



House of Commons  
European Scrutiny Committee

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**Seventh Report of  
Session 2023–24**

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Documents considered by the Committee on 8 May 2024

*Report, together with formal minutes*

*Ordered by The House of Commons  
to be printed 8 May 2024*

## 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](http://www.parliament.uk/escom). The website also contains the Committee's Reports.

\*Explanatory Memoranda (EMs) can be downloaded from GOV.UK: <https://www.gov.uk/government/collections/explanatory-memoranda-on-eu-documents>. EMs can be searched by Council or Commission reference number. Letters from the Committee and those issued by Ministers can be found in the correspondence section of the Committee's website: <https://committees.parliament.uk/committee/69/european-scrutiny-committee/publications/3/correspondence/>.

Explanatory Memoranda and letters published before 31 March 2022 can be found on the National Archives website—<https://webarchive.nationalarchives.gov.uk/search/>—by restricting searches to <https://europeanmemoranda.cabinetoffice.gov.uk/>

Primary briefs are documents that are detailed as chapters, secondary briefs are listed in the final chapter of the report.

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# 1 Changes to the EU Emissions Trading System and the Single Electricity Market in Northern Ireland<sup>1</sup>

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## Overview

1.1 Documents 42239–42 concern EU legislation that affects changes to the EU Emissions Trading System (the EU ETS). The EU ETS continues to apply in Northern Ireland (NI) under the Windsor Framework as it is listed in Annex 4.

### *The EU Emissions Trading System*

1.2 The EU ETS works on a ‘cap and trade principle’ where a cap is set on the total amount of greenhouse gases that installations and aircraft operators can emit. Within the cap, companies receive some allowances for free but must buy additional allowances on the EU carbon market. Companies can also trade allowances with each other. Companies must surrender enough allowances to account for their emissions, otherwise the EU imposes fines. The cap is reduced annually to match the EU’s climate target.<sup>2</sup>

1.3 Following the UK’s exit from the European Union, the UK set up its own version of the EU ETS, the UK Emissions Trading Scheme (UK ETS), which went live on 1 January 2021. However, the Government’s [Explanatory Memorandum](#) (EM) explains that the EU ETS continues to apply to NI under Article 9 and Annex 4 of the Windsor Framework. This is due to NI being part of the Single Electricity Market (SEM), which is a single wholesale market where electricity is bought and sold through a single pool at a half-hourly price across the island of Ireland. As a result, Northern Ireland (NI) and the Republic of Ireland having different carbon prices would have “potentially substantive distortionary impacts on the power market.”

### *Changes to the EU Emissions Trading System*

1.4 The EU passed the [European Climate Law \(Regulation \(EU\) 2021/1119\)](#) which set a union-wide target of at least 55% net emission reductions by 2030 compared to 1990.

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1 (a) Commission Delegated Regulation supplementing Directive 2003/87/EC of the European Parliament and of the Council by laying down rules on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances; C(2023)6751; Department for Energy Security & Net Zero; Devolved Administrations: not consulted; ESC number: 42239

(b) Commission Implementing Regulation amending Implementing Regulation (EU) 2018/2066 as regards updating the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council; C(2023)6783; Department for Energy Security & Net Zero; Devolved Administrations: not consulted; ESC number: 42240

(c) Commission Delegated Regulation amending Delegated Regulation (EU) 2019/1122 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry C(2023) 7112 final; C(2023)7112; Department for Energy Security & Net Zero; Devolved Administrations: not consulted; ESC number: 42241

(d) Commission Implementing Regulation laying down rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards the content and format of climate neutrality plans needed for granting free allocation of emission allowances; C(2023)7928; Department for Energy Security & Net Zero; Devolved Administrations: not consulted; ESC number: 42242

2 The European Commission, [What is the EU ETS?](#), accessed 2 May 2024

Following this, the EU adopted a legislative package of climate measures, known as the Fit for '55 Package, which included reform of the EU ETS. The EU ETS Directive (Directive 2003/87/EC) was amended by Directive (EU) 2023/959.

