



House of Commons
European Scrutiny Committee

**Tenth Report of Session
2021–22**

Documents considered by the Committee on 20 October 2021

Report, together with formal minutes

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Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee) *
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the [parliamentary website](#). Documents awaiting consideration by the Committee are listed in "Remaining Business": www.parliament.uk/escom. The website also contains the Committee's Reports.

*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: <http://europeanmemoranda.cabinetoffice.gov.uk/>.

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1 EU Climate Change Policy¹

This EU document is politically important because:

- the EU’s revised Emissions Trading System (EU ETS) will apply, in part, to Northern Ireland;
- the Government has queried the extent to which revenue received by the UK Government from auctioning allowances under the EU ETS in Northern Ireland will have to be spent on climate-related measures;
- it links to mutual commitments in the area of climate change under the UK-EU Trade and Cooperation Agreement and so provides an opportunity to check with the Government how those are being discharged; and
- the whole package of measures is strategically important for the UK both in advance of its Presidency of the COP 26 international climate negotiations in Glasgow from 31 October until 12 November and with a view to informing the UK’s own policies.

Action

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

Overview

1.1 The world will gather in Glasgow from 31 October until 12 November to agree new commitments to tackle climate change. In advance of the “COP 26” meeting in Glasgow, the European Commission [published](#) a wide-ranging set of proposals fleshing out its policies on delivering a minimum 55% greenhouse gas emissions reduction by 2030 compared to 1990 levels and with a view to achieving net zero emissions² by 2050. The package involves a mixture of regulation, carbon pricing changes and innovation incentives. It affects heavy industry, transport, households and the energy system as well as attempting to level the global level playing field in climate regulation. On 19 October 2021, the UK Government announced its own set of policies to deliver net zero by 2050.³

1.2 All of the initiatives proposed by the Commission are directly or indirectly relevant to the UK to different degrees but those of greatest direct relevance are those to amend the Emissions Trading System, to introduce a new Carbon Border Adjustment Mechanism

1 Proposal for a Directive, amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport; Council and COM number: [10875/21](#) + ADDs 1–7, COM(21) 551; Legal base: Article 192 TFEU, QMV, ordinary legislative procedure; Department: Business, Energy and Industrial Strategy; Devolved Administrations: Consulted; ESC number: 41886.

2 The amount of greenhouse gases emitted is balanced out by removal of an equivalent amount.

3 [“Net Zero Strategy: Build Back Greener”](#), UK Government, October 2021.

(CBAM)⁴ and to amend the Energy Taxation Directive (ETD).⁵ We have already [considered](#)⁶ the ETD proposal and will soon be considering the CBAM proposal. Some of the proposed changes to the Renewable Energy Directive⁷ are also of direct relevance to the UK as they promote the development of offshore renewable energy across the EU, including the North Sea.

EU Emissions Trading System (ETS)

1.3 The EU ETS sets a cap on the total amount of certain greenhouse gases that can be emitted by installations covered by the system. This cap is then reduced over time, so that total emissions fall. The limit on the total number of allowances available ensures that they have a value (“carbon price”). Within the cap, participants buy or receive emissions allowances, which they can trade with one another as needed. At the end of each reporting year, participants are required to surrender emissions allowances for every tonne of carbon dioxide (CO₂) equivalent⁸ they have emitted, to meet their EU ETS obligations.

1.4 Sectors currently covered by the EU ETS include electricity generation; energy-intensive industries; and aviation. Together, the sectors covered by the EU ETS currently account for around 41% of EU emissions. The changes proposed to the ETS are at the heart of the whole package as other elements flow from those changes.

