



House of Commons  
European Scrutiny Committee

---

**Sixth Report of Session  
2021–22**

---

Documents considered by the Committee on 19 July 2021

*Report, together with formal minutes*

*Ordered by The House of Commons  
to be printed 19 July 2021*

## 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) 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 and International Law), Alistair Dillon and Leigh Gibson (Senior Committee Specialists), Nat Ireton and Apostolos Kostoulas (Committee Operations Officers), Daniel Moeller (Committee Operations Manager), Foeke Noppert (Senior Committee Specialist), Indira Rao MBE (Counsel for European and International Law), Paula Saunderson (Committee Operations Assistant), Emily Unwin (Deputy Counsel for European and International Law), Dr George Wilson (Clerk), Beatrice Woods (Committee Operations Officer).

## Contacts

All correspondence should be addressed to the Clerk of the European Scrutiny Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is (020) 7219 3292/8185. The Committee's email address is [escom@parliament.uk](mailto:escom@parliament.uk).

# Contents

---

## **Documents to be reported to the House as legally and/or politically important**

1	DEFRA Fisheries Control	3
2	DEFRA Northern Ireland Protocol: Feeding animal protein to animals	7
3	DFT Airport Slot Allocation and Single European Sky	9

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

4	List of documents	18
---	-------------------	----

	<b>Annex</b>	<b>19</b>
--	--------------	-----------

	<b>Formal Minutes</b>	<b>20</b>
--	-----------------------	-----------

	<b>Standing Order and membership</b>	<b>21</b>
--	--------------------------------------	-----------

# 1 Fisheries Control<sup>1</sup>

---

## This EU document is politically important because:

- it will lead to changes that will need to be applied by UK vessels fishing in EU waters;
- the EU proposes a digital database of catch certificates relevant to the import and export of fishery products, including between Great Britain and Northern Ireland; and
- the UK will conduct its own review of fisheries control, during which the impact on the UK industry of the new EU measures will be taken into account.

## Action

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

## Overview

1.1 The EU’s current fisheries control regime dates back to 2009 ([Regulation 1224/2009](#)), and thus pre-dates the 2013 reform of the Common Fisheries Policy (CFP). In 2018, the Commission proposed substantial changes, including provisions to align the control regime with aspects of the reformed CFP, such as the landing obligation (“discard ban”). The EU’s 2009 fisheries control Regulation was incorporated into UK legislation as “retained EU law” and so, once the EU’s revision is complete, there will be potentially significant divergence between the EU and UK systems, with UK vessels fishing in both UK and EU waters being required to comply with both systems.

1.2 The final shape of the new EU regime remains unclear, but progress has been made. Since the European Parliament adopted its [position](#)<sup>2</sup> in March 2021, the Council adopted its [position](#)<sup>3</sup> (“General Approach”) at the 28–29 June 2021 Agriculture and Fisheries Council. Negotiations between the Council and European Parliament can therefore commence with a view to settling on a final text. The respective approaches of the Commission, Council and Parliament have been set out in a single [document](#).<sup>4</sup>

---

1 Proposal for a Regulation amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) No 2016/1139 of the European Parliament and of the Council as regards fisheries control; Council and COM number: [9317/18](#) + ADDs 1–3, COM(18) 368; Legal base: Article 43(2) TFEU, Ordinary legislative procedure, QMV; Department: Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: 39822.

2 European Parliament Texts Adopted, TA(2021)0076.

3 Council Document 9390/2/21 REV 2 ADD 1, 24 June 2021.

4 Council Document 10406/21, 2 July 2021.

1.3 In her [letter](#) dated 9 July 2021, responding to our [letter](#) of 26 May, the Minister for Farming, Fisheries and Food (Victoria Prentis MP) says that Government officials continue to monitor developments on this proposal in Brussels following the Council's adoption of a General Approach.

1.4 Commenting on the UK's review of the Fisheries Control Regulation (as retained in UK law), the Minister confirms that the economic impact of any fundamental divergence between UK and EU rules on UK fishers will be considered during the review.

1.5 Turning to any relevant legislative changes applicable to Northern Ireland under the terms of the Northern Ireland Protocol, the Minister notes that the legislation will make changes to [Regulation 1005/2008](#) (the Illegal, Unreported and Unregulated Fishing (IUU) Regulation), which continues to apply in Northern Ireland (NI) under the terms of the Northern Ireland Protocol. Relevant changes would include the establishment of a digital database for the management of catch certificates (CATCH).

