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European Scrutiny Committee

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Documents considered by the Committee on 23 February 2022

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 Waste Shipments Regulation¹

This EU document is politically important because:

- the Government has a manifesto commitment to ban the export of plastic waste, a commitment that was recently reiterated as a benefit of Brexit;
- Northern Ireland must maintain alignment with the EU’s Waste Shipments Regulation, and so the measures set out in this legislation—including a new investigatory power for the European Commission—will apply there; and
- the proposed measures will have an impact on businesses in Great Britain that export or import waste to and from the EU.

Action

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

Overview

1.1 The EU and UK are significant players in global trade in waste. Around 67 million tonnes are shipped between EU Member States each year, with a further 32.7 million tonnes exported to non-EU countries in 2020 and 16 million tonnes imported into the EU.² The UK exported a total of 12.58 million tonnes in 2020, of which 2.41 million tonnes was shipped to the EU.³

1.2 The shipment of both hazardous and non-hazardous waste is carefully regulated as it can generate risks for human health and the environment but, at the same time, it can have a positive economic value if sent for re-use or recycling rather than disposal. The European Commission’s recent [proposal](#) to replace the EU’s current Regulation on waste shipments ([Regulation \(EC\) No 1013/2006](#)) is directly relevant to the UK as it will apply in Northern Ireland under the terms of the Northern Ireland Protocol and it will affect waste shipments between the UK and EU.

1.3 The EU’s Waste Shipments Regulation (WSR) applies in EU law the EU’s international commitments under both the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal⁴ and the OECD Control system for

1 Proposal for a Regulation of the European Parliament and of the Council on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056; Council and COM number: [14135/21](#), COM(21) 709; Legal base: Article 192 TFEU, QMV, Ordinary legislative procedure; Department: Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: 41954.

2 Council document [14135/21](#)

3 Information collated from UK Trade Data: <https://www.uktradeinfo.com/>

4 [Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal](#)

waste recovery.⁵ A review of the WSR, published in January 2020, identified a number of shortcomings, such as a continuing problem with illegal shipments of waste and a failure to facilitate shipments of non-hazardous waste for recycling and re-use.⁶

1.4 The Commission’s proposed overhaul of the Regulation seeks to: ensure that the EU does not export its waste challenges to third countries; make it easier to transport waste for recycling and reuse in the EU; and tackle illegal waste shipments.⁷ It includes the following key elements:

- to boost re-use and recovery, a new application process for recovery facilities to achieve pre-consented status allowing approvals to ship waste to these sites to be extended by two years and a requirement for information and documentation to be submitted electronically;
- to restrict further the export of waste to non-OECD countries, the export of non-hazardous waste will only be permitted to those non-OECD countries that have explicitly notified the European Commission of their willingness to receive EU waste for recovery, and which have demonstrated their ability to treat the waste in an environmentally sustainable manner;
- EU companies exporting waste will need to carry out independent audits for their waste exports outside the EU, demonstrating that the facilities treat this waste in an environmentally sustainable manner; and
- a power for the European Commission to undertake investigations into illegal waste shipments, including interviews with relevant individuals.

1.5 The draft Regulation retains the Commission’s ban⁸ on the export of plastic waste to non-OECD countries aside from clean plastic waste destined for recycling. The Commission has separately said⁹ that the EU will spearhead efforts at multilateral, regional and bilateral levels to render global trade in waste more sustainable. The EU, says the Commission, will lead initiatives to this end in multilateral organisations, starting with the UN Environmental Assembly in February 2022 and the Conference of the Parties of the Basel Convention in June 2022. The EU will especially promote the adoption of a new international agreement on plastics, and support actions to reduce pollution from e-waste, used vehicles and textile waste, which pose particular environmental challenges worldwide.

1.6 As set out below, the Government identifies several possible implications for both Northern Ireland specifically and for Great Britain.

5 Organisation for Economic Cooperation and Development, Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations, [OECD/LEGAL/0266](#), 30 March 1992.

6 [Evaluation of Regulation \(EC\) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste](#), European Commission, SWD(2020) 26, 31 January 2020.

7 [Questions and answers on new EU rules on waste shipments](#), European Commission, 17 November 2021.

8 [Plastic waste shipments: new EU rules on importing and exporting plastic waste](#), European Commission, 22 December 2020.

9 [Questions and answers on new EU rules on waste shipments](#), European Commission, 17 November 2021.

UK Government position

1.7 In her [Explanatory Memorandum](#) (EM), the Parliamentary Under-Secretary of State (Jo Churchill MP) notes that the legislation will apply to Northern Ireland under the terms of the Northern Ireland Protocol, although also notes that the EU and UK are currently negotiating changes to the operation of the Protocol. The outcome of that negotiation may affect the extent to which this Regulation applies to Northern Ireland.

1.8 For Northern Ireland, the most significant impact identified is the European Commission’s power to undertake investigations into illegal waste shipments. The Government is seeking to gauge Member State enthusiasm for this suggestion. She adds that there may be additional regulatory costs in Northern Ireland, depending on the outcome of negotiations and the requirements of the final Regulation, but she considers it too early to assess the additional costs at this stage.

1.9 The Minister also notes that businesses in Great Britain (GB) that import or export waste from or to the EU would be impacted by the proposal. In particular, GB facilities wanting to receive EU waste for recycling will have to have been independently audited in order to verify that these facilities are able to manage waste in an environmentally sound manner. GB-based operators, and the GB Competent Authorities for waste shipments, would also have the option of submitting information on waste movements between GB and the EU electronically.

1.10 Government officials are developing a plan to engage with EU Member States to better understand the level of support for the measures in the proposal.

