HOUSE OF LORDS

European Union Committee

1st Report of Session 2014–15

Report on 2013–14

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The European Union Committee

The Committee considers EU documents in advance of decisions being taken on them in Brussels, in order to influence the Government’s position and to hold it to account.

The Government is required to deposit EU documents in Parliament, and to produce within two weeks an Explanatory Memorandum setting out the implications for the UK. The Committee examines these documents, and ‘holds under scrutiny’ any about which it has concerns, entering into correspondence with the relevant Minister until satisfied. Letters must be answered within two weeks. Under the ‘scrutiny reserve resolution’, the Government may not agree in the EU Council of Ministers to any proposal still held under scrutiny; reasons must be given for any breach.

The Committee also conducts inquiries and makes reports. The Government is required to respond in writing to a report’s recommendations within two months of publication. If the report is for debate, then there is a debate in the House of Lords, which a Minister attends and responds to.

The Committee has six Sub-Committees, which are:
- Economic and Financial Affairs (Sub-Committee A)
- Internal Market, Infrastructure and Employment (Sub-Committee B)
- External Affairs (Sub-Committee C)
- Agriculture, Fisheries, Environment and Energy (Sub-Committee D)
- Justice, Institutions and Consumer Protection (Sub-Committee E)
- Home Affairs, Health and Education (Sub-Committee F)

Our Membership
The Members of the European Union Committee are:
Lord Boswell of Aynho (Chairman)  Lord Kerr of Kinlochard  Baroness Scott of Needham Market
The Earl of Caithness  Lord Maclean of Rogart  Lord Tomlinson
Lord Cameron of Dillington  Baroness O’Cathain  Lord Tugendhat
Baroness Corston  Baroness Parminter  Lord Wilson of Tillyorn
Baroness Eccles of Moulton  Baroness Prashar
Lord Harrison  Baroness Quin
Baroness Hooper  The Earl of Sandwich

Information about the Committee
A lot of information is available at our homepage, http://www.parliament.uk/hleu. There you will find many of our publications, along with press notices, details of membership and forthcoming meetings, and other information about the ongoing work of the Committee and its Sub-Committees, each of which has its own homepage.

General Information
General information about the work of the House of Lords is on the Internet at http://www.parliament.uk/business/lords.

Select Committee Staff
The current staff of the Committee are Christopher Johnson (Principal Clerk), Luke Hussey (Clerk) and Karen Sumner (Committee Assistant). The Legal Adviser to the Committee is Paul Hardy.

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Internal Market, Infrastructure and Employment  www.parliament.uk/hleub
External Affairs  www.parliament.uk/hleuc
Agriculture, Fisheries, Environment & Energy  www.parliament.uk/hleud
Justice, Institutions and Consumer Protection  www.parliament.uk/hleue
Home Affairs, Health and Education  www.parliament.uk/hleuf

To sign up to receive our monthly newsletter
(detailing current scrutiny work, and current major inquiries)
Email  euclords@parliament.uk
Tel  020 7219 6083
The European Union Committee is appointed by the House of Lords to scrutinise the Government’s policies and actions in respect of the EU; to consider and seek to influence the development of policies and draft legislation put forward by the EU institutions; and more generally to represent the House in its dealings with the EU institutions and other Member States.

This report provides an overview of the work of the EU Committee and its six Sub-Committees during the 2013–14 Session, which ran from 8 May 2013 to 14 May 2014. The report highlights key work carried out over the course of the session, as well as looking forward to the priorities for the Committee during the 2014–15 Session.

Over the past year, the Committee and its Sub-Committees have examined several of the major policy issues facing the EU. In formal terms, the reports prepared by each Sub-Committee are agreed and published by the EU Select Committee. In addressing the long economic and financial crisis, we have examined and reported on proposals for Genuine Economic and Monetary Union; and on how EU policies can best be targeted to combat youth unemployment. In international relations the Committee has reported on the early negotiations for an EU-US trade deal. Examining the EU’s architecture and institutions, the Committee has made proposals to increase the role of national parliaments in the EU framework, and is scrutinising the controversial proposal for a new European Public Prosecutor’s Office. Turning to more consumer-focused matters, the Committee reported on efforts to use EU policies to reduce food waste. Helping to set the future agenda, the Committee investigated and reported on what should be the Union’s future priorities in the area of justice and home affairs.

The Committee examines all major policies and proposals emanating from the EU, and in the past session this included examination of the strengthening of the safe harbour agreement between the EU and US, the reforms of the Common Agricultural and Fisheries Policies and the rights of EU migrant workers. We also published a follow-up report on the Government’s opt-out decision, following the publication of the list of pre-Lisbon police and criminal justice measures that the Government would seek to rejoin in the course of 2014. The Reasoned Opinion agreed by the House on the establishment of the European Public Prosecutor’s Office contributed to the second ‘Yellow Card’ being issued since the introduction of the Reasoned Opinion procedure, leading to a review of the proposal by the Commission.

We look forward to building a positive working relationship with the newly elected European Parliament and with the newly appointed Commission over the coming session and beyond.

Our work benefits immensely from the evidence and views provided by a wide range of individuals and organisations. During the last session, the Committee and its Sub-Committees heard from over 276 witnesses in person and considered around 215 pieces of written evidence. The work of the committees is very open. Our reports, the evidence we receive, and our correspondence with Ministers are all made available online. Over the course of the session, the Committee has also
followed up previous reports with new inquiries, one-off hearings, and stakeholder seminars, using expertise built up through long engagement with EU issues.

This report also considers the Committee’s involvement with the European Commission and other national parliaments on policy issues and the conduct of parliamentary scrutiny in the EU.