1.6 The possibility of a future introduction of CATCH by the EU has been raised in UK-level discussions. The Marine Management Organisation has engaged with the EU to determine an appropriate forum at which to discuss how a future CATCH system can be linked with the UK's Fish Export Service.

1.7 Under the Northern Ireland Protocol, the EU's Control Regulation continues to apply to Northern Ireland insofar as it concerns provisions relating to marketing standards. The Minister says only that the Government will begin consideration of the proposed amendments to the Control Regulation and their application to Northern Ireland under the Protocol.

1.8 The Minister identifies a series of other noteworthy amendments among those proposed to the Control Regulation by the European Parliament and Council respectively:

- European Parliament amendments to the permitted margins of tolerance for discrepancies between volumes landed and estimated catch volumes recorded in the vessel's logbook, which—says the Minister—would elevate the risk and magnitude of underreporting and overfishing with no risk of sanction for the operator, even though on-board technology now allows more accurate estimation of quantities and catch composition;
- European Parliament amendments making CCTV voluntary, but with the threat of imposing CCTV as a sanction in the event of illegal discards of fish stocks—the Minister considers that, without CCTV, there is little chance of capturing infringements of the discard ban;
- plans to extend the use of Vessel Monitoring Systems (VMS) to vessels below 12 metres in length align with Government plans to introduce compulsory use of VMS for vessels under 12 metres which will create more accurate data about where fishing takes place in UK waters;

- a Council proposal that remote electronic monitoring (REM)<sup>5</sup> be installed on-board vessels of 24 metres in length and over, based on an assessment of the risk of non-compliance with rules on the discard ban;
- while extending the use of electronic reporting tools (such as the electronic fishing logbook) to small-scale fleets, the Council has proposed a transition period and various simplifications designed to reduce the burden;
- Council amendments to relax some of the Commission’s proposed measures to improve data collection on all recreational fisheries, including persons and vessels engaged in such fisheries; and
- clarity that masters of third-country fishing vessels operating in EU waters will need to submit electronic logbooks by electronic means to the competent authority of the relevant Member State.

## Our assessment

1.9 The outcome of this negotiation will have an impact on UK vessels fishing in EU waters as well as on the sustainability of stocks. It is therefore welcome that the Minister has provided additional information on the issues at stake in the negotiation. We remain interested in the progress of this discussion and will look forward to a further update within three months, including on provisions of direct applicability to Northern Ireland.

1.10 We note with particular interest the development of the EU’s new digital catch certificates database (CATCH) for the “integrated computerised information exchange, management and storage, submission, validation and quantity management under the Catch Certification Scheme for importation and exportation of fishery products” and welcome the MMO’s engagement with the EU as to how this could link with the UK’s Fish Export Service to facilitate movements of fish from GB to Northern Ireland.

## Action

1.11 We have written to the Minister as set out below. We are drawing this chapter to the attention of the Environment, Food and Rural Affairs Committee, the Northern Ireland Affairs Committee, the Scottish Affairs Committee and the Welsh Affairs Committee.

### ***Letter from the Chair to the Minister for Farming, Fisheries and Food (Victoria Prentis MP)***

We considered your letter of 9 July 2021 on the revision to the EU’s fisheries control Regulation at our meeting of 19 July 2021.

We welcome the additional information that you have provided further to the positions adopted by both the European Parliament and the Council and we look forward to a further update within three months.

---

5 Remote electronic monitoring includes integrated on-board systems of cameras, gear sensors, video storage, and Global Positioning System units, which capture comprehensive videos of fishing activity with associated sensor and positional information ([UK Government Call for Evidence on REM](#)).

We take particular note of the application to Northern Ireland of the EU’s new electronic “CATCH” system and would welcome information in your next update on the progress of the MMO’s discussions with the Commission on linking CATCH to the UK’s Fish Export Service in order to facilitate NI compliance as well as imports into NI from GB.



## 2 Northern Ireland Protocol: Feeding animal protein to animals<sup>6</sup>

---

### This EU document is politically important because:

- it concerns an EU proposal to revoke EU laws—introduced in the light of the BSE crisis—on the feeding of some animal proteins to non-ruminant animals, including pigs and chickens;
- the change would apply directly in Northern Ireland, but not in Great Britain; and
- the UK, Scottish and Welsh Administrations have not yet decided whether England, Scotland and Wales respectively should align with the change.