1.11 Finally, the Minister notes that the Environment Act 2021 provides powers for the regulator in Northern Ireland to charge fees to meet costs incurred in exercising functions in connection with the regulation of international waste shipments. UK officials will work closely with officials in the Devolved Administrations to assess potential future costs and whether this would result in differences for businesses in Northern Ireland and Great Britain.

Our assessment

1.12 The Government’s intention to engage with EU Member States on this proposal is welcome and we will request an update on that engagement.

1.13 Waste shipments to and from the UK are similarly highly regulated, primarily through the Waste Shipments Regulation as retained in the UK and subsequently amended.¹⁰ We note that the draft International Waste Shipments (Amendment) (EU Exit) Regulations 2021—establishing regulatory and administrative controls on the movement of waste from GB to Northern Ireland which are necessary to give effect to the NI Protocol—were laid in December 2020 but are yet to be made and enter into force.

10 The International Waste Shipments (Amendment) (EU Exit) Regulations 2019, The International Waste Shipments (Amendment of Regulation (EC) No 1013/2006) Regulations 2020 and The International Waste Shipments (Amendment) (EU Exit) Regulations 2021

1.14 The Government has issued updated guidance¹¹ on the export and import of waste between England and other countries outside the UK. This covers waste for disposal and for recovery. There is a separate document¹² setting out a UK policy on shipments of waste to and from the UK but focused specifically on waste for disposal. We are unaware of any specific plans to review the UK policy aside from specific policy on plastic waste as referenced below. Given that the EU’s assessment of the Regulation’s implementation was undertaken while the UK was a Member State, we will clarify with the Government whether they consider that any of the conclusions of the assessment may be relevant to future UK policy development.

1.15 We note that the EM makes no specific mention of restrictions on the export of plastic waste to non-OECD countries. Most recently, the Government stated in its Paper on ‘The Benefits of Brexit’ that the UK would “go further than the EU on banning the export of plastic waste to non-OECD countries”, with a commitment that “is not limited to just one category of plastic waste like the EU’s ban.”¹³ This reiterates a manifesto commitment. As explained in a recent House of Commons Library briefing paper,¹⁴ the UK did not adopt the EU’s partial ban, although exports of plastic waste to non-OECD countries can only proceed if permitted by regulators at both ends. The Government said in January 2021 that it would consult in due course on its manifesto commitment.¹⁵ We will seek an update from the Government on its plans.

1.16 The Commission’s proposal would strengthen the EU’s partial ban on the export of plastic waste to non-OECD countries by requiring exporting companies to demonstrate that the receiving facilities treat the waste in an environmentally sustainable manner. We will seek the Government’s reflections on whether the EU’s approach strikes the appropriate balance between sustainability and the practicalities of a full ban.

1.17 The Commission has said that it will promote the adoption of a new international agreement on plastics, alongside actions to reduce pollution from e-waste, used vehicles and textile waste, which pose particular environmental challenges worldwide. We will ask the Government whether they plan to work with the EU on these plans at a multilateral level.

Action

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

1.19 We draw the document to the attention of the Environment, Food and Rural Affairs Committee, the Environmental Audit Committee and the Northern Ireland Affairs Committee.

11 [Guidance on Waste: export and import](#), Environment Agency.

12 [UK plan for shipments of waste: UK government policy on shipments of waste for disposal to and from the United Kingdom](#), Department for Environment, Food and Rural Affairs, September 2021.

13 [The Benefits of Brexit: How the UK is taking advantage of leaving the EU](#), HM Government, January 2022.

14 [Plastic Waste](#), House of Commons Library, 11 January 2022.

15 [Defra responds to coverage on plastic waste exports](#), Department for Environment, Food and Rural Affairs, 22 January 2021.

Letter from the Chair to the Parliamentary Under-Secretary of State (Jo Churchill MP)

We considered your Explanatory Memorandum on the above document at our meeting of 23 February 2022.

We welcome your intention to engage with EU Member States to assess the level of support for the measures in the proposal and would welcome an update on the progress of your engagement.

We note that the draft International Waste Shipments (Amendment) (EU Exit) Regulations 2021—establishing regulatory and administrative controls on the movement of waste from GB to Northern Ireland which are necessary to give effect to the NI Protocol—were laid in December 2020 but are yet to be made and enter into force. Over twelve months since the entry into force of the Protocol, what are your plans to give effect to it in this area and how, in the absence of those measures, are you ensuring compliance with the UK’s obligations?

The Commission’s proposal is based on a review of the EU Regulation covering a period when the UK was an EU Member State. That being the case, its conclusions may well be salient to the UK. Do you consider that any of the conclusions of the assessment may be relevant to future UK policy development and, if so, how do you intend to incorporate those considerations into future policy?

The Explanatory Memorandum makes no mention of restrictions on the export of plastic waste to non-OECD countries. While the Commission’s proposal retains the EU’s partial ban on the export of plastic waste, no such ban is in place for Great Britain. Most recently, the Government stated in its Paper on ‘The Benefits of Brexit’ that the UK would “go further than the EU on banning the export of plastic waste to non-OECD countries”, with a commitment that “is not limited to just one category of plastic waste like the EU’s ban.” This reiterates a manifesto commitment. The Government said over a year ago that it would consult in due course on its manifesto commitment but, as far as we are aware, it has yet to do so. Despite Government commitments to amend domestic policy, this does of course mean that EU policy in this area remains more stringent than that of the UK. Please set out a clear timetable for your consultation and for the entry into force of your manifesto commitment

Concerning a UK ban on the export of plastic waste to non-OECD countries, we would welcome the Government’s reflections on the EU’s partial ban, which would be tightened further by its recent proposal, and whether the EU’s approach strikes the appropriate balance between sustainability and the practicalities of a full ban. Under the Commission’s proposals, not only will importing countries be willing to receive the waste but exporting companies will need to demonstrate that the receiving facilities treat the waste in an environmentally sustainable manner.