Finally, this report considers the Committee’s work in holding the Government to account, the Government’s obligations to the Committee, and the Committee’s developing role in scrutinising delegated legislation and UK opt-ins in the area of justice and home affairs.
CHAPTER 1: INTRODUCTION

1. EU scrutiny is one of the key activities of the House of Lords. During the 2013–14 Session, the European Union Committee and its Sub-Committees involved 74 members of the House, supported by 23 staff. This is the most intensive system of national parliamentary scrutiny of EU legislation in the EU, and it is widely regarded as one of the most effective. Maroš Šefčovič, Commissioner for Inter-Institutional Relations, stated in evidence to the Committee that “the House of Lords is one of the most active chambers we have in the European Union”. The Financial Times described the Committee’s reports as “the sort of calm, balanced report[s] that ought to inform public debate”.2

2. The Committee’s terms of reference, along with the underpinning Scrutiny Reserve Resolution, can be found at Appendix 2. The Committee seeks in its work to inform the House of Lords, to influence and hold to account the Government, to influence the European Commission, and to engage with stakeholders. It does so through a great deal of direct communication, much of it online (at www.parliament.uk/hleu), including a monthly newsletter. The Committee also strives to ensure effective media coverage of its work. This is discussed in greater detail in Chapter 2.

3. During the 2013–14 Session the EU Committee had six Sub-Committees, each with a specific policy remit. These were:
   (A) Economic and Financial Affairs;
   (B) Internal Market, Infrastructure and Employment;
   (C) External Affairs;
   (D) Agriculture, Fisheries, Environment and Energy;
   (E) Justice, Institutions and Consumer Protection; and
   (F) Home Affairs, Health and Education.

4. Chapter 2 of this report sets out the role of the Select Committee, highlighting some major pieces of scrutiny and inquiry work done over the course of the session, illustrating how the Committee holds the Government to account, and touching on the Committee’s interactions with EU institutions. Chapters 3 to 9 look in more detail at the work done by the individual sub-committees within their policy areas.

5. Along with this report, the Committee has published online:
   (i) Activity indicators for the Select Committee and each Sub-Committee during the 2013/14 financial year;

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1 In evidence to the European Union Committee under its inquiry into the role of national parliaments in the EU (Q89); http://www.parliament.uk/documents/lords-committees/eu-Select/Role%20of%20national%20parliaments/national-parliaments-evidence.pdf
(ii) A full list of all evidence sessions held by the Select Committee and each Sub-Committee; and
(iii) A list of all scrutiny and opt-in overrides between January and December 2013.3

6. We make this report to the House for debate.

3 A list of all scrutiny and opt-in overrides between January and December 2013 can be found at: http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-select-committee/-committee-work/parliament-2010/the-scrutiny-reserve-resolution1
CHAPTER 2: ROLE OF THE COMMITTEE

Scrutiny

7. Formal scrutiny of EU documents deposited in Parliament by the Government is a core aspect of the Committee’s work. ‘Deposited’ simply means that the Government, through the Foreign and Commonwealth Office, has sent the document to the Committee. This Committee and the European Scrutiny Committee in the House of Commons have agreed with the Government the types of documents that need to be deposited, such as Communications and legislative proposals made by the European Commission.

8. The Government must submit an Explanatory Memorandum (EM) on each deposited document; EMs often deal with several related documents simultaneously, such as when a Staff Working Document accompanies a Communication from the Commission. The Cabinet Office makes EMs available to the public online.

9. EMs should set out the Government’s views on a number of key areas, including the policy implications of the proposal, an assessment of its compliance with the principle of subsidiarity, and the timetable for the proposal’s consideration in the Council of Ministers. The principle of subsidiarity is discussed in more detail below.

10. At the beginning of each week, the Chairman, assisted by the Committee’s Legal Adviser, sifts all those documents whose accompanying EMs were received in the previous week. This involves deciding whether each document should be referred to one or more of the committees for examination, or cleared from scrutiny.

11. The results of the Chairman’s sift are published on our website fortnightly in our key record-keeping document, Progress of Scrutiny. This provides information on: how each deposited document has been sifted; ongoing correspondence with Ministers; those proposals on which the scrutiny reserve has been overridden by the Government; and those proposals on which inquiries are being conducted.

12. The Committee also publishes all non-confidential correspondence with ministers on scrutiny items. Thus members of the public can see what scrutiny work the committees are undertaking, and read for themselves the information the Government provides to the committees about its policies and views on European proposals. Each Sub-Committee also maintains a web page dedicated to current scrutiny work that may be of interest to stakeholders.

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4 See the Cabinet Office European Memoranda Website: http://europeanmemorandum.cabinetoffice.gov.uk/
5 Progress of Scrutiny can be found at: http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-select-committee-/Publications/
6 Correspondence with Ministers can be found at: http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-select-committee-/committee-work/parliament-2010/correspondence-with-ministers/
7 An example of one of these pages, by Sub-Committee A, can be found here: http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-economic-and-financial-affairs-and-international-trade-sub-committee-a/scrutiny-work1/
13. Proposals that have not been cleared from scrutiny are subject to the House’s Scrutiny Reserve Resolution, set out in Appendix 2. The scrutiny reserve means that a UK Minister may not agree to the matter in the Council of Ministers or European Council until the Committee has cleared the item from scrutiny. A separate Scrutiny Resolution applies to proposals subject to the UK opt-in. These two Resolutions are discussed in greater detail in the ‘Holding the UK Government to account’ section below.

14. During the 2013–14 Session, the Chairman sifted 884 EMs relating to deposited documents, of which 257 were referred to the Select Committee or a Sub-Committee for examination. The figures for the previous session were 820 and 274 respectively. The distribution among Sub-Committees is shown in Table 1 below.