1.5 The EM states that the EU ETS Directive, as amended by [Directive \(EU\) 2023/959](#), and the EU Regulations apply in NI insofar as they apply to “the generation, transmission, distribution, and supply of electricity, trading in wholesale electricity or cross-border exchanges in electricity.” The amended EU ETS Directive alters the scope of the EU ETS to apply monitoring, reporting and verification obligations to energy from waste (EfW) sites in relation to emissions. This will bring one EfW operator in NI into scope of the EU ETS Directive. This would also apply to any future installations of this kind, however, the Government has stated that there are no such installations in NI or planned in the future. While the Government has stated that the amendments to the Directive (EU) 2023/959 as regards Energy from Waste (EfW) sites will apply in NI, they require domestic implementation.

1.6 The EM also specifies that “[f]or the avoidance of any doubt, the regulations would not require the operator to purchase and submit allowances. We will be keeping this under close review as we develop our approach to implementation.”

1.7 Minister of State for Energy Security and Net Zero (Claire Coutinho MP) states in her EM that “[i]t is expected that there will be some costs arising from the MRV requirements. My officials will work with DAERA and the Regulator to determine what these will be.” She goes on to add that the EU’s measures will have “no anticipated additional financial impact in NI compared with Great Britain (GB), given broadly equivalent measures are also expected to be introduced in GB.”

### The Government’s Position

1.8 The Government has stated that “[t]he adoption of amended Directive 2003/87/EC will not cause any substantive regulatory divergence between GB and NI.”

1.9 The Government goes on to state that it is expected that EfW installations of the kind referred to above could eventually be included within a carbon price (i.e. have a price put on the CO<sub>2</sub> emitted from these facilities) and that this will most likely occur from 2028. The Government has stated that this is “broadly in line” with the approach being considered for GB. In particular, the UK ETS Authority (comprised of the UK Government, the Scottish Government, the Welsh Government and NI Department for Agriculture Environment and Rural Affairs) has independently signalled its intention to include waste incineration and energy from waste sectors in the UK’s own Emissions Trading Scheme from 2026, with a monitoring, reporting and verification only transitional period from 01 January 2026 to 31 December 2027.

### The Committee’s Position

1.10 The Committee note that the operation of two separate trading systems for carbon emissions in GB and NI regulated by the UK and EU respectively increases the likelihood for divergence between GB and NI. We are concerned about increasing divergence between GB and NI due to changes to the EU ETS.

## **Actions**

1.11 We are reporting the documents to the House as politically important and writing to the Minister of State for Energy Security & Net Zero. We also note that the European Affairs Sub-Committee on the Windsor Framework has written to the Minister of State for Energy Security and Net Zero and has copied our Chair into the correspondence and we have taken this into account in this chapter.

### ***Letter from the Chair to Minister of State for Energy Security & Net Zero (Claire Coutinho MP)***

We considered your Explanatory Memorandum (EM) on the above proposals at our meeting of 8 May 2024. We request answers to the following questions:

- Could you clarify in more detail the regulatory changes that will affect the EU ETS Directive and how this will affect divergence between the EU ETS and UK ETS?
- You note that there will be costs arising from the new monitoring, reporting and verification requirements. Who will be carrying these costs?
- You note that your officials have been in consultation with Northern Ireland’s Department of Agriculture, Environment and Rural Affairs who have been in contact with the NI operator. Could you please provide more detail of how this consultation has taken place, and what the feedback has been from the NI operator?
- You have stated that the EU is predicted to include EfW installations in carbon pricing “most likely” from 2028. You state that this is “broadly in line” with the approach being considered for GB. How do the EU and UK (in respect to GB) approaches differ as they currently stand?
- Is there any predicted impact of the UK ETS Authority assigning a carbon price from 2026 compared to the EU ETS doing so from the predicted start date of 2028?

We require a response to this letter within two months.

## 2 Trade and Cooperation Agreement: energy cooperation<sup>3</sup>

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### Overview

2.1 This [Council Decision](#) concerns the position the EU will take in the UK/EU Specialised Committee on Energy (hereafter the ‘Specialised Committee’) set up under the UK/EU Trade and Cooperation Agreement (TCA).

2.2 It proposes that the EU supports the adoption by the Specialised Committee of a decision on guidance to be given to energy operators for the elaboration of frameworks for cooperation between energy operators in the UK and EU.

2.3 Frameworks for cooperation are more specifically foreseen between:

- the European Network of Transmission System Operators for Electricity (ENTSO-E) and the United Kingdom transmission system operators for electricity;
- the European Network of Transmission System Operators for Gas (ENTSO-G) and the United Kingdom transmission system operators for gas; and
- the Agency for the Cooperation of Energy Regulators (ACER) and the regulatory authority in the United Kingdom designated in accordance with Article 310 of the TCA.