Finally, the Commission has said that it will promote the adoption of a new international agreement on plastics, alongside actions to reduce pollution from e-waste, used vehicles and textile waste. Do you plan to work with the EU on these plans at a multilateral level?

We look forward to a response to this letter by 16 March 2022.

2 EU rules on minimum VAT Rates: potential implications for the UK under the Northern Ireland Protocol¹⁶

This EU document is legally and politically important because:

- it seeks to change EU rules on minimum VAT rates on goods, which remain applicable in Northern Ireland under the Protocol on Ireland/Northern Ireland in the Brexit Withdrawal Agreement. How the changes might affect VAT rates in Northern Ireland, and by extension the UK internal market, remains unclear, not least while the Government's negotiations with the EU to change the operation of the Protocol are on-going.

Action

- Write to the Financial Secretary to the Treasury (Rt Hon. Lucy Frazer QC MP) to reiterate the Committee's interest in receiving the Government's analysis of the impact of the new EU rules on VAT rates for the UK, and Northern Ireland in particular.
- Draw these developments to the attention of the Northern Ireland Affairs Committee and the Treasury Committee.

Overview

2.1 Within the European Union, the EU [Value Added Tax Directive](#)¹⁷ restricts individual Member States from reducing VAT rates for goods and services below certain minimum limits.¹⁸ However, the Directive also contains a number of derogations that reflect the particularities of national approaches to Value Added Tax before the current EU system was introduced in 1991. This is why, for example, the UK—when it was a Member State—could apply [zero-rates of VAT to many types of food and drink](#), even though other EU countries had to apply at least their reduced VAT rate to those categories of goods under the same EU legislation.

2.2 The European Commission proposed a [significant overhaul](#) of the current EU approach to minimum VAT rates in 2018. After more than three years of negotiations, in December 2021, EU Finance Ministers reached [provisional agreement](#) on this new 'VAT Rates Directive'. This, broadly speaking, aims to give individual EU countries the ability to drop rates lower than currently allowed, but only for a limited set of goods and services (as discussed in more detail in paragraphs 2.7 to 2.10 below). The overall impact on existing rates across the EU are unclear, but a group of tax experts has [warned](#)

¹⁶ Proposal for a Council Directive amending Directive 2006/112/EC as regards rates of value added tax; Council and COM number: 5335/18, COM(18) 20 + ADDs 1 -3; Legal base: Article 113 TFEU; special legislative procedure; unanimity; Department: Treasury; Devolved Administrations: Consulted; ESC number: 39448.

¹⁷ [Directive 2006/112/EC](#), as amended.

¹⁸ Broadly speaking, the Directive requires all EU countries to apply a standard VAT rate of 15 per cent to all goods and services, but with certain derogations allowed. As a result, there are [significant variations in VAT rates](#) between different EU Member States.

that the new Directive is a “huge policy mistake” because it may lead to increased use of VAT reductions to “achieve social and distributional aims [...] despite the strong evidence against the effectiveness” of using a sales tax system in that way.¹⁹ The new rules are still awaiting formal adoption by the EU’s Council of Ministers, but are expected to take effect from early 2025.²⁰

2.3 The UK of course left the EU on 31 January 2020, but nevertheless the EU’s new VAT Rates Directive remains relevant here. This is because the [Protocol on Ireland/Northern Ireland](#) in the [Withdrawal Agreement](#) on the UK’s exit from the EU requires the UK to continue applying EU rules on VAT “concerning goods” in Northern Ireland for the time being (but no longer in Great Britain).²¹ As such, EU rules on minimum rates—including the exemptions from EU VAT rules which the UK negotiated while it was a Member State—continue to apply in Northern Ireland. Under the Protocol, the *new* EU rules on VAT rates on goods would also have to be applied in Northern Ireland when they take effect.²² As we discuss in more detail in paragraphs 2.11 to 2.20, that could lead to changes in VAT rates in Northern Ireland, and potentially trigger differentiation with the rest of the UK if rates in Great Britain remained unchanged. However, exactly *how* the new EU rules could affect Northern Ireland and the UK’s wider internal market remains unclear: the Government is seeking to change how the Protocol works, including reducing the extent of Northern Ireland’s alignment with EU VAT law. It has told us that it cannot provide an assessment of the implications of the new Directive under the Protocol²³ until the outcome of those negotiations with the EU are known, even though there is no formal deadline for those talks.²⁴

2.4 It is in this context that we have undertaken an initial analysis of the potential implications of the new EU VAT Rates Directive for Northern Ireland and the UK more generally, having last [considered the proposal](#) in March 2018 (when its substance was still being negotiated and the UK’s new relationship with the EU unknown).²⁵ In the absence of further information from the Government, however, this assessment is necessarily preliminary in nature, and we intend to return to the matter after the Directive is formally adopted by the EU’s Council of Ministers (at which point there may also be more clarity about the outcome of the UK’s negotiations with the EU on the overall operation of the Protocol).

19 Tax Notes, [“The EU Council’s new agreement on VAT rates is a poisonous gift to Member States, citizens and businesses”](#) (accessed 15 February 2022).

20 As of 23 February 2022, the Directive is still awaiting formal adoption by the EU’s Council of Ministers. As an EU tax policy measure, the European Parliament is only consulted on the legislation but does not have a vote.