<table>
<thead>
<tr>
<th>Committee</th>
<th>Number of EMs considered</th>
</tr>
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<tbody>
<tr>
<td>Select Committee</td>
<td>7</td>
</tr>
<tr>
<td>Economic and Financial Affairs</td>
<td>35</td>
</tr>
<tr>
<td>Internal Market, Infrastructure and Employment</td>
<td>46</td>
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<tr>
<td>External Affairs</td>
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<tr>
<td>Agriculture, Fisheries, Environment and Energy</td>
<td>50</td>
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<tr>
<td>Justice, Institutions and Consumer Protection</td>
<td>39</td>
</tr>
<tr>
<td>Home Affairs, Health and Education</td>
<td>31</td>
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</tbody>
</table>

15. The examination of sifted documents is a substantial undertaking and forms a large part of the work of the Sub-Committees. Typically, examination includes an exchange of correspondence with the relevant Minister, but it can also result in a one-off evidence session or a seminar with stakeholders to discuss important issues raised by the document—what we describe as “enhanced scrutiny”.

16. Two examples of this work during the course of the session are the Internal Market, Infrastructure and Employment Sub-Committee’s scrutiny of the proposed Regulation in relation to high-speed broadband and the Home Affairs, Health and Education Sub-Committee’s scrutiny of Commission Communications in relation to the safe harbour agreement between the EU and US. Further details about scrutiny work are set out in the Sub-Committee chapters below.

**Scrutinising subsidiarity and proportionality**

17. As well as scrutinising EU proposals and the Government’s views on them, the Committee pays keen attention to two specific principles that are set out in the EU Treaties: subsidiarity and proportionality. Subsidiarity is the principle that action should only be taken at EU level if the particular
objectives cannot be achieved by Member States, whereas proportionality is the principle that EU action should not exceed what is necessary to achieve the objectives of the Treaties.

18. When the Lisbon Treaty entered into force on 1 December 2009 each national parliamentary chamber acquired a new power in its scrutiny of the principle of subsidiarity: the power to issue Reasoned Opinions to the EU institutions explaining why the chamber does not believe a legislative proposal complies with the principle of subsidiarity.\(^9\) If enough Reasoned Opinions are issued during the eight-week period allowed by the Treaty, the proposal in question must be reviewed. This is the ‘yellow and orange card procedure’. Currently, 18 Reasoned Opinions are required for a Yellow Card to be issued (one third), and 28 for an Orange Card (a majority).\(^{10}\)

19. In response to this new power the House of Lords devised a procedure for agreeing and issuing a Reasoned Opinion. The Lisbon Treaty also includes a provision for each national parliamentary chamber “to consult, where appropriate, regional parliaments with legislative powers” (Protocol 2, Article 6). The Committee has undertaken to alert the devolved legislatures to concerns about subsidiarity where appropriate, and we encourage the committees of the devolved administrations to raise subsidiarity concerns with us.

20. During the 2013–14 Session, the House of Lords agreed two Reasoned Opinions: on the Commission’s proposal to establish the European Public Prosecutor’s Office (EPPO) (24 October 2013) and on the Commission’s proposals in relation to new psychoactive substances (4 November 2013).\(^{11}\) The Reasoned Opinions were prepared by the Sub-Committee for Justice, Institutions and Consumer Protection and the Sub-Committee for Home Affairs, Health and Education respectively. Details of the Reasoned Opinions can be found in the chapters on each Sub-Committee.

21. The proposal to establish the EPPO triggered the second ‘Yellow Card’ to be issued since the implementation of the procedure. Although the Yellow Card was triggered by the issuing of Reasoned Opinions from 18 chambers of 14 parliaments, the Commission quickly decided to maintain the EPPO proposal, and it is now under negotiation in the Council and the European Parliament. The first ‘Yellow Card’ had been issued in May 2012 on a proposed Regulation seeking to balance the right to strike with the rules on

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\(^9\) Article 5 and Protocol 2, Treaty on European Union.

\(^{10}\) A Reasoned Opinion from one of the 15 unicameral Parliaments counts as two votes; a Reasoned Opinion from a chamber in one of the 13 bicameral Parliaments counts as a single vote. There are 56 votes available in total. If Reasoned Opinions are submitted comprising more than one third of the total votes, a Yellow Card is triggered. For legislative proposals concerning police co-operation or criminal justice (such as the proposal for the EPPO), the threshold for triggering a Yellow Card is one quarter of votes, not one third.

the internal market, known as the Monti II proposal. The House of Lords did not issue a Reasoned Opinion on this proposal, although the House of Commons did. In September 2012, the Commission withdrew the proposal, citing political disagreement in the Council rather than the issuing of the Yellow Card.

22. The Committee, in its report on the role of national parliaments in the EU, suggests ways in which this procedure can be improved, so that the issuing of Reasoned Opinions has more impact upon decision-making in the EU. Paragraphs 77 to 81 give more details.

**Opt-ins**

23. The Lisbon Treaty extended the list of measures subject to the UK opt-in, that is to say the areas where EU legislation will apply to the UK only if the Government notifies the Council that it wishes to participate. The list of measures covered by the opt-in now includes judicial cooperation in civil and criminal matters, police cooperation, asylum and immigration.

24. Protocol 21 to the Treaties governs the opt-in process. The UK is able to opt in to a proposal within three months of its being made, or once the measure has been adopted by other Member States. The Committee’s scrutiny of measures to which the opt-in applies is governed by a separate scrutiny procedure, agreed by Baroness Ashton of Upholland, then Leader of the House, prior to the Lisbon Treaty entering into force, and supplemented by an agreement with the Minister for Europe in January 2011. These agreements are now known as the Ashton-Lidington undertakings. Further details of the Ashton-Lidington undertakings and the House’s procedures regarding our reports on opt-ins are set out in Appendix 2.

25. The Committee published two reports on opt-in matters during the 2013–14 session. The first was on the proposed Regulation on Europol, prepared by the Home Affairs, Health and Education Sub-Committee, and the second was on the proposed Regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust), prepared by the Justice, Institutions and Consumer Protection Sub-Committee. The respective chapters on each Sub-Committee contain more information on these opt-in decisions.