2.4 The EU is expected to agree that the Specialised Committee should adopt the guidance. The Council Decision states (at 2.3) that “the Specialised Committee should adopt the envisaged act as soon as possible, either at its next meeting or by means of a written procedure set out in Annex I to the Agreement [the TCA], whichever is sooner”. It was expected that the Committee Co-Chairs would use the written procedure to adopt the decision on the guidance shortly after the Council Decision is adopted. We notes that the [Specialised Committee’s Decision](#) was indeed adopted on 5 April.

### The Government’s Position

2.5 In his [Explanatory Memorandum \[EM\]](#), the Minister for Nuclear and Renewables, Andrew Bowie MP, explains that the Council Decision concerns the UK and EU’s obligations under the TCA. He further elaborates that the Energy Title of the TCA provides, amongst other things, for the Specialised Committee to agree on guidance on working arrangements between UK and EU electricity and gas transmission system operators (TSOs) and UK and EU regulatory authorities. This guidance is foreseen to

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<sup>3</sup> Proposal for a Council Decision on the position to be taken on behalf of the European Union within the EU-UK Specialised Committee on Energy established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, on the adoption of the guidance on frameworks for cooperation Council; COM(2024) 44; Legal base Article 194(1) TFEU, in conjunction with Article 218(9) TFEU; Dept: Department for Energy Security and Net Zero; Devolved Administrations: Consulted; ESC number: 42257.



be given to the TSOs and regulators so that they can develop working arrangements to support the planning and operational tasks associated with meeting the objectives of the Energy Title of the TCA.

2.6 The Minister reveals that the guidance to be adopted is foreseen to cover a wide range of areas including: security of electricity and gas supply; offshore energy; infrastructure planning; gas decarbonisation; and gas quality. In addition, regulatory authorities will cooperate on the prevention of market abuse on wholesale electricity and gas markets. Arrangements should not, however, allow UK TSOs or regulatory authorities to be members of, or attend meetings of, the equivalent EU bodies i.e. ENTSO-E, ENTSO-G or ACER, as this is ruled out by the TCA.

2.7 The Minister welcomes the decision, and reminds us that there have been no formal working arrangements between UK and EU TSOs and regulators since the UK left the EU. However, UK TSOs and regulators have maintained sufficient informal relationships with their EU counterparts to enable cooperation to take place when it was needed, for example, in times of energy supply shortages, particularly when Russia reduced gas exports to Europe in 2022.

2.8 The Minister explains that the European Commission has started the formal procedure for adoption of the guidance by the Specialised Committee. This has involved revision of the guidance originally given to TSOs and regulators to reflect the new formal procedure to be used. The UK Government and the Commission agreed to retain as a basis the text of the original working arrangements developed by TSOs and regulators, and to make only those changes needed to reflect the new formal procedure, update some of the legal references and amend contact names. The UK Government and Commission are currently revising the text of each of these working arrangements and will then share them with TSOs and regulators for their comments.

2.9 The Minister confirmed that the UK Government has engaged with UK TSOs and regulatory authorities on the contents of the guidance, and that there are no financial obligations arising for the UK.

## **The Committee's Position**

2.10 We note us that there have been no formal working arrangements between UK and EU and gas transmission system operators (TSOs) and regulators since the UK left the EU. However, there has been sufficient informal arrangements in operation to allow for cooperation on energy to take place. If this is the case, we wonder why the establishment of a formal framework for cooperation is necessary when cooperation has already successfully been taking place.

2.11 Following this, we are curious as to why it has taken so long for formal cooperation to take place, and how this helps to facilitate deeper cooperation than what was already happening.

2.12 Furthermore, we are pleased that the Government has consulted UK TSOs and regulatory authorities on the contents of the guidance and intend to ask for their comments once the guidance is published. We would expect further engagement once the framework comes into force to ensure that it is functioning as it should.

## **Actions**

2.13 We are reporting these documents to the House as politically important.

2.14 We have written to the Minister requesting further information.

### ***Letter from the Chair to the Minister for Nuclear and Renewables, (Andrew Bowie MP)***

We considered your Explanatory Memorandum on the above listed proposal at our meeting on 8 May 2024. We seek clarity on why a formal framework for cooperation between UK and EU and gas transmission system operators (TSOs) and regulators is necessary, when previous informal arrangements appeared sufficient.