21 See Article 8 of the Protocol on Ireland/Northern Ireland.

22 See Article 13(3) of the Protocol on Ireland/Northern Ireland, which states that “where this Protocol makes reference to a Union [EU] act, that reference shall be read as referring to that Union act as amended or replaced”.

23 The then-Financial Secretary to the Treasury (Jesse Norman MP) provided an [Explanatory Memorandum](#) on the proposed VAT Rates Directive on 8 February 2018. However, that was while negotiations on the UK’s withdrawal were still on-going and there was no certainty about the UK’s regulatory relationship to EU VAT law when the proposal was due to come into effect. It was also before the remaining 27 Member States fundamentally altered the substance of the proposal, as described in this Chapter. The Memorandum is therefore of little value.

24 The Government has suggested it could use the safeguard measures provided for in Article 16 of the Northern Ireland Protocol to suspend some of its legal obligations to apply EU law in Northern Ireland if the EU and UK cannot agree on changes to the way the Protocol works. See: Cabinet Office, [Northern Ireland Protocol: the Way Forward](#) (CP 502, July 2021), p. 13. However, whether this will happen is not clear (and nor is whether the Government would use Article 16 to suspend obligations relating to the application of EU VAT law in Northern Ireland).

25 European Scrutiny Committee, [Value Added Tax: EU proposals for reform and the implications of Brexit](#) (HC 301–xxii, 28 March 2018).

Minimum VAT rates under the EU VAT Directive

2.5 In the early 1990s, the EU Member States—the UK then still included—agreed to a limited form of harmonisation of minimum VAT rates across the European Union. This was considered necessary because under the EU’s VAT system as envisaged at that time, the tax on cross-border supplies within the EU would be paid in the Member State of production (the ‘origin’ principle). In other words, if a business in France sold goods to a customer in Belgium, VAT would be paid to the French exchequer at French rates. The minimum rates were designed to prevent individual EU Member States from lowering their VAT rates to make it more attractive for businesses to relocate, which could have risked distortion of competition and a shift in tax revenue to those Member States where suppliers are based.

2.6 As a result, the EU Value Added Tax Directive generally speaking requires all EU countries to apply a standard VAT rate of 15% to sales of all goods and services. However, there are two categories of derogations: a ‘positive list’ of goods and services to which any Member State can apply a reduced rate between 5 and 15%, and a series of country-specific derogations (including many for the UK) that reflected the level of VAT charged for particular goods or services in those Member States in January 1991. This is why the VAT Directive allowed the UK, for example, to continue applying zero-rates to food and drink, even though other Member States had to apply at least the reduced rate of 5% to such sales under the same EU legislation.

2.7 However, the ‘origin’ principle for VAT on cross-border sales within the EU was never implemented as envisaged. Instead, generally speaking, VAT is paid in the Member State of consumption, where the buyer is based.²⁶ This also meant that the rationale for harmonising national VAT rates had become less pressing, because businesses would not be able to charge lower VAT on their sales by moving their operations to another Member State. In January 2018, as part of a wider package of VAT reforms, the European Commission therefore [proposed a new VAT Rates Directive](#) to overhaul the restrictions EU law places on VAT rates. This would have allowed Member States to apply reduced or even zero-rates of VAT to any good or service, except for those specifically listed (to which the standard rate would have to be applied).²⁷ After three years of negotiations, in December 2021 EU Finance Ministers reached a provisional agreement on the [text of the legislation](#). Having undergone some fundamental changes to the original Commission proposal, the new VAT Rates Directive has the following key features:

- As is currently the case, EU countries will be able to apply two reduced rates of VAT between 5% and 15% to a specific ‘positive list’ of goods and services, rather than the standard rate of at least 15%. However, that list—in Annex III of the Directive—will be [updated and expanded](#), for example by allowing a reduced rate to be applied to solar panels and live horses.

26 There are certain exceptions, for example the cross-border B2C sale between EU Member States of electronically-supplied services.

27 The Commission proposal would therefore effectively have reversed the current approach (where the standard rate must be applied unless a derogation, general or country-specific, is in place).

- In addition, there would be a new exceptionally reduced rate, which can be set below 5% or even zero.²⁸ EU countries could apply such a rate only to a specific sub-set of goods and services on the aforementioned ‘positive list’, as well as to other goods and services to which they were already applying a rate below 5% based on an *existing* exemption in the current VAT Directive. In addition, exemptions that are currently country-specific will be made available to all Member States.
- However, to limit the proliferation of exemptions and rates, by 2032 all Member States will have to reduce the number of instances to which they apply the exceptionally reduced VAT rate of below 5% to no more than 7 categories of goods and services, from among the list of permitted options as described above. Similarly, reduced rates between 5 and 15% would have to be limited to no more than 24 categories of goods and services by that point.
- Irrespective of any existing exemptions, all EU countries will need to phase out reduced VAT rates or exemptions on “fossil fuels, other goods with a similar impact on greenhouse gas emissions, such as peat, and wood used as firewood” by 2030, and on “chemical pesticides and chemical fertilisers” by 2032. This is part of the EU’s ‘Green Deal’ policy package.