26. The Ashton-Lidington undertakings stated that a Code of Practice setting out in detail the steps to be taken by Departments in dealing with measures subject to an opt-in would be agreed by our Committee and the Commons European Scrutiny Committee. In our Report on the 2010–12 Session (published on 7 June 2012), we highlighted instances of poor compliance with the Government’s undertakings. These flowed from the lack of guidance

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12 COM(2012) 130: Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services.


14 The Committee reported more fully on the Ashton undertakings in our Report entitled Enhanced scrutiny of EU legislation with a United Kingdom opt-in (2nd Report, Session 2008–09, HL Paper 25).

for Departments, so we are pleased that a Code of Practice has now been produced.\textsuperscript{16}

27. The Ashton-Lidington undertakings also require the Government to produce an annual report to Parliament on the application of Protocols 19 and 21. The most recent report, covering the period from 1 December 2012 to 30 November 2013, was published in January 2014 and was debated in both Houses.\textsuperscript{17}

The block opt-out

\textit{Follow-up report on the UK’s block opt-out decision relating to Pre-Lisbon police and criminal justice measures}

28. The Sub-Committee on Home Affairs, Health and Education and the Sub-Committee on Justice, Institutions and Consumer Protection published a report into the 2014 opt-out decision in April 2013, during the 2012–13 Session.\textsuperscript{18}

29. The Sub-Committees ran a stakeholder seminar in June 2013 to discuss the findings of their original inquiry, shortly before a Government-sponsored debate on the block opt-out, in which their report was frequently referenced. This debate took place on the following motion:

“That this House considers that the United Kingdom should opt out of all European Union police and criminal justice measures adopted before December 2009 and should seek to rejoin measures where it is in the national interest to do so; endorses the Government’s proposals in Cm 8671; and invites the European Union Committee to report to the House on the matter before the end of October, before the Government opens formal discussions with the Commission, Council and other Member States prior to the Government’s formal application to rejoin measures in accordance with Article 10(5) of Protocol 36 to the Treaty on the functioning of the European Union”.\textsuperscript{19}

30. The Government response to the original report was received hours before the debate; following the debate and the Government’s publication of the list of pre-Lisbon police and criminal justice measures that it would seek to rejoin, the Sub-Committees launched a follow-up inquiry. In the course of the follow-up inquiry they took oral evidence from the Home Secretary and the Lord Chancellor, publishing the report in October 2013.\textsuperscript{20}

\textsuperscript{16} The Code of Practice can be found at: \url{https://www.gov.uk/government/publications/jha-opt-in-and-schengen-opt-out-protocols}

\textsuperscript{17} Cm 8772, Fourth Annual Report to Parliament on the Application of Protocols 19 and 21 to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) in Relation to EU Justice and Home Affairs (JHA) matters (1 December 2012–30 November 2013); HC Deb, 7 April 2014, cols 24–93; HL Deb, 9 May 2014, cols 1584–1623.

\textsuperscript{18} European Union Committee, \textit{EU police and criminal justice measures: The UK’s 2014 opt-out decision} (13th Report, Session 2012–13, HL Paper 159)

\textsuperscript{19} HL Deb, 23 July 2013, cols 1232–1286. The original wording of this motion followed the text agreed by the House of Commons by making no reference to the 35 measures. This was amended in the days before the vote so that the motion endorsed the 35 measures.

31. The Sub-Committees, concluded that the Government should not only seek to rejoin the 35 measures already identified, but should also seek to rejoin an additional set of measures:

- implementing measures related to Europol’s continued operation;
- the Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law;
- the European Judicial Network;
- the European Probation Order; and
- the Convention on Driving Disqualifications.

32. The Sub-Committees expressed concern that the Government had given insufficient consideration to the possible substantive and reputational damage of not seeking to rejoin these measures. They observed that the quality and timeliness of information provided by the Government regarding the decision had left much to be desired, and emphasised that the Government must provide good quality, timely information to inform Parliament’s second vote (on the final package of measures that the UK Government had negotiated to rejoin). The Sub-Committees also recommended that the Government provide Parliament with regular reports on the progress of the negotiations.

33. The initial report and the follow-up report were debated jointly in the House of Lords on 23 January 2014.

Inquiries

34. Each of the Sub-Committees also conducts inquiries into important policies or policy areas. Some inquiries are specifically linked to one or more deposited documents, and may be regarded as an intensive form of scrutiny work. An example of this is the Economic and Financial Affairs Sub-Committee’s inquiry into Genuine Economic and Monetary Union and the proposals for Banking Union.21

35. Inquiries can also be conducted into particular policy areas in order to inform debate in the House, the UK and the EU. An example was the Internal Market, Infrastructure and Employment Sub Committee’s inquiry into youth unemployment in the EU.22 Details of all inquiries conducted during the 2013–14 Session are set out in the sub-committee chapters below.

36. Typically, inquiries will involve a public Call for Evidence, to which any interested party can reply, and one or more oral evidence sessions with the Government, stakeholders, and sometimes the European institutions. All of this evidence is made available online. The final report will draw conclusions based on this evidence and will make recommendations to the Government and, on occasion, other bodies including the European Commission.

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**Effective follow-up**

37. Our engagement with a particular proposal or policy area does not cease with the publication of a report. Instead we aim, wherever possible, to follow up our reports and recommendations to the Government and the Commission. Sometimes this may take the form of a formal follow-up inquiry. For example, the Economic and Financial Affairs Sub-Committee, following up a report originally published in 2012, conducted a further inquiry into the development of the Financial Transaction Tax (FTT), and the decision of 11 Member States to implement such a tax under an enhanced cooperation procedure.\(^{23}\)

38. We also follow up inquiry work in other ways. For example, we hold one-off evidence sessions, normally with officials or ministers, to discuss developments in negotiations at EU level or political events affecting a particular policy area. We also engage in further correspondence with Ministers to gauge whether recommendations have been taken on board, or host less formal seminars with stakeholders to learn more about how an issue has developed.