### Action

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

### Overview

2.1 In our [Report](#) of 23 June 2021,<sup>7</sup> we considered European Commission proposals to repeal elements of laws—introduced in the light of the Bovine Spongiform Encephalopathy (BSE) outbreak—regulating the feeding of animal-derived protein to other animals. We noted that the changes would apply automatically to Northern Ireland under the terms of the Northern Ireland Protocol to the UK/EU Withdrawal Agreement but would not apply by default to Great Britain. We were therefore concerned that, unless the Government and other Devolved Administrations followed suit, Northern Ireland to Great Britain trade in non-ruminants (such as pigs and chickens)—and food produced from them—would likely be restricted.

2.2 [Responding](#)<sup>8</sup> to our [letter](#) of 23 June 2021, the Parliamentary Under-Secretary of State (Rt Hon. Lord Benyon) seeks to assuage our concerns. He makes a number of points:

- the Commission’s approach is based on scientific European Food Safety Authority (EFSA) Opinions in which UK scientists were involved before the EU’s withdrawal from the EU and to which the UK still has access;

---

6 Commission Regulation (EU) .../... of XXX amending Annex IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the prohibition to feed non-ruminant farmed animals, other than fur animals, with protein derived from animals; Council number: [8537/21](#) + ADD 1; Legal base: Regulation (EC) No 999/2001; Department: Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: 41852.

7 Fourth Report HC 121–iv (2021–22), [chapter 4](#) (23 June 2021).

8 Letter from the Rt Hon. Lord Benyon to Sir William Cash MP, dated 7 July 2021.

- before taking any policy decision, the UK Government and the Devolved Administrations (DAs) will obtain advice from Government scientists and from the Advisory Committee on Dangerous Pathogens (ACDP) regarding any potential risk to human or animal health; and
- the amended EU rules will still be stricter than those of the World Organisation for Animal Health (OIE—Office International des Epizooties)—on which imports are based—and so imports of animals or products of animal origin from the EU or Northern Ireland will continue to be accepted into Great Britain in any event.

## Action

2.3 As the Minister has addressed our concerns, we require no additional information.

2.4 We are reporting the Minister’s response to the House and drawing it to the attention of the Environment, Food and Rural Affairs Committee, the Northern Ireland Affairs Committee, the Scottish Affairs Committee and the Welsh Affairs Committee.

## 3 Airport Slot Allocation and Single European Sky<sup>9</sup>

These EU documents are politically important because:

- they offer an opportunity to review how the EU is currently managing the allocation of airline slots at its airports in light of the ongoing Covid-19 pandemic; and
- they provide a helpful overview of the EU’s plans to develop its ‘Single European Sky’ (an initiative that the Government has committed to monitor as it develops the UK’s own post-Brexit aviation policy).

### Action

- Write to the Minister (Robert Courts MP, Department for Transport) requesting further information.
- Draw to the attention of the Northern Ireland Affairs Committee, the Scottish Affairs Committee, the Transport Committee and the Welsh Affairs Committee.

### Overview

3.1 The four documents under scrutiny concern: a waiver to disapply common rules for the allocation of slots at Community airports in light of the ongoing Covid-19 pandemic (document (a)); and a range of wider measures designed to update policy and legislation relating to the development and functioning of the [Single European Sky](#) (SES) (documents (b), (c) and (d)).

3.2 When taken together, the documents under scrutiny provide an opportunity to review how the EU is currently coordinating its Air Traffic Management (ATM) operations as the Covid-19 pandemic continues and, furthermore, assess proposed measures that the EU intends to introduce in relation to the future operation of the SES.

<sup>9</sup> Document (a)—Report from the Commission to the European Parliament and the Council pursuant to Article 10a (5) of Regulation (EU) 2020/459 of the European Parliament and of the Council of 30 March 2020 amending Council Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports; Council and COM number: 10631/20 and COM(20) 558; Legal base: –; Department: Transport; Devolved Administrations: Consulted; ESC number: 41516. Document (b)—Amended proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast); Council and COM number: 10840/20 + ADD 1 and COM(20) 579; Legal base: Article 100(2) TFEU; Department: Transport; Devolved Administrations: Consulted; ESC number: 41529. Document (c)—[Proposal for a Regulation of the European Parliament and of the Council amending Regulation \(EU\) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky](#); Council and COM number: 10841/20 and COM(20) 577; Legal base: Article 100(2) TFEU; Department: Transport; Devolved Administrations: Consulted; ESC number: 41530. Document (d)—Commission Staff Working Document—A fresh look at the Single European Sky Accompanying the documents Amended proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) and Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky; Council and COM number: 11020/20, –; Legal base: Article 100(2) TFEU; Department: Transport; Devolved Administrations: Consulted; ESC number: 41533.