When you write, we request an explanation as to why a framework for formal cooperation has taken so long to come to fruition, but also how it is going to help deepen energy cooperation in a way that was not possible previously.

Lastly, we are pleased to see that the Government has interacted with UK TSOs and regulatory authorities on the contents of the guidance and intends to ask for their comments once published. We would like reassurance that the Government intends to remain engaged once the framework comes into force to ensure that it is functioning as it should.

We request a response to this letter with a month.

## 3 UK/Frontex: working arrangement<sup>4</sup>

### Overview

3.1 Document 42259 concerns a [working arrangement](#) (WA) that the UK and EU agency Frontex agreed on 23 February 2024.<sup>5</sup> This followed the UK Prime Minister and the European Commission President announcing discussions on a UK-Frontex WA on 16 May 2023. According to the UK Government’s [Explanatory Memorandum](#) (EM), the WA “establishes a framework for long-term cooperation [between the Home Office and Frontex] across a range of operational and technical areas to detect, prevent and combat illegal migration and cross-border crime.”<sup>6</sup>

### Outline of the WA

3.2 The Government outlines in its EM that the WA includes provision for: cooperation on information and intelligence exchange; situational awareness and risk analysis, including through the framework of EUROSUR<sup>7</sup>; training and capacity building; cooperation on research and innovation; technical and operational cooperation, including deployment of UK and Frontex staff to participate in operational activities without executive powers i.e. in observational, advisory, or coordination capacities; sharing best practice and expertise; and the exchange of Liaison Officers.<sup>8</sup>

3.3 The WA underlines that cooperation is compliant with UK and EU human rights obligations and legal principles. The EM underlines that Frontex’s fundamental rights officer and fundamental rights monitors may monitor the compliance of joint activities under this—or any—WA with applicable human rights standards as in line with the EU Regulation. The EM states that the UK would receive prior notice for a visit and a visit must be in relation to activities set out in writing in mutually agreed cooperation or operational plans, or via an exchange of letters. The WA has an equivalent provision for relevant UK authorities to monitor joint activities in EU Member States to ensure compliance with UK human rights obligations.

3.4 If there is any dispute about the interpretation or application of the WA, the WA specifies that this will be resolved through consultations between the sides and “will not be referred to any national or international tribunal or third party for settlement.” The UK and EU can suspend or discontinue the application of the WA by mutual agreement or by

4 HM Government, [‘Explanatory Memorandum on UK-Frontex WA’](#), 23 February 2024

5 As outlined in the Explanatory Memorandum, Frontex, the European Border and Coast Guard Agency, provides expertise to EU Member States and Schengen associated countries on managing the EU’s external borders and tackling cross-border crimes. Frontex also works with specific non-EU and non-Schengen Area countries.

6 UK Government, [‘Explanatory Memorandum on UK-Frontex WA’](#), 23 February 2024

7 Eurosur is “the European Border Surveillance system, which is a framework for information exchange and cooperation between Member States and Frontex to improve situational awareness and increase reaction capability at the external borders.” (European Commission, [‘Eurosur’ \[accessed 2 May 2024\]](#))

8 The WA does not apply nor have any effects in Gibraltar; Sovereign Base Areas of Akrotiri and Dhekelia; Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; Saint Helena, Ascension and Tristan da Cunha; South Georgia and the South Sandwich Islands; Turks and Caicos Islands; and The Bailiwick of Guernsey; the Bailiwick of Jersey; and the Isle of Man.

written notice to the other side. In this case, the WA states that both parties “will work together to consider any winding down processes, including any financial settlement in relation to joint activities and application of this working arrangement.”<sup>9</sup>

### ***Future agreements under the WA***

3.5 The EM states that the Government/Home Office and Frontex will agree an “overarching cooperation plan and/or, where applicable, detailed operational plans”. It goes on to add that further information on the potential exchange of classified information within the context of this WA will be set out in a separate agreement.

3.6 As set out in the WA, the UK and Frontex are “generally expected to bear their own respective costs.” However, it goes on to state that the UK may compensate Frontex for the implementation of certain approved activities. The WA states that further details of this will also be set out in a separate agreement.