2.8 The key features of the new VAT Rates Directive are shown in the table below.

Type of rate	Scope	Examples	Limit
Exceptional super-reduced (<5%, including zero-rate)	Specific sub-set of goods and services within Annex III of the VAT Directive	Food, water, pharmaceutical and medical products, transport, books, solar panels, as well as existing other country-specific exemptions from the reduced and standard rates	Can be applied to a maximum of 7 categories of goods and services by 2032
Reduced (5–15%)	All goods and services listed in Annex III of the VAT Directive	The above and a number of other categories of goods and services, including live horses, broadcasting services, etc.	Can be applied to a maximum of 24 categories of goods and services by 2025
Standard (>15%)	All goods and services	All goods and services not subject to a reduced or zero-rate. Mandatory for fossil fuels, chemical fertilisers, peat and firewood from 2032	None. Applies by default to all goods and services not subject to a reduced rate

28 Where a good or service is “zero-rated”, they are not subject to VAT, but the supplier can get their input VAT refunded. This effectively allows the price to the final consumer to be reduced, because input costs are lower. This is different from an exemption from VAT without deductibility, where the supplier cannot get their input VAT refunded.

2.9 The substance of the new Directive is not without its critics. In January 2022, a group of tax experts [warned](#) that the legislation, by giving individual EU countries more opportunities for reducing their domestic VAT rates, was a “huge policy mistake”:

More reduced rates within the EU will also mean more distortions to competition between similar products, more opportunities for tax planning and avoidance, and more compliance and administrative costs for businesses. [...] The approval of the proposal [...] creat[es] higher levels of divergence [within the EU Single Market], making intra-EU business more difficult, and disproportionately impacting small and medium-sized enterprises. Despite the strong evidence against the effectiveness of using reduced rates of VAT to achieve social and distributional aims, [...] the approval of this proposal will significantly increase the scope for such pressures and make them harder to resist at domestic level. The hard truth is that at present EU VAT law restrains and protects national governments; but now, the EU will no longer be able to play the role of the external culprit. The risk of entering a vicious circle is evident: tax concessions create moral hazards, and one concession is likely to give rise to more, progressively eroding the tax base.²⁹

2.10 These observations are, of course, also of interest in the context of the UK’s new flexibilities to vary its VAT rates following Brexit, as we discuss in more detail below. It should be noted that the agreement on the VAT Rates Directive reached by EU Finance Ministers in December 2021 is currently provisional only. The new legislation still needs to be formally approved by the EU’s Council of Ministers at a later stage. Procedurally, this can only happen after the European Parliament has delivered its (non-binding) opinion on the proposal.³⁰ The exact timetable for this is unclear, but it appears the aim is for the legislation to be formally adopted in spring 2022.³¹ The new rules on minimum VAT rates are envisaged to take effect across the EU from 1 January 2025.

Continued application of EU VAT rules in Northern Ireland

2.11 The UK of course left the EU on 31 January 2020 and as such EU VAT law, broadly speaking, no longer applies here. When the VAT rates proposal was first published, the UK was still a Member State and the then-Financial Secretary to the Treasury (Jesse Norman MP) provided an [Explanatory Memorandum](#) on the proposed VAT Rates Directive on 8 February 2018. Mostly descriptive in nature in any event, it was drawn up while negotiations on the UK’s withdrawal were still on-going and there was no certainty about the UK’s relationship to the EU when the new rules on VAT rates were expected to come into effect. It was also before the remaining 27 Member States fundamentally altered the substance of the proposal, as described in this Chapter. The Memorandum is therefore of little value.

2.12 However, that is not to say the new EU VAT Rates Directive is not of direct relevance to the UK due to developments that have taken place since the Government submitted its initial Memorandum. The [Withdrawal Agreement](#) governing the UK’s exit from the

29 Tax Notes (n 4)

30 The European Parliament does not have a formal say over EU tax legislation.

31 The Member States have [asked](#) the European Parliament to deliver its formal Opinion “not later than 15 March 2022”. See Council document 14584/21.

Union contains the [Protocol on Ireland/Northern Ireland](#) (‘the Protocol’), ratified by both sides in January 2020. As currently in force, this requires Northern Ireland to remain aligned with EU rules in a range of areas related to trade in goods until at least the end of 2026.³² In return, there is no ‘hard’ customs or regulatory border with Ireland, and Northern Ireland effectively remains in the EU’s Customs Union and Single Market for goods.

2.13 Among other things, Article 8 of the Protocol requires alignment in Northern Ireland with EU VAT rules “concerning goods”. In practice, this means for example that [import VAT processes](#) apply to goods brought into Northern Ireland from the rest of the UK (and other non-EU jurisdictions), while Northern Irish businesses can send goods to the EU without having to comply with import VAT formalities. As a result of this part of the Protocol, EU rules on minimum VAT rates for goods (but not services)³³—including the exemptions from EU VAT rules which the UK negotiated while it was a Member State – continue to apply in Northern Ireland, such as the [zero-rating of many foodstuffs](#).

2.14 The limitations that EU VAT rules under the Protocol place on the UK in respect of Northern Ireland are demonstrated, for example, by the fact that electricity and gas are considered “goods” for VAT purposes³⁴ and under the VAT Directive, EU countries cannot reduce the applicable rate below 5%.³⁵ Therefore, should the Government have wanted to zero-rate energy bills for VAT purposes in the context of the current spike in living costs (a policy choice it has so far ruled out), it may not have been able to do so in any event in Northern Ireland because of the Protocol.³⁶ Conversely, the Government was able to [introduce a new zero-rate of VAT for women’s sanitary products](#) in January 2021 across the UK (despite such products typically being subject to at least the reduced rate under the VAT Directive). This was possible because the Protocol allows rates in Northern Ireland to be aligned with those applicable in Ireland, where such a zero-rate was already in effect, even if this would cause the VAT rate in Northern Ireland to fall below the minimum otherwise required by EU law (and of course, post-Brexit, the UK can freely vary rates applicable in Great Britain).