3.3 By way of background, airport slot allocation is governed by [Regulation \(EEC\) No 95/93](#) on common rules for the allocation of slots at Community airports. The Regulation allows EU Member States to designate an airport as ‘coordinated’ where there is significantly more demand from airlines to use the airport than there is capacity available. These are often referred to as ‘level three’ airports.

3.4 A ‘slot’ is a permission to use all necessary airport infrastructure to operate an aircraft at a specified date and time for take-off or landing. The Regulation requires Member States to appoint a slot coordinator, which is functionally and financially independent of Member States, to allocate and administer slots, which it must do in a neutral, transparent and non-discriminatory way. There is no role for Member State governments in slot allocation.

3.5 On the ‘Single European Sky’, since 2004, the EU has gradually gained competence in the area of ATM with decision-making moving away from intergovernmental arrangements to a new EU framework. The EU’s main stated objective is to reform ATM in Europe to better cope with sustained air traffic growth and operations under the safest and most cost-effective, flight-efficient and environmentally friendly conditions. In recent years, the EU has sought to de-fragment European airspace, reduce delays, increase safety standards and flight efficiency to reduce the aviation sector’s environmental footprint, and reduce costs related to overall service provision. The EU believes that improvements have already been made at operational, technological and institution levels and it is looking to further maximise benefits that it believes have been initiated under the [SES framework](#).

3.6 The SES legislative framework consists of four EU Legislative acts ([Regulation 549/2004](#), [Regulation 550/2004](#), [Regulation 551/2004](#) and [Regulation 552/2004](#)). These EU laws cover the provision of air navigation services (ANS), the organisation and use of airspace, and the interoperability of the European Air Traffic Management Network (EATMN). The four Regulations adopted in 2004 (the SES I Package) were revised and extended in 2009 with [Regulation \(EC\) 1070/2009](#), which aimed to increase the overall performance of the air traffic management system in Europe (the SES II Package). On this basis, the Commission has since adopted extensive and comprehensive implementing legislation by way of more than 20 Implementing Acts and Community Specifications (technical standards) aimed to ensure the interoperability of various technologies and systems across Europe.

3.7 In September 2020, the Commission proposed a further update of the SES regulatory framework with a view to providing more sustainable and resilient air traffic management in line with the [European Green Deal](#). The proposed update consists of a [proposal for a Regulation on the implementation of the SES](#) and a [proposal to amend Regulation \(EU\) 2018/1139](#) as regards the capacity of the European Union Aviation Safety Agency (EASA) to act as the Performance Review Body of the SES.

### ***Document (a)—Report on common rules for the allocation of slots at Community airports***

3.8 A fundamental tenet of slot administration is the “80:20” or “use-it-or-lose-it” rule. This mandates that, provided an airline has used its slots at least 80% of the time in the preceding season (either winter or summer), it is entitled to those slots in the upcoming

equivalent season. That effectively grants airlines rights to their slots in perpetuity, provided they comply with that rule. Otherwise, the slots will be returned to a ‘pool’ for reallocation by the slot coordinator.

3.9 An airline would not be precluded from reapplying for the same slots, but EU law also requires that at least 50% of slots in the pool be made available to ‘new entrants’ to the airport, which could act as a constraint for those airlines which do not meet the definition of a new entrant. The purpose of the 80:20 rule is to maximise use of existing airport capacity, by preventing airlines from keeping hold of slots which they are unable or unwilling to use, and thereby inhibiting other airlines from gaining access to them. In the current context, airlines are therefore likely to deem it in their commercial interests to continue operating flights to maintain their slots, even if planes have very few passengers or are empty.

3.10 In March 2020, the Commission [published a proposal](#) to waive the 80:20 rule for a set period, in response to the ongoing impacts of the Covid-19 outbreak on the aviation industry. This involved amending the Regulation to instruct airport coordinators, when determining whether airlines are entitled to maintain their slots for the upcoming season under the 80:20 rule, to consider slots as having been operated, whether or not they were actually used. The proposal was adopted as [Regulation \(EU\) 2020/459](#) on 30 March 2020 and applied to all flights during the period of 1 March to 24 October 2020.