### **The Government’s Position**

3.7 The Government published [the full WA](#), made a [ministerial statement](#) and provided the EM on the WA on 23 February 2024. The Government has outlined that the WA is intended to provide “a long-term framework for mutually beneficial cooperation with Frontex across a range of operational areas to tackle illegal migration and cross-border crime.”<sup>10</sup> The Home Secretary (Rt Hon James Cleverly MP) states in the EM that “[b]y allowing us to work together with Frontex to tackle illegal migration into and across Europe, we anticipate the WA will help reduce the number of migrants trying to reach the UK illegally.”

### **The Committee’s Position**

3.8 We note that this non-legally binding WA is intended to benefit the UK in combatting illegal migration and cross-border crime, although there remains few practical details. We also note that the WA outlines that further details of how the WA will operate in practice and be funded will be jointly agreed in separate agreements.

### **Actions**

3.9 We are reporting the document to the House as politically important. We have also written to the Home Secretary requesting further information, including for agreements made in the future under the WA.

### ***Letter from the Chair to the Home Secretary (Rt Hon James Cleverly MP)***

We considered the full working arrangement (WA) agreed between the Government/Home Office and Frontex alongside the ministerial statement and your Explanatory Memorandum (EM) on the WA. We request answers to the following question within one month:

9 Home Office and Frontex, [Working Arrangement Establishing Operational Cooperation between the European Border and Coast Guard Agency and the Home Office of the United Kingdom of Great Britain and Northern Ireland, 23 February 2024](#)

10 HC Deb, 23 February 2024, [col 287](#) [Commons written ministerial statement]

- Could you outline what powers Frontex staff will have in an observational, advisory or coordination capacity in UK operational activities, and how this will differ from executive powers?
- How will you manage personal data transfers?

In addition, could you update the Committee on the following, as agreed between the Home Office and Frontex as part of the WA:

- the overarching cooperation plan and/or any operational plans;
- the potential exchange of classified information; and
- any separate agreement on the UK making financial contributions to compensate Frontex for the implementation of approved activities and the value of those contributions.

We ask that you respond with the relevant information and documents within one month of them being agreed.

## 4 Prüm II: the search and exchange of data for police cooperation<sup>11</sup>

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### Overview

4.1 Document 42262 concerns the [Prüm II Regulation](#) which lays out updated principles on the automated search and exchange of data for police cooperation. This EU Regulation expands upon the framework established by the Prüm Decision, which is already in place.

4.2 The ‘[Prüm Decision](#)’ is a legal instrument binding all Member States, which arose from a multilateral Treaty signed in 2005 by seven EU Member States.<sup>12</sup> The EU framework enables EU Member States and other countries to exchange anonymised DNA and fingerprint data, certain vehicle registration data, and associated policing information for the prevention and investigation of criminal offences. The UK participates in Prüm through Part 3, Title II of the UK/EU Trade and Cooperation Agreement (TCA) under similar terms to how exchanges between EU Member States are governed through the Prüm Council Decision.

4.3 Prüm II aims to expand Prüm by introducing new data exchange categories, including facial biometric matching and pseudonymised police records through the establishment of national police record indexes. Prüm II also makes provision for biometric searches in relation to missing persons and for the identification of human remains, in line with national law. The framework also standardises the provision of policing information following a confirmed biometric match. Prüm II provides for exchanges directly with Europol, allowing access to third country data stored by Europol. Prüm II will be underpinned by a centralised router (a router is a device that connects data between computer networks) that will facilitate the establishment of network connections between Member States to retrieve data.<sup>13</sup> Member States will connect to the centralised router rather than directly with each other.<sup>14</sup>

4.4 The UK Government states in its [Explanatory Memorandum](#) (EM) that the adopted Regulation differs from the initial EU proposal published in December 2021 and that was provided to the Committee in February 2023 due to “extensive EU negotiations”. The Committee has undertaken previous work on the introduction of Prüm II.<sup>15</sup>

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11 Regulation of the European Parliament and of the Council on the automated search and exchange of data for police cooperation, and amending Council Decisions 2008/615/JHA and 2008/616/JHA and Regulations (EU) 2018/1726, (EU) 2019/817 and (EU) 2019/818 of the European Parliament and of the Council (the Prüm II Regulation); Legal base: Articles 16(2), 87(2)(a) and 88(2) TFEU; Department: Home Office; Devolved Administrations: Not consulted; ESC number: 42262.