39. Further details of follow-up work are given in the Sub-Committee chapters.

**Holding the Government to account**

40. Holding the UK Government to account for its actions on the European stage is a significant part of the Committee’s work. At the heart of this is the Committee’s scrutiny of the Government’s EMs, in which the Government’s views on draft EU legislation and other policy documents are outlined. Our reports and recommendations to the Government also play an important part in holding the Government to account.

41. The Committee’s work is supplemented by a number of obligations that have been agreed between Parliament and Government over a number of years to ensure the effective and efficient operation of Parliament’s scrutiny of EU matters.

**The Government’s obligations to Parliament**

42. Each Department has the same obligations to Parliament, set out in guidance from the Cabinet Office, which was updated and revised in August 2013.\(^{24}\) They include the obligations to:

- (a) Submit an EM within 10 working days of a document being deposited in Parliament;
- (b) Respond to reports within two months;
- (c) Respond to scrutiny correspondence within 10 working days; and
- (d) Comply with the Scrutiny Reserve Resolution and Scrutiny Resolution regarding opt-ins.

43. These obligations are meant to facilitate Parliament’s scrutiny of the Government’s actions and policies.

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\(^{24}\) The guidance for Departments can be found at: [http://europeanmemoranda.cabinetoffice.gov.uk/](http://europeanmemoranda.cabinetoffice.gov.uk/)
44. In reality, each Department handles its obligations in respect of scrutiny differently, and standards of compliance vary. The Committee corresponds with the Minister for Europe about delays in the provision of EMs, responses to reports, and scrutiny correspondence. This correspondence is made available in a distinct area on our web pages.  

**Scrutiny overrides**

45. Scrutiny overrides occur when Ministers give agreement to a proposal without waiting for one or both of the parliamentary committees to complete their scrutiny work. In certain circumstances they can be difficult or impossible to avoid, for example in fast moving international situations, but they are inherently undesirable and they can represent a failure of the proper conduct of EU scrutiny by Parliament, or a failure of the Government to respect its commitments to Parliament. Table 2 shows the number of scrutiny overrides, broken down by Department, from January 2011 to December 2013.

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46. We are pleased that positive engagement between our secretariat and Departments has seen the number of overrides fall significantly in the last 18 months for which data are available. Many of the overrides that continue to be recorded relate to sensitive and fast-moving foreign policy matters, which cannot be made public beforehand, and where a scrutiny override may be difficult to avoid.

**Responses to reports**

47. The Government should reply to substantive reports by all parliamentary select committees within two calendar months of publication. In the 2013–14 Session we published 14 reports, 12 of which required a response from the Government. The other two reports, containing Reasoned Opinions in respect of subsidiarity, did not require responses.

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25 This correspondence can be found at:  
http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-select-committee/committee-work/parliament-2010/the-scrutiny-reserve-resolution1/
48. A list of these reports, showing the date that government responses were received, is set out in Appendix 4. Of the six whose government responses were due prior to the publication of this report, four received a response within two months. A delayed response was agreed in order to allow for difficulties posed by recesses or the need to consult between Departments in the case of the other two responses.

49. We were disappointed to receive late responses to the Agriculture, Fisheries, Environment and Energy Sub-Committee’s report into the EU sugar regime and the Justice, Institutions and Consumer Protection Sub-Committee’s report into the fight against EU fraud, both published late in the 2012–13 Session.26 The response to *Leaving a bitter taste? The EU Sugar Regime* was particularly slow, arriving seven months late, shortly before a debate was scheduled in the House. There is more information on both reports and the responses from the Government in the respective Sub-Committee chapters.

50. The House has agreed that it is desirable to have regular debates on Select Committee reports. All of our 14 reports were recommended for debate in the 2013–14 Session. Seven have been debated so far; six on the floor of the House, and one in Grand Committee. Excluding reports recommending a Reasoned Opinion, which must be debated very quickly in order to be sent to the Commission in time, and on the Europol and Eurojust opt-in decisions, these reports were debated on average six weeks after they were published. This is a marked improvement in comparison to last year, where the average was 21 weeks. We welcome this opportunity to debate the Committee’s work promptly and hope that this can be maintained in future.

**Working with the EU institutions and other Parliaments**

**Working with the Commission**

51. Commission President Barroso launched an informal political dialogue in 2006 which enables national parliamentary committees to submit relevant reports and letters setting out their opinions to the Commission for a response. Under the ‘Barroso initiative’, which is entirely separate from the Reasoned Opinion procedure set out in the Lisbon Treaty, the Commission will respond to each submission, though there is no fixed deadline for it to do so. Nevertheless, we actively pursue responses from the Commission as part of our follow-up work and will continue to engage in correspondence with the relevant Commissioner when needed.

52. The improvements in the political dialogue between the Commission and national parliaments are welcome and were considered by the Select Committee in its inquiry into the role of national parliaments in the EU.27 We were disappointed that the Commission’s responses have been uneven in quality and have not always engaged the substance of the political dialogue. We hope that the recommendations and suggestions made in the report will be considered and the process further improved, especially with regard to the timeliness of future dialogue.

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The Committee seeks to maintain close contact with the Commission’s Directorates-General and the Commission’s Representation in London to inform its work. In the 2014–15 Session, following the establishment of a new Commission, the Committee will seek to build on this positive working relationship.

The Committees and their secretariats have also benefited from informal briefings and formal evidence sessions with officials from the Directorates-General. We are grateful to the Commission’s secretariat for providing these.

Interparliamentary Cooperation

The Committee’s terms of reference require it “To represent the House as appropriate in interparliamentary cooperation within the EU”. The Committee cooperates with the European Parliament and the other national parliaments through a variety of formal and informal means. The Committee takes its role in representing the House in interparliamentary cooperation extremely seriously and seeks to inform the House of its activities through its reports and its monthly newsletter.