3.11 To qualify for the waiver, airlines must release any unused slots back to the coordinator, so that they can be reallocated to other airlines if requested. If reallocated in that way, those airlines taking up the slots would have only ‘ad hoc’ rights to them; that is, they would be permitted to them for that season only and could not qualify to maintain rights to them indefinitely under the 80:20 rule. The new Regulation also included provision to give the Commission itself the power, until 2 April 2021, to extend the period of the waiver by one or more Delegated Acts, where necessary.

3.12 In accordance with the amended Regulation, the Commission was required to present a summary report to the European Parliament and to the Council by 15 September 2020 and, if necessary, to adopt a Delegated Act extending the duration of the waiver. On 14 September 2020, the Commission published the report under scrutiny which concluded that, despite a gradual increase in air traffic levels, they were still low when compared to the same period in 2019, and an extension by Delegated Act was warranted to waive the 80:20 rule beyond 24 October 2020.

3.13 With the downturn in air travel due to the pandemic continuing throughout last year, the Commission [published a new proposal](#) in December 2020 on the continued alleviation of the ‘80:20’ rule for the 2021 summer season. While noting the ongoing uncertainty around levels of demand, the Commission suggested reintroducing the application of the ‘80:20’ rule, albeit at a lower threshold of 40:60. This was amended to 50:50 during interinstitutional negotiations, adopted on 16 February 2021, and now applies to all air carriers using EU airports from 28 March to 30 October 2021.

### ***Document (b)—Proposal for a Regulation on the implementation of the Single European Sky***

3.14 The aforementioned SES Regulations mandate the intergovernmental organisation ‘EUROCONTROL’ to provide support to and coordination of national air traffic management arrangements. The UK is a contracting party to EUROCONTROL and its membership is not impacted by EU exit.

3.15 The document under scrutiny proposes changes to a number of SES regulatory tools. The Commission presents these changes as a response in particular to the increasing delays to air traffic over the last few years due to insufficient airspace capacity across the European ATM system. The changes seek to remove the perceived current inefficiencies in ATM and open a competitive market for some air navigation services, currently provided by national monopoly Air Navigation Service Providers (ANSPs). The proposal would also make a number of changes for the reasons of simplification or duplication to reflect changes to the [EASA Basic Regulation](#) (which have been made since the current SES regulations came into force).

3.16 The proposal updates the previous 2013 SES II+ proposal which received a partial general approach in the EU Council of Ministers in 2014 but then did not progress further. The accompanying Staff Working Document (document (d)) notes that this was due to various reasons, including the disagreement between the UK and Spain over the status of Gibraltar Airport. Gibraltar Airport was subsequently removed from scope ‘In the event the Regulation is adopted before the end of the [post-Brexit] transition period’.

3.17 Whilst the current document pursues the same objectives as the original 2013 SES II+ proposal, in some cases it does so through different means such as adding new roles for the SES Network Manager and changes to the original proposal on how some supporting services should be opened up to competition.

### ***Document (c)—Proposal for a Regulation as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky***

3.18 The proposal under scrutiny would amend the EASA Basic Regulation ([Regulation \(EU\) 2018/1139](#)) to establish an economic regulator for air navigation services within EASA. In this capacity, EASA would act as the Performance Review Body of the Single European Sky. EASA would be expanding its regulatory functions beyond its current safety role.

### ***Document (d)—A fresh look at the Single European Sky***

3.19 Finally, the report and two proposals are accompanied by the Commission Staff Working Document “A fresh look at the Single European Sky”.

3.20 In the document, the Commission notes that its proposals come as the sharp drop in air traffic caused by the Covid-19 pandemic calls for increased resilience of air traffic management, by making it easier to adapt traffic capacities to demand. The Commission also notes the recent publication of the European Green Deal, with its objectives for the



reduction of transport emissions. The Green Deal sets out the Commission’s view that work on adopting the proposal on a truly Single European Sky would need to restart, as this would help achieve significant reductions in aviation emissions.

## The Government’s position

3.21 Parliamentary Under-Secretary of State at the Department for Transport, Robert Courts MP, wrote to us by separate Explanatory Memoranda (EM) on [29 September 2020](#) on document (a) and on [7 October 2020](#) on documents (b), (c) and (d). His EMs outline the Government’s position on the documents and flag any potential implications for the UK that flow from them.