1.5 The Commission’s proposals to amend the EU ETS Directive consist of the following:

- increase the environmental ambition of the scheme to achieve an overall emissions reduction of sectors under the EU ETS of 61% by 2030 compared to 2005, to be delivered by an annual reduction in the cap of 4.2% from 2021, rather than the current 2.2%;
- expanding the scope of the EU ETS to maritime transport from 2023, encompassing intra-EEA (European Economic Area) voyages and 50% of emissions from third-country voyages (including the UK) arriving in and departing from the EEA;
- introducing a new separate ETS for emissions from buildings and road transport from 2025, with some of the impact on households to be recompensed by a Social Climate Fund, funded in part by revenues generated from the new ETS and expected to amount to €72.2 billion over the period 2025–32;
- Member States to use 100% of revenue raised from auctioning carbon allowances for climate-related purposes, up from the current requirement to spend at least 50% of auction revenue on those objectives;

4 [COM\(21\) 564](#) Proposal for a Regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism

5 [COM\(21\) 563](#) Proposal for a Council Directive restructuring the Union framework for the taxation of energy products and electricity,

6 Eighth Report, HC 121–viii (2021–22), [chapter 3](#) (22 September 2021).

7 [COM\(21\) 557](#) Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2018/2001 of the European Parliament and of the Council, Regulation (EU) 2018/1999 of the European Parliament and of the Council and Directive 98/70/EC of the European Parliament and of the Council as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652

8 A measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

- increase the size of the Innovation Fund—which supports innovation in lower carbon technologies and processes—and add new projects to the Fund’s eligibility criteria, including carbon contracts for difference;⁹
- use 2.5% of the EU ETS cap to increase the size of the Modernisation Fund, which supports energy transition and power sector decarbonisation in lower income Member States;
- make free allocation to industrial sectors conditional on efforts to decarbonise, with a review planned for the benchmark values used to calculate the number of free allowances issued to participants;
- progressively reduce free allocation in the aviation sector, with the aim of stopping free allocation to aviation operators by the end of 2026; and
- phase-out free allocation to the industrial sectors covered by the Carbon Border Adjustment Mechanism that still benefit from free allocation (steel, iron, cement, certain fertilisers and aluminium) over a ten-year period starting from 2026.

1.6 Amendments have also been proposed to the Market Stability Reserve (MSR), which was introduced to address structural supply and demand imbalances in the EU ETS. The MSR works by withdrawing and returning allowances to the market when market supply is above and below specified thresholds, to protect the integrity of the system. The Commission’s proposed changes would ensure that the MSR operates on a path consistent with the EU’s climate targets.

1.7 Finally, the Commission has proposed changes to the Regulation on Monitoring Reporting and Verification (MRV) to facilitate plans to expand the EU ETS to cover emissions from maritime activities.

Remaining proposals of interest to the UK

1.8 We explored the significance of the Energy Taxation Directive proposal in our Report of 22 September 2021 and we will return in due course to the proposed Carbon Border Adjustment Mechanism.

1.9 The remaining proposals from the Commission’s package of measures are all of immediate interest to the UK strategically in support of the UK’s presidency of the international climate negotiations in Glasgow beginning on 31 October. Substantive, wide-ranging proposals from a relatively heavy emitter demonstrate intent that may be helpful in securing the support of other countries for an ambitious outcome in Glasgow.

1.10 At a policy level, though, they may also inspire—or at least inform—UK policy. Of direct relevance is the proposed revision to the Renewable Energy Directive, where the Commission is placing an obligation on Member States to cooperate in the development of offshore renewable energy around the respective sea basins, including the North Sea. As the UK and EU agreed in the UK-EU Trade and Cooperation Agreement to cooperate in the development of offshore renewable energy, the UK Government will no doubt be interested to see this additional impetus incorporated into the EU’s legislation. The

⁹ Carbon contracts for difference guarantee investors in innovative climate-friendly technologies and practices a fixed price that rewards CO₂ emission reductions above the current price levels in the EU ETS.

EU and UK commitment to that cooperation was re-affirmed at the first meeting of the [Specialised Committee on Energy](#),¹⁰ a forum for EU and UK officials to discuss further cooperation in energy, on 14 July 2021.

Cars and vans

1.11 The Commission has proposed¹¹ a zero-emissions target for cars and vans sold beyond 2035 (including “plug-in hybrid” cars), with a 55% target for cars by 2030 and 50% target for vans. The new emissions target is supported by requirements¹² on Member States to install charging and fuelling points at regular intervals on major highways: every 60 kilometres for electric charging and every 150 kilometres for hydrogen refuelling.