2.15 Moreover, the *new* EU rules on VAT rates on goods which we described in paragraphs .7 to 10, once formally adopted by the EU Council of Ministers, would also have to be applied in Northern Ireland when they take effect.³⁷ This is because the Protocol states that references in it to EU rules “shall be read as referring to [them] as amended or replaced” when the EU adopts new legislation covering the same subject matter. The UK’s obligations to apply new EU legislation that amends or replaces existing rules applicable in Northern Ireland under the Protocol are given effect in domestic law under section 7A

32 The Protocol foresees the application of a regular “democratic consent mechanism”, allowing the members of the Northern Ireland Legislative Assembly to vote on whether the provisions of the Protocol requiring continued alignment with EU law should remain in effect. The first such vote is due to take place at the end of 2024, and if the MLAs vote against the Protocol, the relevant provisions would cease to have effect by the end of 2026.

33 As the Protocol only covers trade in goods, VAT rates on services in NI are governed by UK, not EU, law.

34 See Article 15 of [Directive 2006/112/EC](#), as amended.

35 See Article 102 of [Directive 2006/112/EC](#), as amended. A change to this restriction would require an amendment to the Directive, such as the one described in this Chapter.

36 As such, it is not correct to say that the EU VAT Directive would have allowed the UK to zero-rate energy bills had it remained a Member State. While there have been reports of VAT reductions on energy in some EU countries, such as Spain and Poland, these previously imposed their standard rate in such cases and have now lowered it to their reduced rate.

37 The VAT Rates Directive would only apply in Northern Ireland insofar as it concerns rates on goods. The elements of the new EU legislation relating to VAT on services would not in any event apply in Northern Ireland under the Protocol.

of the European Union (Withdrawal) Act 2018. At this stage however, it is not yet possible to give a definitive view on the possible implications of the new VAT Rates Directive for Northern Ireland and the wider UK, for a number of reasons.

2.16 First, the Government is seeking changes to the way the Northern Ireland Protocol works to give it “the freedom to set VAT [...] rates and structures right across the UK”. In a [Command Paper of July 2021](#),³⁸ it said the application of the VAT provisions of the Protocol have caused “problems in some areas” (although the Government does not cite problems relating to VAT rates as such) and “these issues may multiply as UK and EU VAT [...] rules evolve”.³⁹ The outcome of the Government’s efforts to renegotiate the Protocol, including with respect to the application of EU VAT rules, is unclear as of 23 February 2022.⁴⁰ As such, it is not possible to assess how the new Directive might impact on the UK under the new settlement envisaged by the Government. While the Government has suggested it could use the safeguard measures provided for in Article 16 of the Protocol to suspend some of its legal obligations to apply EU law in Northern Ireland if the EU and UK cannot agree on a way forward, whether this will happen is not clear.⁴¹ As things stand therefore, the UK must apply any changes to EU VAT rules ‘concerning goods’ in Northern Ireland as and when they take effect in the EU. That would include the new VAT Rates Directive if it is formally adopted by the Council of Ministers.

2.17 Secondly, even if the operation of the Protocol in relation to VAT is not changed, determining the potential impact of the new Directive for Northern Ireland is difficult. EU VAT rules—and how they interact with UK VAT law—are enormously complex. It requires an assessment of existing VAT rates in the UK and to what extent these might still be permitted under the new EU rules. We do not take a position here on the *desirability* of reductions in VAT for specific goods. However, from the perspective of flexibility, it would seem to work in the UK’s favour that existing exemptions from minimum VAT rates would be preserved and, where country-specific, extended to all Member States (and Northern Ireland). However, the Directive could simultaneously *limit* the UK’s overall scope to vary VAT rates on goods in Northern Ireland, because exemptions for a narrow range of goods linked to climate change will be removed.⁴² More generally, the categories of goods and services to which a rate below 15% can be applied will be subject to a numerical limit by 2032.⁴³ It is unclear if the current range of reduced and zero rates of VAT applied by the UK would, in Northern Ireland, be impacted by these new limits.

38 HM Government, “[Northern Ireland Protocol: the Way Forward](#)” (CP 502, July 2021).

39 The Command Paper cites two examples where Northern Ireland’s alignment with VAT rules has caused issues: the application of the VAT second-hand margin scheme (for second-hand vehicles); and requirements for e-Commerce traders.

40 The Command Paper calls for “a more flexible settlement” in relation to VAT under the Protocol, “with greater freedom” (but apparently not ‘unlimited’ freedom) for the UK “to set VAT and excise rates and structures in Northern Ireland”. This change would be accompanied “by clear safeguards where changes would introduce significant distortions on the island of Ireland”, as well as an “enhanced consultative mechanisms to ensure that risks of double taxation and significant divergence within the UK internal market are avoided”.

41 Nor is whether the Government would, in such a scenario, use Article 16 to suspend obligations relating to the application of EU VAT law in Northern Ireland.

42 We wrote [to the then-Financial Secretary to the Treasury](#) (Rt Hon. Jesse Norman MP) on 14 May 2020 on Article 8 of the Protocol, but his reply did not provide substantive detail. We chose to pursue the matter, [in oral evidence](#), with the Cabinet Office, as the Treasury said it did “not have a full picture on the shape or substance of the discussions”.

43 As the Protocol only applies EU VAT rules ‘concerning goods’ to Northern Ireland, this may give the UK some additional leeway compared to Member States: the UK could use its entire ‘allowance’ of reduced rates for goods (and vary VAT rates for services as it sees fit separately without being constrained by EU law), while EU countries would have to include both goods and services when meeting the limits.