### *Document (a)—Report on common rules for the allocation of slots at Community airports*

3.22 The Government broadly views the 80:20 rule as beneficial under ordinary circumstances, because it helps to encourage efficient use of scarce airport capacity whilst allowing airlines a degree of flexibility in their operations. The Minister states that the rule would see slots returned to the pool for reallocation if not efficiently utilised, which would enable airlines to enter and grow at busy airports, which can help increase competition and bring consumer benefits. The Minister notes that slots are such a scarce resource that airlines would have no certainty they could regain them if lost, which means an airline could lose its competitive position; and in the United Kingdom, slots are permitted to be traded between airlines on a secondary market. The Minister states that slots, therefore, have significant competitive, operational and financial value to the airlines who hold them and that without the extended waiver proposed by the Commission, the current scenario—where the impact of the Covid-19 pandemic has resulted in a continued decline of passenger numbers and bookings—poses very challenging commercial decisions for airlines on whether to bear the costs of operating near-empty aircraft, or risk losing their slots.

3.23 The Government recognises that current circumstances continue to be exceptional, considering the continued drop in demand, worldwide travel restrictions, and uncertain depth and duration of those impacts. Departmental analysis suggests that demand is likely to remain significantly below pre-Covid-19 levels during the winter 2020/2021 season, particularly given the re-emergence of Covid-19 in several European countries. The Government therefore believes extended alleviation from the 80:20 rule is an appropriate and proportionate response; and supports both the Commission’s proposal to waive the rule until March 2021 and the consideration of conditions to mitigate perverse incentives and to balance the needs of airlines and airports. The Minister states that this measure is important to provide legal certainty to airlines that they will be able to retain their slots even if not operated, which better enables airlines to cancel flights where it is financially preferable for them to do so; and in turn helps support the airline sector through a deeply commercially challenging period. The Minister also notes that ensuring that airlines maintain access to their slots should further assist the sector in recovering from the shock of the Covid-19 outbreak, because it means they can replan and rebuild their networks and schedules with certainty, allowing them to respond more quickly as demand improves. The Government also supports the measure as a means to reduce any unnecessary aviation emissions associated with operating empty or near-empty aircraft.

3.24 The Government states that it previously advised that any decision by the Commission to extend the period of the waiver would be based on figures published by the EU Network Manager at EUROCONTROL: demonstrating that the reduction in the level of air traffic is persisting in comparison to the level in the corresponding period in the previous year and is likely to continue; and on the basis of the best available scientific data that this situation is the result of the impact of the Covid-19 outbreak. The Minister notes that the latest data from the Commission does clearly show that, although there has been a gradual increase, there is still a continued reduction in air traffic in comparison to levels from the previous year, and that the data also highlights a correlation between the reduction in air traffic levels and the Covid-19 pandemic.

***Document (b)—Proposal for a Regulation on the implementation of the Single European Sky***

3.25 The Government notes that the UK’s future relationship with SES and EASA was a matter for the negotiations with the EU on the Trade and Cooperation Agreement but the Minister’s EM is clear that the UK would not seek to align with EU rules. As such, the Government does not expect that these proposals will apply directly to the UK in the event of them being adopted by the EU.

3.26 In its EM, the Government does state, however, that there are a limited number of areas of continued interest to the UK, as the proposals would have impacts on the wider European ATM network, of which the UK has remained a part following the completion of the post-Brexit transition period. The Minister notes that while the proposals recognise that the aim is to improve the efficiency of ATM in European airspace, rather than EU airspace specifically, the UK Government will want to ensure that third countries are able to continue contributing towards work relating to the SES.

3.27 The Government flags three specific areas that it will continue to monitor following completion of the post-Brexit transition period:

- EUROCONTROL—EUROCONTROL currently acts as the SES Network Manager and is regulated by EU law where it provides services to EU Member States. The UK is a contracting party to EUROCONTROL in its own right and will be able to continue to receive its services following completion of the post-Brexit transition period. These services are important to ensure the safe and efficient flow of air traffic through UK airspace. The Commission is proposing a number of new roles for EUROCONTROL as the Network Manager.
- Firstly, EUROCONTROL would be given the role of airspace and capacity manager with powers to hold Air Navigation Service Providers (ANSPs) to deliver certain agreed airspace capacity and take corrective measures if they do not.
- Secondly, EUROCONTROL is proposed to act as the ATM infrastructure manager and oversee the deployment of new technology. The Government can see benefits in EUROCONTROL taking on these roles given its wider membership beyond the EU, and it is likely to help reduce the risk of delays to air traffic. However, the Minister states that the Government will want to



understand in more detail how these new roles will be delivered and how they will affect non-EU ANSPs within EUROCONTROL and whether there are any potential budgetary impacts for the UK as a contributor.