The main formal mechanism for interparliamentary cooperation is COSAC, the Conference of Parliamentary Committees for Union Affairs of Parliaments of the EU. COSAC meets twice each year, and a meeting of chairmen precedes each plenary meeting. During the 2013–14 Session there were two plenary COSAC meetings: the 49th meeting on 23–25 June 2013 in Dublin, Ireland and the 50th meeting on 27–29 October 2013 in Vilnius, Lithuania. The meetings were both attended by the Chairman, accompanied in Dublin by the Chairman of the Agriculture, Fisheries, Environment and Energy Sub-Committee and a member of the External Affairs Sub-Committee, and in Vilnius the Chairmen of the Justice, Institutions and Consumer Protection and Home Affairs, Health and Education Sub-Committees.

The COSAC secretariat brings together information from each of the EU Committees in order to share best practice and highlight key procedural issues that affect the work of parliamentary committees, such as the information flow between the Commission and national parliaments. More broadly, the Committee seeks to communicate its own best practice and learn from other national parliaments in order to enhance scrutiny work. At the 50th COSAC meeting, we were able to lead an informal discussion of the role of national parliaments, in which a significant proportion of attendees participated, and which was of considerable value to our ongoing inquiry.28

Committee members also represent the House at a range of interparliamentary conferences on different policy areas, usually held either in the country holding the rotating Council presidency, or at the European Parliament in Brussels. These meetings give members of the EU Committee and its Sub-Committees the opportunity to exchange views with national parliamentarians from other EU Member States, MEPs, Commissioners and senior Commission officials, Ministers from Member State governments, and others.

59. During the 2013–14 Session members of the Committee and Sub-Committees attended meetings on: gender balance on company boards, the Stockholm Programme, economic and financial governance of the European Union and two on Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP), amongst others. Our secretariat engages with those of other parliaments to ensure that these meetings produce useful outcomes, and to seek value for money. These meetings frequently provide an opportunity to increase awareness of our inquiries and scrutiny, and to build connections with other committees who are conducting similar work.

60. As a result of these interactions with parliamentarians from across the EU, which help to build confidence and trust across national boundaries, we have been able to share best practice with other Member States. For instance, we have adopted the practice of the Dutch Tweede-Kamer of using our annual scrutiny of the Commission Work Programme as the basis for correspondence with the Commission. We wrote to the Commission in February 2014, and received a response in March, in which the Commission not only encouraged such dialogue but indicated that it had forwarded the observations made by the Committee to the relevant services within the Commission.

61. Other regular meetings with representatives of other legislatures include the European Chairs UK (ECUK) and tripartite meetings.

62. ECUK is an opportunity for the chairs of the EU scrutiny committees in the House of Lords, the House of Commons, the National Assembly for Wales, the Scottish Parliament, and the Northern Ireland Assembly to come together. The group generally meets twice a year, though it only met once during the period covered by this report, in October 2013, when the meeting was hosted by the House of Lords.

63. Tripartite meetings bring together members of our Committee, members of the European Scrutiny Committee in the Commons, and UK MEPs. The group met once during the 2013–14 Session, on 6 June 2013 in the House of Lords. The House of Commons will host the next meeting, in autumn 2014.

64. Finally, the House’s National Parliament Representative forms part of the UK’s National Parliament Office, based in the European Parliament in Brussels. The National Parliament Representative’s job is twofold: informing this Committee of the activities of the European and other national parliaments; and informing our European colleagues about the work being undertaken by the Committee and the House. This includes distributing our substantive reports and liaising with other national parliaments’ officials about subsidiarity issues so that our Reasoned Opinions can have the most impact.

65. A list of all interparliamentary meetings attended by Committee members during the 2013–14 Session is given in Appendix 5.

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29 COM(2013) 739
30 For more information: http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-select-committee/-committee-work/
31 For more information on the National Parliament Office see: http://www.parliament.uk/mps-lords-and-offices/offices/bicameral/npo/
Delegated and implementing legislation

66. As we noted in our report last year, the Lisbon Treaty altered the legal framework for the Commission’s adoption of subordinate legislation. Such legislation, formerly adopted under the comitology procedure, often deals with highly technical matters and can, by the nature of the processes under which it is adopted, pose unique challenges for our scrutiny procedures.

67. The Commission can be given the power to adopt “delegated acts”, which are “non-legislative acts of general application” intended to “supplement or amend certain non-essential elements” of the parent legislation. The parent legislation must explicitly set out the “objectives, content, scope and duration” of the power to adopt subordinate legislation conferred on the Commission. The Commission can also adopt implementing legislation where “uniform conditions for implementing legally binding Union acts are needed”. Implementing legislation is subjected to scrutiny by committees of the representatives of the Member States, chaired by the Commission. There is some overlap between delegated and implementing legislation, and the power to adopt delegated legislation is more likely to be conferred in more politically sensitive areas.

68. Under our Terms of Reference (see Appendix 2) delegated legislation appears to be depositable in every case, while implementing legislation is not automatically depositable. The Committee has asked Departments to consult the secretariat with a view to agreeing to dispense with the deposit of individual delegated legislation proposals that are not politically or legally sensitive. Departments are also encouraged to alert the Committee to proposals for implementing legislation that are politically or legally sensitive with a view to their timely deposit and scrutiny.

69. In the session 2012–13 we were consulted on something over two-thirds of the items of delegated legislation adopted in the course of the session, a level of consultation we described as patchy. This session we have been consulted on about 80 per cent of the adopted delegated legislation. While we welcome this increase, there is still room for improvement, in particular given the ever increasing level of legislation likely to be adopted under these procedures.

70. Last year’s report called on the Government to formalise the system of consultation for delegated and implementing legislation in line with correspondence in April 2012, and again in May 2012, between the Chairman and the Minister for Europe. We also asked the Government to amend the standard format for EMs to include a heading making clear whether a legislative proposal contains provisions to make delegated or

33 Article 290 (TFEU).
34 Either the European Parliament or the Council can block such legislation. They may also revoke the Commission’s power to adopt it.
35 Article 291 (TFEU).
37 Paragraph 88.
implementing legislation. We renew these calls, neither of which has yet been adopted.