Aviation

1.12 The EU ETS proposal gradually reduces free allowances for the aviation sector. A separate draft Regulation¹³ on sustainable air transport includes an initial blending target that at least 2% of aviation fuel available at EU airports should consist of sustainable aviation fuel (SAF) from 2025, increasing to 5% from 2030, including at least 4.3% advanced biofuels and 0.7% e-kerosene.¹⁴ By 2050, aviation fuel should consist of at least 63% SAF, including at least 28% e-kerosene. While aircraft technology may evolve to suit other fuels, these fuels have the advantage of being able to blend with standard kerosene already.

Shipping

1.13 As well as adding shipping to the EU ETS, and relevant provisions in the Energy Taxation Directive, the Commission also proposed a new technology-neutral Regulation¹⁵ on the use of renewable and low-carbon fuels in the maritime sector. It requires reductions in the greenhouse gas intensity of the fuels used on-board large vessels from a 2% reduction by 2025 to a 75% reduction by 2050, with 2020 as the reference year. The energy reduction obligation would apply to 50% of the energy used on a voyage between a Member State and a third country.

Agriculture and forests

1.14 The Commission sees the forestry and land use sector playing an important role, as a carbon sink, in delivering the overall objective of carbon neutrality by 2050 and wants the combined land sector to be carbon neutral by 2035, thus balancing all greenhouse gas emissions from land use, forestry and agriculture (fertilisers, livestock) with removals. It

10 Specialised Committee on Energy—Minute of the Meeting 14 July 2021

11 [COM\(21\) 556](#) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2019/631 as regards strengthening the CO₂ emission performance standards for new passenger cars and new light commercial vehicles in line with the Union’s increased climate ambition

12 [COM\(21\) 559](#) Proposal for a Regulation of the European Parliament and of the Council on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU of the European Parliament and of the Council

13 [COM\(21\) 561](#) Proposal for a Regulation of the European Parliament and of the Council on ensuring a level playing field for sustainable air transport

14 E-kerosene—also known as “synthetic aviation fuel”—is created by combining hydrogen (ideally produced using renewable energy) and carbon dioxide (CO₂).

15 [COM\(21\) 562](#) Proposal for a Regulation of the European Parliament and of the Council on the use of renewable and low-carbon fuels in maritime transport and amending Directive 2009/16/EC

proposes¹⁶ a new target for net removal of 310 million tonnes of CO₂ equivalent by 2030, a 15% increase compared to the targets currently in place. From 2031, non-CO₂ greenhouse gas emissions from agriculture (i.e. methane and nitrous dioxide) will be included in the scope of the Land Use, Land Use Change and Forestry (LULUCF) Regulation. A target of 3 billion new trees by 2030 is suggested.

Renewable energy

1.15 The Commission has proposed to increase the EU renewable energy target to 40 per cent of the total energy mix by 2030, compared with a current target of 32 per cent. It also sets the target of having renewables account for 49 percent of the energy used in buildings by 2030. Member States will need to increase the share of renewable energy used in heating or cooling buildings by 1.1% each year, with a 2.1% per annum target for the use of renewable energy in district heating and cooling.

1.16 Directly relevant to the UK is new language requiring Member State action to boost offshore renewable energy. Member States bordering a sea basin will have to cooperate to jointly define the amount of offshore renewable energy they plan to produce in that sea basin by 2050, with intermediate steps in 2030 and 2040. They shall take into account the specificities and development in each region, the offshore renewable potential of the sea basin and the importance of ensuring the associated integrated grid planning.

1.17 The Commission has proposed amendments to the sustainability criteria for the use of bioenergy and a prohibition of sourcing of woody biomass for energy production from primary forests, peatlands and wetlands.

Energy efficiency

1.18 The Commission has proposed¹⁷ increased energy efficiency targets (39% for primary energy consumption and 36% for final energy consumption), with indicative Member State targets towards EU-level target. Member States will be required to renovate at least 3% of the total floor area of all public buildings annually and to reduce energy use in the public sector by 1.7% every year.