12 EU, [Stepping up cross-border cooperation—the Prüm decision](#) [accessed 7 May 2024]

13 Council of the European Union, [Council and EU Parliament reach deal to advance police cooperation in Europe](#), 20 November 2023

14 Legislative Observatory European Parliament, [2021/0410\(COD\)—08/12/2021—Automated data exchange for police cooperation \(“Prüm II”\)](#), 8 December 2021

15 See our letters dated [12 January 2022](#), [25 May 2022](#), [7 September 2022](#), [29 March 2023](#) and [21 June 2023](#) and the Government’s responses dated [29 April 2022](#) (from then Security Minister, Damian Hinds MP), [25 July 2022](#) (from then Minister for Delivery at the Home Office, Baroness Williams of Trafford), [10 October 2022](#) (from then Immigration Minister, Tom Pursglove MP) and [12 May 2023](#) (from the current Security Minister, Rt Hon Tom Tugendhat MP)

## **Implementation of Prüm II**

4.5 The Council of the European Union adopted the Prüm II Regulation on 26 February 2024. However, Prüm II will likely not be operational for some years. This is because the Commission will determine when Member States and Europol can use the new ‘router’ through an Implementing Act, which is conditional on criteria being met, such as the implementation and testing of the new router. The EU’s IT Agency, eu-LISA, is responsible for providing annual reports on the progress of the new router. Once the new router is in place, Member States will have two years to make facial images available for comparison.

## **Prüm II and the UK**

4.6 According to the Government’s EM, the Prüm II Regulation may affect Part 3, Title II of the TCA if the EU considers that the Regulation substantially amends relevant EU law. The EU may notify the UK with a view to agreeing an amendment through consultations under Article 541. If the EU and UK do not reach an agreement within nine months, the EU can suspend all or part of Title II, and can extend the suspension for a further nine months. If the EU and UK do not reach an agreement by the end of this period, then the suspended provisions will no longer apply, unless the EU informs the UK that it no longer seeks to amend the Title. At which point, the suspended provisions would be reinstated. It is the role of the TCA Specialised Committee on Law Enforcement and Judicial Cooperation to decide on the steps to ensure that any cooperation affected by the suspension is concluded in an appropriate manner.

## **The Government’s Position**

4.7 In its EM, the Government states that the UK will not be immediately affected by Prüm II as it is not operational and will not be for some time. In addition, future Implementing Acts will decide the new data standards that govern Prüm II. The Government states that it is therefore “difficult at this stage to fully assess the scale of change and implications for UK law enforcement agencies.”

4.8 The Government has indicated that it is still undecided whether to participate in Prüm II. As part of these considerations, the Government has stated that it will undertake an analysis of the costs of the new systems against the benefits to law enforcement. These costs will depend on the detail of the Implementing Acts foreseen in the Regulation, which are yet to be adopted. The Government has also stated that it will consult with the Devolved Administrations and law enforcement partners across the UK when the implementing legislation is closer to adoption.

## **The Committee’s Position**

4.9 We note that the Government has not yet decided whether to participate in Prüm II and UK participation is contingent on further information in the EU’s future Implementing Regulation. It is therefore not possible to assess the impact of Prüm II on the UK at this stage.

## Actions

4.10 We are reporting the document to the House as politically important, and we have written to the Minister requesting further information and to be notified of future developments in this area.

### ***Letter from the Chair to the Minister of State for Security (Rt Hon Tom Tugendhat MP)***

The Committee considered your Explanatory Memorandum (EM) on the above proposal at our meeting of 8 May 2024. We recognise that the Government continues to assess whether it will participate in Prüm II, and its decision will be influenced by further information on how Prüm II will be implemented.

We therefore request that the Government updates us on its final decision as to whether to participate in Prüm II before it becomes operational. If the Government decides to participate in Prüm II, we request that you provide an Explanatory Memorandum on this decision and its implications for the UK as laid out in the Committee's correspondence to the Security Minister [dated 23 June 2023](#).

In addition, we request that you update the Committee on the impact Prüm II will have on the UK/EU Trade and Cooperation Agreement in a timely fashion, as laid out in the above referenced correspondence.

We look forward to further information from you in the future.



