the Single Market has actually taken place²⁶ (although they have informally announced plans for a £100 million support fund for the UK fishing industry).²⁷ Therefore, a like-for-like comparison between UK support mechanisms and the EU’s proposed Brexit Adjustment Reserve is difficult.

4.12 The Chief Secretary to the Treasury (Rt Hon. Steve Barclay MP) is due to submit an Explanatory Memorandum on the European Commission’s proposal to create the Brexit Adjustment Reserve in the coming weeks, which may contain more information on the Government’s own plans to support UK businesses in a similar way.

Conclusions

4.13 The EU’s proposed Brexit Adjustment Reserve is of interest to the UK, even if it will not benefit from it directly. The financial support envisaged could help EU businesses overcome some of the initial hurdles for trade with the UK now that the facilitations of the Single Market have fallen away or, conversely, help them diversify their supply chains or customer base away from the UK.

25 Although the UK still makes payments to the EU under the financial settlement set out in the Withdrawal Agreement, estimated to represent a net cost of £6.8bn in 2021 by the Office for Budget Responsibility [in its March 2020 economic forecast](#), this is in relation to EU spending commitments made on or before 31 December 2020. Similarly, although the UK continues to make a contribution to specific EU funding programmes – primarily in the field of scientific research – in which the Government has secured continued participation on top of that settlement, that arrangement does not include the Brexit Adjustment Reserve

26 Prior to the ratification of the Withdrawal Agreement in early 2020, the UK Government was known to be preparing a financial support mechanism for British businesses experiencing liquidity problems as a result of a ‘no deal’ Brexit, termed “Operation Kingfisher”. The existence of this scheme was first acknowledged publicly by the Chancellor of the Duchy of Lancaster (Rt Hon. Michael Gove MP) in August 2019,¹⁸ but the Government never made any formal announcements about its funding, scale and functioning given the Agreement was eventually ratified. See: The Times, “Bailout fund to prop up businesses after Brexit” (10 August 2019).

27 The Times, “£100 million Brexit boost to revive UK fishing fleet” (4 January 2021).

4.14 The focus in the Commission proposal on support for the EU fisheries communities – the only industry singled out for support in the draft legislation – also highlights the particular disruption faced by that sector, both in the EU and the UK. The large level of support for Ireland is also striking in this respect: it will receive over €1 billion from the EU this year specifically to help its economy adjust to the new UK-EU relationship. Given the focus on the sectors and regions most affected by Brexit, the Reserve could serve as a useful comparator for any analogous Government support schemes, or lack thereof, to help UK businesses affected by the recent change in the trading relationship with the EU.

4.15 We have taken the decision to report the proposal for the EU’s Brexit Adjustment Reserve to the House before receiving the Government’s Explanatory Memorandum setting out its views and any similar domestic proposals, given the disruption that has been reported to UK-EU trade and consequently the value of drawing the attention of Members to the EU’s approach to mitigate the economic and social impact of the UK’s new trading relationship with the EU. We emphasise again that the EU’s financial support for its Member States is complementary to any financial support that individual EU countries may choose to make available to their businesses above and beyond their likely allocation from the Reserve. The full amount of public expenditure on ‘Brexit adjustments’ on the EU side is therefore likely to be much higher than the €5.4 billion budget of the Reserve, especially if money already spent by Member States on new trade infrastructure in ports like Dublin, Rotterdam and Calais is taken into account.

4.16 We may consider the proposed Brexit Adjustment Reserve and its relevance for the UK further in light of the Minister’s forthcoming Explanatory Memorandum. In the meantime, we draw the Commission proposal to the attention of the Business, Energy and Industrial Strategy Committee and the Treasury Committee. We consider the Environment, Food and Rural Affairs Committee may also have an interest, given the specific support foreseen by the Commission proposal for the fishing communities adjacent to UK waters.

5 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

(41677)	Report from the Commission to the European Parliament and the Council Updated analysis of the non-CO2 climate impacts of aviation and potential policy measures pursuant to EU Emissions Trading System Directive Article 30(4).
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COM(2020) 747	
(41690)	Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Kick-starting the journey towards a climate-neutral Europe by 2050 EU Climate Action Progress Report 2020.
—	
COM(2020) 777	

Department for Environment, Food and Rural Affairs

(41680)	Commission delegated regulation (EU) .../... of 29.10.2020 amending Delegated Regulation (EU) 2019/2124 as regards official controls at the border control post where goods leave the Union and certain provisions on transit and transshipment.
12465/20	
—	
(41681)	Report from the Commission to the European Parliament and the Council on the overall operation of official controls performed in Member States (2017–2018) to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection product.
—	
COM(2020)	
756	
(41703)	Proposal for a Council Regulation amending Regulation (EU) 2020/123 as regards fishing opportunities for Norway pout in 2020.
13635/20	
+ ADD1	
COM(2020) 792	

Home Office

(41691)	Report from the Commission to the European Parliament and the Council Evaluation of the EU drug precursors regulations.
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COM(2020) 768	

Ministry of Justice

- (41693) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Digitalisation of justice in the European Union – A toolbox of opportunities.
—
COM(20) 710
- (41698) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ensuring justice in the EU—a European judicial training strategy for 2021–2024.
—
COM(2020) 713

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: EU Climate Policy [(a) Commission Communication; (b) Proposed Regulation (SNC)]; EU financial support for regions and sectors affected by the UK’s withdrawal: the Brexit Adjustment Reserve [Proposed Regulation (SNC)]; Northern Ireland Protocol: Batteries Regulation and Electric Vehicles [Proposed Regulation (SNC)]

Environment, Food and Rural Affairs Committee: Fisheries discards [Commission Delegated Regulations (SNC)]; EU financial support for regions and sectors affected by the UK’s withdrawal: the Brexit Adjustment Reserve [Proposed Regulation (SNC)]

Environmental Audit Committee: EU Climate Policy [(a) Commission Communication; (b) Proposed Regulation (SNC)]; Northern Ireland Protocol: Batteries Regulation and Electric Vehicles [Proposed Regulation (SNC)]

Northern Ireland Affairs Committee: Northern Ireland Protocol: Batteries Regulation and Electric Vehicles [Proposed Regulation (SNC)]

Transport Committee: Northern Ireland Protocol: Batteries Regulation and Electric Vehicles [Proposed Regulation (SNC)]

Treasury Committee: EU financial support for regions and sectors affected by the UK’s withdrawal: the Brexit Adjustment Reserve [Proposed Regulation (SNC)]

Formal minutes

Wednesday 20 January 2021

Members present:

Sir William Cash, in the Chair

Jon Cruddas	Mr David Jones
Allan Dorans	Marco Longhi
Mr Richard Drax	Craig Mackinlay
Margaret Ferrier	Greg Smith

Scrutiny Report

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 5 read and agreed to.

Resolved, That the Report be the Thirty-fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Wednesday 27 January at 1.45 p.m.]

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*)