- Market conditions for air navigation services—the Commission is seeking to encourage greater competition for some supporting air navigation services such as provision of data and weather information. The Government is supportive of liberalising this market, however, the current proposal is restricted to providers who have their principal place of business in the EU and have more than 50% ownership by EU Member States or their nationals. This could prevent the UK entering this new market. The Government would like to explore with the Commission and EU Member States the possibility of expanding the opportunity to tender to all European countries.
- Functional Airspace Blocks (FABs)—the proposed amendments to the SES Regulations would remove the legal requirement for EU Member States to participate in a FAB. These are collaborative arrangements between countries with contiguous airspace to improve the efficiency of their collective air navigation services. This proposal states that Member States may continue with FABs where they are beneficial. The Government welcomes this development as the UK has a FAB with the Republic of Ireland and this proposal will leave it to the two countries to decide together on the future operation of their shared FAB.

***Document (c)—Proposal for a Regulation as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky***

3.28 Following completion of the post-Brexit transition period, the UK no longer participates in the SES and the Commission’s proposal for a Regulation regarding the capacity of the European Union Aviation Safety Agency to act as a Performance Review Body for SES will not apply to the UK. As such, the Government does not outline an official position on the document in its EM.

***Document (d)—A fresh look at the Single European Sky***

3.29 Following completion of the post-Brexit transition period, the UK no longer participates in the SES and the Commission’s proposals for updated rules on the implementation of SES and regarding the capacity of the European Union Aviation Safety Agency to act as a Performance Review Body for SES will not apply to the UK. Furthermore, the Commission Staff Working Document contains no legislative proposals. As such, the Government does not outline an official position on the document in its EM.

**Potential implications for the UK**

3.30 In its EM, the Government states that the Slot Allocation Regulation continued to apply to the UK throughout the post-Brexit transition period and would become retained EU law on 1 January 2021. The same is not true, however, of the Commission’s latest update to the allocation of airport slots [published in December 2020](#). As the proposals

were not adopted into EU law and published in the EU’s Official Journal by 31 December 2020, they did not become retained EU law in the UK and, accordingly, the UK is not bound by their provisions.

3.31 Following completion of the post-Brexit transition period, the UK no longer participates in the SES and, as such, will not be bound by provisions outlined in the Commission’s proposed Regulation. That said, the Government has flagged three areas that it will continue to monitor as it develops its own policy in the aviation field, all of which could have potential implications for the UK:

- EUROCONTROL—The Commission is proposing a number of new oversight roles for EUROCONTROL as Network Manager of the SES. Despite no longer being an EU Member State, the UK continues to be a contractor of EURCONTROL in its own right and, as such, should be able to continue to receive its services that help ensure the safe and efficient flow of air traffic through UK airspace. It is not clear how the Government will ensure this and how it relates to wider aviation services and aviation safety provisions detailed in the UK/EU Trade and Cooperation Agreement (TCA).
- Market conditions for air navigation services—the Commission is seeking to encourage greater competition for some supporting air navigations services such as provision of data and weather information, and while the Government is supportive of liberalising this market, the current proposal is restricted to providers who have their principal place of business in the EU and have more than 50% ownership by EU Member States or their nationals. This could prevent UK businesses entering this new market and it is not clear if the Government intends to explore with the Commission and EU Member States the possibility of expanding the opportunity to tender to all European countries.
- Functional Airspace Blocks (FABs)—the proposed amendments to the SES Regulations would remove the legal requirement for EU Member States to participate in a FAB, which are collaborative arrangements between countries with contiguous airspace to improve the efficiency of their collective air navigations services. This proposal states, however, that Member States may continue with FABs where they are beneficial. The Government has not been clear on how discussions regarding the future operation of the UK/Ireland FAB are progressing.

## Action

3.32 We have written to the Minister (Robert Courts MP, Department for Transport).

3.33 We have drawn this Report chapter to the attention of the Northern Ireland Affairs Committee, the Scottish Affairs Committee, the Transport Committee and the Welsh Affairs Committee.

## ***Letter to the Minister at the Department for Transport (Robert Courts MP)***

The Committee has asked me to thank you for your Explanatory Memoranda (EM) on the above listed documents.

Following the end of the post-Brexit transition period—as per the UK/EU Withdrawal Agreement—and the subsequent entering into force of the UK/EU Trade and Cooperation Agreement (TCA), the Committee would appreciate it if you could provide further information on the following points.