UK Government position

1.19 The then Minister of State for Energy, Clean Growth and Climate Change (Rt Hon. Anne-Marie Trevelyan MP) noted in her [Explanatory Memorandum](#) that the UK Emissions Trading Scheme (ETS) came into force on 1 January 2021, replacing the UK's participation in the EU ETS. The UK ETS covers greenhouse gas emissions from electricity generation, heat generation, industry and aviation.

1.20 The Minister went on to explain that Article 9 and Annex 4 of the Northern Ireland Protocol help to maintain the continued operation of the Single Electricity Market by providing for electricity generators in Northern Ireland to continue to participate in the

16 [COM\(21\) 554](#) Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2018/841 as regards the scope, simplifying the compliance rules, setting out the targets of the Member States for 2030 and committing to the collective achievement of climate neutrality by 2035 in the land use, forestry and agriculture sector, and (EU) 2018/1999 as regards improvement in monitoring, reporting, tracking of progress and review

17 [COM\(21\) 558](#) Proposal for a Directive of the European Parliament and of the Council on energy efficiency

EU ETS after the Transition Period. There are five electricity generating installations in Northern Ireland which continue to participate in the EU ETS under the terms of the Northern Ireland Protocol.

1.21 The Minister considered that some of the proposed changes to the EU ETS would have implications for the continued participation of Northern Ireland electricity generators in the EU ETS. These implications either concern how the electricity generators will participate in the EU ETS; or affect the governance of how revenues raised from the share of EU ETS allowances auctioned in respect of Northern Ireland should be used. They are explored below.

1.22 First, the Minister drew attention to the proposed changes to the size and scope of the Innovation Fund, noting that projects in Northern Ireland are eligible to apply to future calls for the EU ETS Innovation Fund, for any projects concerning the generation, transmission, distribution, and supply of electricity (and as long as they are in line with the general eligibility criteria and conditions for all projects under the EU Innovation Fund). There were no NI applications to the Innovation Fund in the first call for funding which closed in October 2020.

1.23 A second important issue is the proposal for 100% (up from 50%) of EU ETS auction revenue to be spent on climate-related measures. At the moment, the revenues from EU ETS auctions of allowances in respect of Northern Ireland are allocated to the UK Government's consolidated fund. The Minister said that the proposed change may apply to Northern Ireland's share of allowances auctioned in the EU ETS.

1.24 Third, the Commission has proposed that, if an installation's installed capacity falls below the EU ETS participation threshold as a result of reducing the total capacity of their combustion units to reduce greenhouse gas emissions, they should remain in the system until the end of a five-year participation period rather than immediately exiting the system. The rationale for this approach is that maintaining innovative installations in the EU ETS would encourage greater emission reductions. This would apply to the electricity generators in NI if their total capacity were to reduce below the EU ETS participation threshold.

1.25 Fourth, a number of the proposed changes could indirectly impact the revenue raised from the share of allowances auctioned in respect of Northern Ireland. Those changes are: the progressive tightening of the overall cap on allowances; the higher proportion of allowances destined for auction to support the Modernisation Fund; and the adjustments to the Market Stability Reserve.

1.26 Finally, the Minister noted that the UK-EU Trade and Cooperation Agreement includes carbon pricing obligations. The TCA prescribes that the UK and EU should implement effective systems of carbon pricing from 1 January 2021, covering greenhouse gas emissions from electricity generation, heat generation, industry and aviation. There is also a requirement to cooperate on carbon pricing, including by giving serious consideration to linking the Parties' respective carbon pricing systems in a way that would increase their effectiveness and preserve their integrity.

1.27 The UK ETS is similar in design to the EU ETS, said the Minister, and currently covers the same sectors. The Government was exploring expanding the UK ETS to other sectors of the economy and the Government would set out its aspirations to lead the world on carbon pricing in the run up to the UN Climate Change Conference (COP26).