2.18 A third complicating factor is the potential knock-on effect of any changes to VAT rates in Northern Ireland on the wider UK internal market. EU VAT rules are no longer binding in Great Britain, unlike in Northern Ireland. Parliament can freely legislate to change VAT laws derived from the UK's period of EU membership in England, Scotland and Wales, including as regards minimum rates (although the Government has not, to date, announced any substantial VAT reforms).⁴⁴ However, if the new EU rules did in the future require changes to VAT rates in Northern Ireland, the Government would be faced with the choice of aligning those rates across the UK under the limitations imposed by EU law, or accepting VAT rate differentials between different parts of the UK. The former would fetter the UK's post-Brexit regulatory autonomy, while the latter could trigger shifts in consumption and production patterns if individuals and businesses seek to shift activity to the jurisdiction (be it Northern Ireland or in Great Britain) with the lower rate of VAT on specific goods. Rate differentials may also open opportunities for intra-UK VAT evasion or fraud. Indeed, the Government's own Command Paper on the Protocol notes that "as UK and EU VAT [...] rules evolve" this may cause "issues" for trade between Northern Ireland and Great Britain. Such matters will require careful consideration if, in due course, the new EU VAT Rates Directive does apply in Northern Ireland.⁴⁵

2.19 Ultimately, given the technical nature of VAT law and the complicating factors as described above, a definitive analysis of the possible ramifications of the EU VAT Rates Directive under the Protocol will necessarily require Government input. For example, it will need to clarify if any existing VAT zero or super-reduced rates currently applied in Northern Ireland may need to be phased out to comply with the new Directive, and—if so—how it would seek to mitigate any fragmentation of the UK's internal market that could arise if different VAT rates apply in Northern Ireland and Great Britain. The introduction of such changes would be some way off, given that the new rules are not expected to apply in full until 2032. We are similarly still awaiting more information from the Government on whether the EU agrees with the UK's interpretation that a new EU VAT registration threshold for small businesses—which will be set at an annual turnover of €85,000 from 2025, below the current UK threshold of £85,000—will not apply to Northern Irish businesses that trade in goods.⁴⁶

2.20 In light of this, we [wrote to the Financial Secretary to the Treasury](#) (Rt Hon. Lucy Frazer QC MP) in December 2021, to ascertain whether the Government has analysed the EU VAT Rates Directive in the context described above.⁴⁷ In particular, we asked the Minister to clarify whether the EU proposal could affect VAT rates in Northern Ireland and, if so, whether it could lead to different VAT rates on goods between Northern Ireland

44 In his most recent Budget in October 2021, the Chancellor did not announce any substantive VAT reform. He did announce reform of alcohol duty, but in the Treasury's consultation it admitted that the plans could not extend to Northern Ireland—which must apply EU excise rules as well as VAT—while the Protocol in its current form is in effect.

45 We note that, when the UK was required to increase fuel duty on aviation gasoline (AvGas) in Northern Ireland in January 2021 because of the continued application of the EU Energy Taxation Directive under the Protocol, the Government [chose to introduce the required increase UK-wide](#), and not just in Northern Ireland.

46 See [Directive \(EU\) 2020/285](#) of 18 February 2020. By [letter dated 9 April 2020](#) to the Chair of the European Scrutiny Committee, the then-Financial Secretary to the Treasury (Jesse Norman MP) stated that "the Government does not consider that the Directive [containing the new EU VAT registration threshold for small businesses] will apply to businesses in Northern Ireland when it comes into force in 2025", but admitted that "we do not yet know whether the EU disagrees with our views on the application of the Directive in Northern Ireland".

47 [Letter](#) from Sir William Cash to the Financial Secretary to the Treasury (Rt Hon. Lucy Frazer QC MP) (15 December 2021).

and Great Britain. However, in her [reply of 3 February 2022](#), the Minister was clearly reluctant to engage on the substance of the new EU rules and its potential ramifications under the Northern Ireland Protocol.⁴⁸ Noting, as we did, that these would depend on whether the new Directive is formally approved at EU-level and on “the result of the Government’s on-going discussions with the EU in relation to the [Protocol]”. The Minister acknowledges that officials *are* considering how the EU’s rules might affect the UK, but offered no substantive assessment of the potential ramifications of such. Instead, she concluded:

The Government has set out the need for there to be the freedom to set VAT and excise rates and structures right across the UK, with appropriate safeguards to protect the EU market. This is one of the subjects under consideration with the EU as part of intensive discussions on the operation of the Protocol. While I am therefore able to confirm that the Government is considering in the appropriate manner how the new EU rules for VAT rates might apply in Northern Ireland, I am unable to give a clear indication of when I might be able to deliver to the Committee an initial assessment of that impact. The answer to that question will be influenced by the outcome of our current negotiations with the European Union. I will write to the Committee again once these discussions have concluded.

Conclusions and action

2.21 Due to the Northern Ireland Protocol, the ramifications of the new EU VAT Rates Directive for Northern Ireland and the UK are potentially significant. It could trigger changes in VAT rates in Northern Ireland, even if in a decade’s time when the new EU rules are meant to be fully in effect, and at that stage present difficult policy choices between UK-wide consistency in VAT rates or fragmentation of the UK internal market.