Open and accountable work

71. The Committee aims to make its work open to stakeholders, in particular by using its website to promote its work to a wide range of audiences. Between 9 May 2013 and 21 May 2014 the House of Lords Press Office issued 127 press releases related to EU Committee activity. This figure includes press releases to announce inquiry launches, evidence sessions, correspondence with Ministers, report publications, and report debates.

72. In the same period the Committee’s work was discussed in 176 broadcast features and print articles in national and regional media (excluding online articles). Of those 176 features, 153 were positive about the work of the Committee, 22 were balanced or neutral and one was explicitly critical. An illustrative figure of the estimated reach of that coverage was 123,879,661. This means there were nearly 124 million opportunities for UK readers and viewers to read or hear about the work of the Committee through print and broadcast media. In comparison, in the 2012–13 Session, there were approximately 35 million equivalent opportunities.

73. The Agriculture, Fisheries, Environment and Energy Sub-Committee led the way with 96 print and broadcast features during the period, most of which were associated with their inquiry and subsequent report on food waste. The publication of the report was covered on the front page of the Independent on Sunday following an interview with the Chairman. The Economic and Financial Affairs Sub-Committee also had substantial coverage, with 49 articles on its high-profile reports on Genuine Economic and Monetary Union and the Financial Transaction Tax.

74. Throughout the session, the Select Committee and Sub-Committees experimented with innovative methods to disseminate their reports across a range of media. These included improved video interviews publicised via YouTube, the increased use of social media and greater efforts to engage with members of the wider House of Lords.

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38 Paragraph 87.

39 These figures represent the minimum number of articles generated. There may have been others that were not recorded by the press office.

40 The estimated reach is calculated by reference to circulation figures for publications reporting on the Committee’s work.
CHAPTER 3: THE EUROPEAN UNION COMMITTEE

Scrutiny

75. The Select Committee’s remit covers cross-cutting issues such as the Treaties, the multiannual financial framework (the EU’s multi-year spending and revenue plans), EU enlargement, and the Commission’s Annual Work Programme.

76. As part of its scrutiny of the Commission’s Annual Work Programme the Committee invited each of the Sub-Committees to identify the most important proposals and those which might raise subsidiarity concerns. The results were communicated to the Commission.

Inquiry into the Role of National Parliaments in the EU

77. Our inquiry into the role of national parliaments in the EU was launched in July 2013 and the report was published on 24 March 2014.41

78. Between October 2013 and January 2014 we heard from a range of witnesses and organisations, in London, Brussels, Paris and via videoconferences. Our witnesses included academics, members of other EU Parliaments and Vice President Maroš Šefčovič of the European Commission.

79. It is clear that the financial crisis is already leading to greater integration within the Eurozone and a corresponding increase in the control of domestic economic policy by EU institutions. We believe that national parliaments must have a stronger role within the EU if we are to avoid widening the democratic deficit. This can be achieved through agreements involving national parliaments, national governments and the EU institutions, without the need for Treaty change.

80. Our report therefore emphasised the need for greater cooperation between national parliaments and early engagement by national parliaments with the European Commission. We concluded that national parliaments should work together to engage with the Commission early in the development of legislative proposals, and that the Commission should respond positively and promptly to that engagement. We also suggest that the Commission should also consider legislative proposals emanating from national parliaments—what could be called a ‘Green Card’. The report called for a strengthening of the existing ‘Yellow Card’ process and proposed that when a Yellow Card is issued, the Commission should be required to withdraw or substantially amend its proposal. It also recommended that the scope of Yellow Cards should be expanded to include proportionality concerns over measures that go beyond what is necessary to achieve EU treaty objectives. The Committee concluded that a closer working relationship between national parliamentary committees and European Parliament committees would be beneficial, and that COSAC should continue to play a role in sharing expertise and reflecting the views of national parliaments collectively.

81. At the time this Annual Report was agreed there had been no formal response from the Government or Commission. A wide range of foreign

41 European Union Committee, The Role of National Parliaments in the EU (9th Report, Session 2013–14, HL Paper 151)
ministers, members of EU affairs committees and ambassadors of Member States have written to the Chairman commenting on the suggestions made within our report. The Chairman also made a keynote speech outlining the Committee’s proposals to the Conference of Speakers of EU Parliaments in Vilnius in April 2014. We will continue to engage and discuss the report with these interested parties in the new session, and we look forward to working to implement its recommendations. The report also received wide media attention, including from many national newspapers and online sources, and the Chairman was invited to discuss the report on BBC Parliament.

European Councils

82. The Select Committee regularly conducts one-off hearings with the Minister for Europe regarding the outcomes of European Council meetings. During the 2013–14 Session there were five such hearings, after the May, June, October, December and March meetings. These sessions cover a wide range of topics, such as EU energy policy, tax fraud, the situation in Syria and Ukraine, the workload of the Court of Justice and the Cyber Defence Policy Framework.

83. The Committee will trial a pre-Council hearing with the Minister for Europe in the 2014–15 Session, to feed into Government preparations, ahead of decisions being reached. This experiment arises out of a conclusion in our report into the role of national parliaments in the EU.

Presidency of the Council of the EU

84. Every six months the Committee holds an informal session with the Ambassador in the UK of the Member State that is about to take up the Presidency of the Council of the EU. We use this meeting to discuss the Presidency’s priorities, the policy areas which will be the focus for the next six months. The Committee met the Lithuanian Ambassador in July 2013 and the Greek Ambassador in January 2014. These were highly informative sessions, so we will seek to continue this practice, and plan to meet the Italian Ambassador at the start of the Italian Presidency in July 2014.