Our assessment

1.28 The then Minister's assessment of the implications of the EU ETS proposal for Northern Ireland was very helpful. We note some uncertainty as to whether Northern Ireland would be required to spend all of its funding derived from auctioning allowances on climate-related activities and will ask her successor to explain why the provision would not apply to Northern Ireland, were it to be included in the final text of the Directive.

1.29 We also noted with interest the Government's intention to set out its aspirations to lead the world on carbon pricing and the Government's consideration of expanding the scope of the UK ETS. We commend the Government for its ambitious aspirations, which are very important as the Government prepares to preside over the COP 26 climate negotiations. We note that the Government's recent Net Zero Strategy did not shed any further light on the Government's plans for the UK ETS and so we look forward to seeing further details of the Government's plans in due course. We will be interested to see the extent to which the UK's approach differs from that of the EU.

1.30 The then Minister drew attention to some of the climate-related commitments agreed in the UK-EU Trade and Cooperation Agreement, including a requirement to cooperate on carbon pricing, including by giving serious consideration to linking the Parties' respective carbon pricing systems in a way that would increase their effectiveness and preserve their integrity. We will ask her successor to update us on the nature of the cooperation that has taken place to date on carbon pricing and the progress made on linking the carbon pricing systems.

1.31 Over the last few months, several of the Specialised Committees established under the TCA have begun to meet. These are occasions for EU and UK officials to meet to discuss cooperation on a range of issues. The first meeting of the Trade Specialised Committee on the Level Playing Field met on 12 October and considered—among a number of issues—the UK's "climate agenda" and the EU's package of energy and climate proposals. We will also ask the Minister's successor to indicate whether there was any discussion about the respective EU and UK approaches.

1.32 More generally, we note that the Commission has presented a coherent package of policy measures, which we expect to at least inform UK policy. Bearing in mind the links between the ETS proposal and the rest of the package, we will request a view from the Government on the overall package, asking the Minister to identify any issues of particular interest to the UK. We note, in particular, the Commission's proposal that Member States be obliged to cooperate in the development of offshore renewable energy. We also see direct relevance to the UK of the Commission's proposals on aviation and shipping emissions given that they will apply, at least in part, to journeys between the UK and the EU.

Action

1.33 We have written to the Minister as set out below.

1.34 We report this document to the House as politically important and draw it to the attention of the Business, Energy and Industrial Strategy Committee and the Environmental Audit Committee.

Letter from the Chair to Rt Hon. Greg Hands MP (Minister for Business, Energy and Clean Growth)

We considered your predecessor’s Explanatory Memorandum (EM) on the above document at our meeting of 20 October 2021.

The proposal to revise the Emissions Trading System forms part of a wider package of proposals tabled by the Commission. We have separately considered the proposed changes to the Energy Taxation Directive and will consider the proposed Carbon Border Adjustment Mechanism (CBAM) in due course. For that reason, we are not pursuing outstanding matters on the CBAM with you in this letter even though the proposal was mentioned in your predecessor’s EM. The EM raised a number of outstanding issues, which we explore below.

We noted some uncertainty as to whether Northern Ireland would be required to spend all of its funding derived from auctioning allowances on climate-related activities. Why would the provision not apply to Northern Ireland, were it to be included in the final text of the Directive?

We also noted with interest the Government’s intention to set out its aspirations to lead the world on carbon pricing and the Government’s consideration of expanding the scope of the UK ETS. We commend the Government for its ambitious aspirations, which are very important as the Government prepares to preside over the COP 26 climate negotiations. While we acknowledge the Government’s recent Net Zero Strategy, we note that it did not set out any further detail on the Government’s plans for the UK ETS. We therefore look forward to seeing further details of the Government’s intentions in due course. We will be interested to see the extent to which the UK’s approach differs from that of the EU.

Given the climate-related commitments in the UK-EU Trade and Cooperation Agreement, we ask you to update us on the nature of the cooperation that has taken place to date on carbon pricing and the progress made on linking the carbon pricing systems.