2.22 Nevertheless, we accept the Minister’s position that the Government cannot form a definitive view on those ramifications until the Directive is formally approved and, ultimately, where the UK is successful in securing changes to the overall operation of the Northern Ireland Protocol (and, in particular, in relation to Northern Ireland’s alignment with EU VAT law). The more practical issue is therefore *when* to request more information from the Government on how the new VAT Rates Directive might impact the UK, unless there is an unambiguous change in how the Northern Ireland Protocol works that renders any such assessment unnecessary. Given the potential significance of the proposal, we intend to return to the matter later this year, provided the Directive has at that stage been formally adopted by the EU. We will of course also take into account any relevant developments in the Government’s negotiations with the EU on changing the operation of the Protocol, and consider whether it may be desirable for the Financial Secretary to the Treasury to give evidence to us in person about the application of EU VAT rules in Northern Ireland under the Protocol.

48 [Letter](#) from the Financial Secretary to the Treasury (Rt Hon. Lucy Frazer QC MP) to Sir William Cash (3 February 2022).

2.23 We have written to the Financial Secretary to the Treasury to reiterate our interest in these matters and to confirm our intended approach as described above. In anticipation of further developments, we also draw our initial assessment of the new EU VAT Rates Directive for Northern Ireland and the wider UK to the attention of the Northern Ireland Committee and the Treasury Committee.

Letter from the Chair to the Financial Secretary to the Treasury (Rt Hon. Lucy Frazer QC MP)

Thank you for your letter of 3 February on the draft new EU VAT Rates Directive, relating to the potential implications for the UK if the new rules on minimum VAT rates had to be applied in Northern Ireland under the Protocol on Ireland/Northern Ireland from 2025.⁴⁹ We note your reluctance to engage on the substance of the new Directive while the Government’s negotiations with EU on the overall operation of the Protocol are on-going, and while the legislation itself has not yet been formally adopted by the EU’s Council of Ministers.

As set -out in our Eighteenth Report, we remain concerned that the new Directive—if it had to be applied under the Protocol—might necessitate changes to VAT rates in Northern Ireland for specific goods. That could, in turn, have potential knock-on effects for the wider UK internal market were the Government to face a choice between UK-wide alignment of VAT rates within the limits set by EU law or fragmentation of VAT rates between different parts of the country. Indeed, we note that the Government’s Command Paper of July 2021 specifically referred to the risk that “issues may multiply as UK and EU VAT and excise rules evolve”, and hope that the talks with the EU will lead to a satisfactory outcome on this point. However, we cannot yet definitively say at this point that the new EU rules on VAT rates will not have an impact in the UK, as you also acknowledged in your letter.

There is no clear timetable for completion of the Government’s negotiations with the EU on the Protocol, which could therefore hypothetically carry on for some considerable time. We therefore intend to return to the matter later this year, provided the EU VAT Rates Directive has been formally adopted by the EU Council of Ministers. We hope you will be able to provide more certainty at that stage about the potential ramifications of the Directive for the UK VAT system (also taking into account any relevant developments in the talks to modify the operation of the Protocol).

49 EU document 5335/18, COM(18) 20; ESC number: 39448.

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

Department for Environment Food and Rural Affairs

- (41998) Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in other low pressure discharge lamps
15125/21
C(2021) 8951
- (41998) Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in High Pressure Sodium (vapour) lamps with improved colour rendering index for general lighting purposes
15101/21
C(2021) 8963
- (42000) Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for mercury in fluorescent lamps for other general lighting and special purposes
15041/21
C(2021) 8953
- (42001) Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in metal halide lamp
15081/21
C(2021) 8955
- (42002) Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purpose of adapting to technical and scientific progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in single capped (compact) fluorescent lamps for general lighting purposes < 30 W with a lifetime equal to or above 20 000 h
15103/21
C(2021) 8956
- (42003) Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purpose of adapting to technical and scientific progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in single capped (compact) fluorescent lamps for special purposes
15025/21
C(2021) 8957
- (42004) Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in cold cathode fluorescent lamps and external electrode fluorescent lamps for special purposes
15133/21
C(2021) 8959
- (42005) Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purpose of adapting to technical and scientific progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in single capped (compact) fluorescent lamps for general lighting purposes
15112/21
C(2021) 8962

- (42006)
15113/21
C(2021) 8976
Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purpose of adapting to technical and scientific progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in non-linear tri-band phosphor lamps
- (42007)
15049/21
C(2021) 8979
Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in other discharge lamps for special purposes
- (42008)
15151/21
C(2021) 9156
Commission Delegated Directive (EU) .../... of 16.12.2021 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in double-capped linear fluorescent lamps for general lighting purposes
- (42009)
15116/21
C(2021) 8952
Commission Delegated Directive (EU) .../... of 13.12.2021 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in other High Pressure Sodium (vapour) lamps for general lighting purposes

Department for International Trade

- (41995)
14182/21
COM(21) 707
Proposal for a Council Regulation opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

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: Waste Shipments Regulation [Proposed Regulation][SNC]

Environmental Audit Committee: Waste Shipments Regulation [Proposed Regulation] [SNC]

Northern Ireland Affairs Committee: EU rules on minimum VAT Rates: potential implications for the UK under the Northern Ireland Protocol [Proposed Council Directive] [SNC]; Waste Shipments Regulation [Proposed Regulation][SNC]

Treasury Committee: EU rules on minimum VAT Rates: potential implications for the UK under the Northern Ireland Protocol [Proposed Council Directive][SNC]

Formal Minutes

Wednesday 23 February 2022

Members present:

Sir William Cash, in the Chair

Jon Cruddas

Allan Dorans

Margaret Ferrier

Anne Marie Morris

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 Eighteenth Report of the Committee to the House.

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

Adjournment

Adjourned till Wednesday 2 March 2022 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](#) (*Independent, Rutherglen and Hamilton West*)

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

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

[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](#) (*Independent, Newton Abbot*)

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