### **Airport Slot Allocation**

- Following competition of the post-Brexit transition period, the UK is no longer bound by the EU’s rules on airport slot allocation including with respect to waivers granted as a result of the Covid-19 pandemic. While the Government matched the EU by extending a waiver on UK airports for the 2021 summer season, could you please provide us with further information on the Government’s current plans for the potential further waiving of airport slot allocations in advance of the 2021 winter season?

### **Single European Sky**

- **EUROCONTROL**—The Commission is proposing a number of new oversight roles for EUROCONTROL as Network Manager of the SES. Despite no longer being an EU Member State, the UK continues to be a contractor of EUROCONTROL in its own right and, as such, should be able to continue to receive its services that help ensure the safe and efficient flow of air traffic through UK airspace. Could you please provide us with further information on how the Government will ensure that this is the case and outline how doing so relates to wider aviation services and aviation safety provisions detailed in the UK/EU Trade and Cooperation Agreement (TCA)?
- **Market conditions for air navigation services**—the Commission is seeking to encourage greater competition for some supporting air navigation services such as provision of data and weather information, and while the Government is supportive of liberalising this market, the current proposal is restricted to providers who have their principal place of business in the EU and have more than 50% ownership by EU Member States or their nationals. This could prevent the UK entering this new market. Could you please provide us with further information on how the Government intends to explore with the Commission and individual EU Member States the possibility of expanding the opportunity to tender to all European countries?
- **Functional Airspace Blocks (FABs)**—the proposed amendments to the SES Regulations would remove the legal requirement for EU Member States to participate in a FAB but still allow Member States to continue with FABs where they are beneficial. Given that the UK shares a FAB with the Republic of Ireland, could you please provide us with further information on how discussions between the Government and counterparts in Ireland are progressing regarding the future operation of the UK/Republic of Ireland FAB?

We request a response to this letter by the end of August.

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

---

### Department for Business, Energy and Industrial Strategy

41851 Commission Regulation (EU) 2021/850 of 26 May 2021 amending and correcting Annex II and amending Annexes III, IV and VI to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products.  
—  
—

### Department of Health and Social Care

(41858) Commission Delegated Regulation (EU) .../... of 24.3.2021 amending Regulation (EC) No 1234/2008 concerning the examination of variations to the terms of marketing authorisations for medicinal products for human use and veterinary medicinal products.  
—  
—

### Department for Transport

(41862) Commission Delegated Regulation (EU) .../... of 4.6.2021 amending Delegated Regulation (EU) 2017/654 supplementing Regulation (EU) 9534/21 2016/1628 of the European Parliament and of the Council with regard to the acceptance of approvals granted in accordance with Regulations Nos + ADD 1 49 and 96 of the Economic Commission for Europe of the United Nations (UNECE).  
—

(41863) Commission Delegated Regulation (EU) .../... of 20.5.2021 amending Annex X to Regulation (EU) 2018/858 of the European Parliament and of the Council as regards the standardised access to vehicle on-board diagnostics information and repair and maintenance information, and the requirements and procedures for access to vehicle security information.  
8978/21  
+ ADD 1  
C(21) 3377

### Department for Work and Pensions

(41270) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards the resources for the specific allocation for the Youth Employment Initiative + Annex.  
8275/20

+ ADD 1  
COM(20) 206

(41419) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Youth Employment Support: a Bridge to Jobs for the Next Generation.  
9364/20  
COM(20) 276

# 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)

**Environment, Food and Rural Affairs Committee:** Northern Ireland Protocol: Feeding animal protein to animals [Commission Regulation (SC)]; Fisheries Control [Proposed Regulation (SNC)]

**Northern Ireland Affairs Committee:** Northern Ireland Protocol: Feeding animal protein to animals [Commission Regulation (SC)]; Fisheries Control [Proposed Regulation (SNC)]

**Scottish Affairs Committee:** Northern Ireland Protocol: Feeding animal protein to animals [Commission Regulation (SC)]; Fisheries Control [Proposed Regulation (SNC)]

**Transport Committee:** Airport Slot Allocation and Single European Sky [(a) Commission Report, (b)(c) Proposed Regulations, (d) Staff Working Document (SNC)]

# Formal Minutes

---

## Wednesday 19 July 2020

Virtual meeting

Members present:

Sir William Cash, in the Chair

Jon Cruddas

Richard Drax

Margaret Ferrier

Mr Marcus Fysh

Mr David Jones

Marco Longhi

Craig Mackinlay

Anne Marie Morris

## 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.

Paragraphs 1.1 to 4 agreed to.

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

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

## Adjournment

Adjourned till Wednesday 8 September 2021 at 1.45 pm

## 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](http://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*)