We are aware that, over the last few months, several of the Specialised Committees established under the TCA have begun to meet. We noted that the first meeting of the Trade Specialised Committee on the Level Playing Field met on 12 October and considered—among a number of issues—the UK’s “climate agenda” and the EU’s package of energy and climate proposals. Was there any discussion about the respective EU and UK approaches and, if so, we ask that you signal the respective areas of interest.

Finally, it is of course the case that the Commission has presented a coherent package of policy measures, which are linked in some respects to the ETS proposal and which we expect to at least inform UK policy. We ask that you share with us your view on the overall package—other than the Energy Taxation Directive and Carbon Border Adjustment

Mechanism—and identify issues of particular interest to the UK, such as new language requiring Member State action to boost offshore renewable energy and the Commission’s approach to aviation and shipping emissions. The latter may directly affect the UK where the EU’s measures apply to journeys between the UK and the EU.

We look forward to a response to our queries by 24 November 2021.

2 Airport Slot Allocation and Single European Sky¹⁸

These EU documents are politically important because:

- they offer a timely update on 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’—something that the Government has committed to monitor as it coordinates the UK’s own post-Brexit policy in the aviation field.

Action:

- Draw to the attention of the Transport Committee, the Scottish Affairs Committee, the Welsh Affairs Committee and the Northern Ireland Affairs Committee.

Overview

2.1 The proposals under scrutiny were previously considered by the Committee in its Sixth Report of Session 2021–22.¹⁹

2.2 The four documents concern: a waiver to disapply common rules for the allocation of slots at EU ‘Community airports’ in light of the ongoing Covid-19 pandemic (document (a)); and a range of wider measures designed to update legislation relating to the development and functioning of the ‘Single European Sky’ (documents (b), (c) and (d)). The Single European Sky (SES) is a term generally used to describe the EU’s air traffic management (ATM) legislation and policies.

18 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: N/A; 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 number: 11020/20; Legal base: Article 100(2) TFEU; Department: Transport; Devolved Administrations: Consulted; ESC number: 41533.

19 Sixth Report HC 121–vi (2021–22), [chapter 3 \(19 July 2021\)](#).

2.3 When taken together, documents (a)–(d) provide useful information on how the EU is currently coordinating its ATM operations as the Covid-19 pandemic continues and, furthermore, offer an idea of the sorts of measures that the EU intends to introduce in relation to the future operation of the SES.

2.4 In our Sixth Report of Session 2021–22, we considered all four EU documents together, and their content therein, deeming them to be politically important. On [19 July 2021](#), we wrote to the Minister for Aviation, Maritime and Security, at the Department for Transport, Robert Courts MP, requesting further information on certain aspects of the EU’s proposals and on the steps that the Government had taken/was going to take in light of the measures suggested by the Commission following the end of the post-Brexit transition period. Our letter principally focussed on the Government’s plans for the continued ‘waiving’ of airport slot allocation rules in light of the ongoing Covid-19 pandemic and how the Government is constructing the UK’s own post-Brexit aviation policy in relation to the EU’s continued development of its own Single European Sky.

2.5 Following our letter, the Minister replied to us on 31 August 2021 and his response is considered below.²⁰

The Minister’s letter of 31 August 2021

2.6 In our letter of [19 July 2021](#), we noted that, following completion 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, we asked the Minister to provide us with further information on the Government’s plans for the 2021 winter season, in particular, whether further slot waivers would be granted.

2.7 In response, the Minister states that the Government consulted the UK aviation sector from 20 May to 21 June on alleviation options for the 2021 winter season and carefully considered the feedback and data it received. As a result, the Minister confirms that, in order to protect the resilience of the sector against the background of continued uncertainty and travel restrictions both in the UK and abroad, the Government will introduce a package of alleviation measures for the 2021 winter season. These are designed to work together and will:

- Set a minimum usage ratio of 50:50: meaning that airlines are required to use their slots at least 50% of the time to retain their historic rights. This draws on a Worldwide Airport Slots Board recommendation and was supported by most responses to the Government’s consultation.
- Allow ‘full series’ slot ‘hand-backs’ so that airlines can retain their historic rights over series of slots and new entrants can benefit from using these on a temporary or *ad hoc* basis. This measure will apply to traded and leased slots, but not to newly allocated slots. This is to prevent carriers acquiring slots with no intention to operate them, but purely to gain historic rights for future years.