## 5 Windsor Framework: vehicle recycling<sup>16</sup>

### Overview

5.1 In early July 2023, the European Commission has recently [proposed new Regulation](#) for the management of vehicles at the end of their useable lifespan and type-approval with respect to vehicle reusability, recyclability and recoverability. These new rules would require manufacturers to demonstrate compliance with recyclability requirements at type approval. According to the Government, EU legislation concerning the treatment of end-of-life vehicles is not currently covered by the Windsor Framework, however type-approval legislation is, and therefore this part of the proposal would apply in the UK in respect of Northern Ireland.

5.2 The proposed Regulation repeals the EU's type-approval Directive ([Directive 2005/64/EC](#)), which provides that vehicles should be constructed so as to be 85% recyclable/reusable and 95% reusable/recoverable. The proposal would also repeal the EU's [end-of-life vehicles \(ELV\) Directive \(Directive 2000/53/EC\)](#), which was the first harmonised EU framework designed to ensure that vehicles reaching the end of their life, and considered as waste, are treated in an environmentally sound manner. This proposal under scrutiny would replace both Directives with a single Regulation. To the extent that the proposal replaces Directive 2005/64 EC as it currently applies under the Windsor Framework, it would fall within the scope of the Stormont Brake.

5.3 The EU's overall objective is to modernise existing legislation and to improve the functioning of the EU Single Market, while reducing the negative environmental impacts linked to the design, production, service life and end-of-life treatment of vehicles and to contribute to the sustainability of the automotive and recycling sectors.

5.4 The proposal would place obligations on vehicle manufacturers to use at least 25% of plastic recycled from post-consumer waste including from end-of-life vehicles, restrict the use of lead and other heavy metals, and to not hinder the removal of parts that can be reused. These requirements will apply six years from the date the Regulation enters into force.

5.5 Manufacturers will be required to prove compliance at the type-approval stage. They will have to provide a circularity strategy setting out the actions they will take to follow-up on their obligations and provide information on the safe removal and replacement of vehicle parts. These requirements will apply three years after the Regulation enters into force.

5.6 The proposal would also establish a 'circularity vehicle passport': a digital tool designed to improve the provision of information on the safe removal/replacement of vehicle parts. This requirement will apply seven years from the date the Regulation comes into force.

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16 Proposal for a Regulation of the European Parliament and of the Council on circularity requirements for vehicle design and on management of end-of-life vehicles, amending Regulations (EU) 2018/858 and 2019/1020 and repealing Directives 2000/53/EC and 2005/64/EC; Council and COM number: COM(2023) 451; Legal base: Article 114 TFEU; Dept: Transport; Devolved Administrations: Consulted; ESC number: 42247.

5.7 The Regulation will enter into force one year from its publication in the Official Journal of the EU. There will be a phased approach to gradually cover more vehicles and disapply some of the type-approval requirements to certain vehicles. Cars and vans will be included on entry into force of the Regulation. Buses, trucks, trailers, and some motorcycles will be included five years after the Regulation comes into force. These vehicles will be exempt from many of the type-approval requirements with only the requirement to provide information on the safe removal and replacement of the vehicle's parts. Special purpose vehicles, such as wheelchair accessible vehicles, will also be exempt except for requirements concerning the use of heavy metals, such as lead.

5.8 The proposal's end-of-life obligations set minimum requirements for the treatment of end-of-life vehicles by authorised treatment facilities and seek to prevent the export of unroadworthy second-hand vehicles, which can lead to pollution and road safety risks in third countries (non-EU Member States).

### The Government's Position

5.9 The Government considers this proposal an attempt to improve the current requirements applicable for vehicles within the type-approval process. The Government believes it may lead to increased recycling and re-use of materials from end-of-life vehicles, however they note that without further analysis it is not possible to assess its likely impact.

5.10 In his [Explanatory Memorandum \(EM\)](#) on the proposal the Minister for Aviation and Decarbonisation of Transport (Anthony Browne MP) states that the EU's proposal broadly aligns with the aims set out for road vehicles in the 2023 DEFRA policy paper '[The waste prevention programme for England: Maximising Resources, Minimising Waste](#)'<sup>17</sup> and could help contribute towards efforts in achieving Net Zero by 2050.

5.11 As aforementioned, only the type-approval changes covered by the proposal are covered by the Windsor Framework. The Minister points out that the EU have not notified the UK regarding its intention to apply the entirety of the proposal under the Windsor Framework.