20 [Letter from Robert Courts MP to Sir William Cash MP](#), 31 August 2021.

- Amend the provisions for *force majeure* (justified non-utilisation of slots) to cover Covid-19 related measures, providing a backstop for unforeseen restrictions that are introduced as a result of the pandemic. This will apply where Covid-19 measures (including flight bans, quarantine or self-isolation requirements) are applied at either end of a route, have a severe impact on demand or viability of the route and could not reasonably have been foreseen in time to enable the airlines to hand back the series of slots. There will be a three-week recovery period following the end of restrictions during *which force majeure* may still apply to help airlines and airports plan and respond flexibly to any changes.

2.8 Furthermore, the Minister notes that a draft [Statutory Instrument](#)—giving effect to these changes—was laid before Parliament on 19 July and will be subject to the affirmative procedure. If approved by MPs, the Government’s package of alleviation measures will last for the duration of the 2021 winter season (31 October 2021–26 March 2022).

2.9 Our letter also sought further information from the Government on three issues regarding wider development of the UK’s post-Brexit aviation policy compared to the EU’s Single European Sky.

2.10 The European Commission is proposing a number of new oversight roles for EUROCONTROL—as the Network Manager of the SES—and that despite no longer being an EU Member State, the UK continues to be a contractor of EUROCONTROL in its own right. As such, it should be able to continue to receive EUROCONTROL services that help ensure the safe and efficient flow of air traffic through UK airspace. We asked the Government to provide us with more information on how it will ensure that this continues to be 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.

2.11 In response, the Minister states that EUROCONTROL will continue to play a vital role in the management of geographic European airspace and of helping realise the UK’s objectives for a modernised approach to airspace across the continent. The Minister also confirms that EUROCONTROL’s status and role as an intergovernmental organisation—entirely separate from the EU—ensures continued full UK participation in setting the strategic direction of the organisation and ensuring strong, rigorous and independent governance of its operations. As such, UK stakeholders will retain an equal footing with counterpart representatives of EU stakeholders.

2.12 The Minister also notes that the UK has sought to further strengthen its aviation relationship with the EU by appointing its former representative to the International Civil Aviation Organisation as the UK’s first State Liaison Officer to EUROCONTROL following completion of the post-Brexit transition period. The Minister believes that, in having someone on the ground, the UK can ensure its voice remains strong in discussions on European air traffic management as well as in the future governance of EUROCONTROL. Furthermore, the Minister believes that its continued presence in EUROCONTROL allows the UK to maintain a dialogue on technical issues with the European Commission and the European Union Aviation Safety Agency that arise under the Trade and Cooperation Agreement as well as to get early warning of any new arrangements or issues within the EU that could impact on the efficient operation of the UK’s airspace.

2.13 In our letter to the Minister of 19 July, we also noted that the Commission is seeking to encourage greater competition for some supporting air navigation services such as the provision of data and weather information, and that 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. As such, we sought further information from the Government on how it intends to explore with the EU and individual EU Member States the possibility of expanding the opportunity to tender to non-Member State European countries.

2.14 In response, the Minister notes that there is currently significant resistance among Member States to the whole concept of competition in air navigation services and, as such, it remains to be seen whether and in what form agreement can be found between them and the positions held by the Commission and European Parliament. The Minister states, however, that it is clear that the EU is seeking to adopt measures that make market access for non-EU service providers more challenging. That said, the UK continues to hold discussions in EUROCONTROL's Air Navigations Services Board and regularly emphasises the Government's position that opportunities for competition should be opened to the widest possible field in order to drive the best outcome for the customers of those services.

2.15 In our letter of 19 July, we noted that proposed amendments to the Single European Sky Regulations would remove the legal requirements for EU Member States to participate in a Functional Airspace Block (FAB) but still allow Member States to continue operating FABs where they are deemed beneficial. Given that the UK shares a FAB with the Republic of Ireland, we asked the Government to provide us with further information on how discussions between the Government and counterparts in Ireland are progressing regarding future operation of the UK/Republic of Ireland FAB.

2.16 In response, the Minister confirms that discussions are progressing well between the UK and Ireland's National Supervisory Authorities and that a proposed formal agreement is currently under negotiation by the Civil Aviation Authority and its Irish counterpart. The Minister also notes that operational collaboration between the UK and Ireland's Air Navigation Service Providers remains close and has not been directly impacted by the UK's exit from the EU. For example, discussions on revisions to existing UK-Ireland Air Traffic Management agreements to reflect the new legal and political environment post-Brexit has been progressing successfully at technical level and a proposed agreement between the National Supervisory Authorities in both countries is currently in the final stages of preparation.

Action

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

3 Documents not considered to be legally and/or politically important

Department for Environment, Food and Rural Affairs

(41892) 10990/21 + ADD 1 C(21) 5121	Commission Delegated Regulation (EU) .../... of 14.7.2021 amending Delegated Regulation (EU) 2020/692 supplementing Regulation (EU) 2016/429 of the European Parliament and the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin.
(41893) 10894/21 + ADD 1 C(21) 5168	Commission Delegated Regulation (EU) .../... of 14.7.2021 amending and correcting Delegated Regulation (EU) 2020/688 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council, as regards animal health requirements for movements within the Union of terrestrial animals and hatching eggs.
(41894) — C(21) 5584	Commission Delegated Regulation (EU) .../... of 2.8.2021 amending Implementing Regulation (EU) No 543/2011 as regards marketing standards in the fruit and vegetables sector.
(41898) — C(21) 5866	Commission Delegated Directive (EU) .../... of 11.8.2021 amending, for the purposes of adapting to scientific and technical progress, Annex IV to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of bis(2-ethylhexyl) phthalate (DEHP), butyl benzyl phthalate (BBP), dibutyl phthalate (DBP) and diisobutyl phthalate (DIBP) in spare parts recovered from and used for the repair or refurbishment of medical devices.
(41899) — C(21) 5867	Commission Delegated Directive (EU) .../... of 11.8.2021 amending, for the purposes of adapting to scientific and technical progress, Annex IV to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of bis(2-ethylhexyl) phthalate (DEHP) in plastic components in magnetic resonance imaging (MRI) detector coils.
(41900) — C(21) 5868	Commission Delegated Directive (EU) .../... of 11.8.2021 amending, for the purposes of adapting to scientific and technical progress, Annex IV to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of bis(2-ethylhexyl) phthalate (DEHP) in ion-selective electrodes for analysing human body fluids and/or dialysate fluids.

Food Standards Agency

(41902) — —	Commission Regulation (EU) 2021/1317 of 9 August 2021 amending Regulation (EC) No 1881/2006 as regards maximum levels of lead in certain foodstuffs.
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Annex

Documents drawn to the attention of select committees:

(‘SNC’ indicates that scrutiny (of the document) is not completed; ‘SC’ indicates that scrutiny of the document is completed)

Business, Energy and Industrial Strategy Committee: EU Climate Change Policy [Proposed Directive] [SNC]

Environmental Audit Committee: EU Climate Change Policy [Proposed Directive] [SNC]

Northern Ireland Affairs Committee: Airport Slot Allocation and Single European Sky [SC]

Scottish Affairs Committee: Airport Slot Allocation and Single European Sky [SC]

Transport Committee: Airport Slot Allocation and Single European Sky [SC]

Welsh Affairs Committee: Airport Slot Allocation and Single European Sky [SC]

Formal Minutes

Wednesday 20 October 2021

Members present:

Sir William Cash, in the Chair

Jon Cruddas

Margaret Ferrier

Mr David Jones

Marco Longhi

Craig Mackinlay

Greg Smith

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 3 agreed to.

Resolved, That the Report be the Tenth Report of the Committee to the House.

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

Adjournment

Adjourned till Monday 25 October 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.

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)