5.12 The Minister reveals in his EM that officials are not aware of any major manufacturers based in Northern Ireland (NI) that produce vehicles which would be in scope of the Regulation. For example, officials expect small manufacturers in NI such as Wrightbus, to be unaffected due to the exemption for vehicles produced under the small series scheme. He concludes that the local (NI) manufacturing industry is therefore unlikely to be affected by this proposal.

5.13 The Minister explains that the UKNI type-approval scheme will apply under the EU Regulation, which enables access to the Great Britain (GB) market and is available to manufacturers if they wish to use it. This means that there will still be unfettered access to the GB market for NI based manufacturers and the movement of used vehicles between GB and NI would be unaffected by the Regulation. He argues that none of the measures in question will affect the movement or sale of vehicles in NI.

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17 GOV.UK, [The waste prevention programme for England: Maximising Resources, Minimising Waste](#), Chapter 9, 10 August 2023

5.14 The Minister states that the Government will continue to monitor changes to recyclability requirements under the EU scheme, with a view to considering whether amendment to the GB scheme is required. Due to the close links between the type-approval and end of life requirements, consideration of amending the GB type-approval scheme to adopt similar type-approval requirements to the EU will be informed by any future consultation on the end-of-life vehicles regulatory regime led by DEFRA.

5.15 Finally, the Minister states that there are no financial or legal implications arising from the proposal and informs us that officials have had initial engagement with the EU on the proposal via the Joint Consultative Working Group under the Windsor Framework.

### **The Committee's Position**

5.16 We note that the EU has not notified the UK regarding its intention on application of the proposal under the Windsor Framework, so it is unclear which elements will apply in NI. We therefore look forward to further information in due course, including the implications of its potential implementation. With initial contacts having been made with the EU via the Joint Consultative Working Group under the Windsor Framework, it would be expected that further clarity on which parts will apply under the Windsor Framework should be forthcoming shortly.

5.17 The Government have said that EU legislation concerning the treatment of end-of-life vehicles is not currently included under the Windsor Framework.

5.18 If the Government decides to amend the GB type-approval scheme to adopt similar type-approval requirements to the EU, we look forward to reading the outcome of their consultation and impact assessment.

### **Actions**

5.19 We are reporting these documents to the House as politically important.

5.20 We have written to the Minister requesting further information.

### ***Letter from the Chair to the Minister for Aviation and Decarbonisation of Transport (Anthony Browne MP)***

We considered your Explanatory Memorandum on the above listed proposal at our meeting on 8 May 2024. We seek clarity on which elements of the proposal will apply under the Windsor Framework and what this will mean for business and consumers in Northern Ireland. We also ask that you confirm that the EU share the Government's assessment that EU legislation concerning the treatment of end-of-life vehicles is not currently included under the Windsor Framework.

When you write, we request an update on the Government's plans regarding amending the GB type-approval scheme to adopt similar type-approval requirements to those provided for in the EU's proposal and confirmation that you will carry out a full consultation and impact assessment of impacted stakeholders.

We ask that you respond to this letter within four months.

## 6 Documents not considered to be legally and/or politically important

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### Foreign, Commonwealth and Development Office

|              |   |
|--------------|---|
| (42258)      | Proposal for a Council Decision establishing the position to be taken on behalf of the European Union in the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards the amendment of the Decision No 1/2023 of the Joint Committee of 24 March 2023 laying down arrangements relating to the Windsor Framework. |
| —            |   |
| COM(2024) 57 |   |

# Formal Minutes

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**Wednesday 8 May 2024**

## **Members present:**

Sir William Cash, in the Chair

Paul Bristow

Jon Cruddas

Mr David Jones

Sammy Wilson

## **Document scrutiny**

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

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

Paragraph 1.1 to 6 read and agreed to.

*Resolved*, That the Report be the Seventh Report of the Committee to the House.

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

## **Adjournment**

Adjourned till Wednesday 15 May 2024 at 2.00 pm

## Standing Order and membership

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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.

**Current membership**

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

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

[John Baron MP](#) (*Conservative, Basildon and Billericay*)

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

[Geraint Davies MP](#) (*Labour, Swansea West*)

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

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

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

[Dame Margaret Hodge MP](#) (*Labour, Barking*)

[Adam Holloway MP](#) (*Conservative, Gravesham*)

[Dame Andrea Jenkyns MP](#) (*Morley and Outwood*)

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

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

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

[Gavin Robinson MP](#) (*Democratic Unionist Party, Belfast East*)

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