Balance of Competences Review

85. A review of the Balance of Competences between the UK and the EU was announced by the Foreign Secretary on 12 July 2012.42 Its purpose is to conduct an analytical and evidence-based audit of what the EU does and how it affects the UK. It is scheduled to be concluded by the end of 2014. The Review is being conducted over four “semesters”, each containing 6–10 reports on individual competences. Before each set of reports is published at the end of the respective semester, and in order to inform their content, the relevant government departments are responsible for taking evidence on their respective competences by issuing 12-week calls for evidence to stakeholders and parliamentary committees.

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42 FCO, Review of the Balance of Competences between the United Kingdom and the European Union, Cm 8415 (July 2012)
86. The first semester took place between autumn 2012 and summer 2013, leading to the publication of six reports in July 2013.\textsuperscript{43} The second batch of reports was published in February 2013,\textsuperscript{44} apart from the \textit{Single Market: Free Movement of goods} report, which has been delayed. We wrote to the Minister for Europe on the delay; he told us that the area was particularly complex and that the Report would be published as soon as it was complete. The third batch of reports will be published in summer 2014, and the final batch at the end of 2014.

87. We have considered the reviews to ensure that they are the analytical audits promised, and that they suitably cite relevant EU Committee reports. We will continue this process for the final two sets of publications.

\textsuperscript{43} The six reports were on: Single Market: General; Taxation; Animal Health and Welfare and Food Safety; Health; Foreign Policy; and Development.

\textsuperscript{44} The reports were on: Asylum and Non-EU Migration; Trade and Investment; Environment and Climate Change; Transport; Research and Development; Culture, Tourism and Sport and; Civil Judicial Cooperation.
CHAPTER 4: ECONOMIC AND FINANCIAL AFFAIRS

Scrubiny

88. The remit of the Economic and Financial Affairs Sub-Committee covers customs, tax, structural cohesion funds and economic policy cohesion amongst the EU Member States. The Sub-Committee also has responsibility for scrutinising the European Semester and the draft EU Annual Budget (see below).

89. During the 2013–14 Session documents scrutinised by the Sub-Committee included a Green Paper on long-term financing of the European Economy; a Regulation on European long-term investment funds; a Directive on a Standard VAT return decision and Amending Directive on a quick reaction mechanism against VAT fraud; an Amending Directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States; and detailed scrutiny of three Commission documents relating to shadow banking.45

2014 EU Annual Budget

90. On 23 July 2013 we heard evidence on the 2014 Annual Budget from the then Financial Secretary to the Treasury, the Rt Hon Greg Clark MP. The Sub-Committee wrote to the Minister the following day, expressing disappointment at the lack of time for scrutiny of the budget and the lack of information on the progress of negotiations.

91. The Sub-Committee welcomed the relative fiscal constraint in the Budget, but called for the Budget to be more oriented towards growth and competitiveness. The Sub-Committee also expressed concern about pressure on budgetary discipline and a breakdown in the relationship between payment commitments and appropriations. The Minister gave detailed answers most of the queries, but did not comment in detail on the role of the European Parliament and the relationship between payments and appropriations.

92. The budget was adopted on 2 September 2013, and the Minister has continued to update us by correspondence on subsequent developments and amendments to the budget.

European Semester

93. The European Semester is the cycle of economic and fiscal policy coordination within the EU. During the 2013–14 Session the Sub-Committee corresponded with HM Treasury on the latter stages of the 2013 Semester and the initial stages of the 2014 Semester. In addition, our Chairman attended the European Parliamentary Week on the European Semester, in Brussels in January 2014. He also participated in the Interparliamentary Conference on Economic and Financial Governance in the EU, in Lithuania in October 2013.

Inquiries

Financial Transaction Tax: Alive and Deadly

94. On 10 December 2013 the Committee published a follow-up report to its 2012 inquiry into the Financial Transaction Tax (FTT).46

95. The new report reflected on the decision by 11 Member States to pursue a tax under the enhanced cooperation procedure. The Sub-Committee found that the tax would have a major impact on non-participants, including the UK. The tax would have to be levied in the UK on behalf of the 11, with potential damage to its markets but no benefit to the Exchequer. The Sub-Committee also criticised the Commission’s approach to enhanced cooperation as unjustified and misconceived. It was only after the Council had agreed to authorise the use of enhanced cooperation that the Commission brought forward a revised FTT proposal, which included material changes from the original proposal. This approach undermined the Commission’s obligation to defend the interests of participating and non-participating Member States alike. Finally, we criticised the UK Government for its diffident approach to the FTT, and its reluctance over several months to take seriously our concerns. It was only after the Sub-Committee’s constant and repeated warnings that the Government finally awoke to the threat that the tax posed and launched a legal challenge against the use of enhanced cooperation.

96. Since publication of the report the issue has been debated on the floor of the House of Lords and responses have been received from the Government and the Commission.

97. The Sub-Committee continues to scrutinise developments, including the Court of Justice of the European Union’s (CJEU) April 2014 rejection of the UK’s legal challenge, and the May 2014 announcement by Member States that they hoped to reach agreement on the first stage of an FTT by the end of 2014. Our report continues to be cited in media reports six months after its publication.

‘Genuine Economic and Monetary Union’ and the implications for the UK.

98. The main focus of the Sub-Committee’s work during 2013–14 was our inquiry into ‘Genuine Economic and Monetary Union’ and the implications for the UK.47 The report was published on 14 February 2014.

99. The inquiry focused on the EU institutions’ vision for a strong and sustainable single currency, including the proposals for Banking Union, and followed our report of 2012–13 on European Banking Union: Key issues and challenges (see below). We heard evidence between May and November 2013 from a wide range of witnesses from across the EU. We also collected valuable evidence in visits to Brussels, Berlin and Frankfurt.

100. We concluded that Banking Union was vital to tackling the effects of the financial crisis. Yet what had been agreed at that time was insufficient to

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break the vicious circle linking banking and sovereign debt. The Sub-Committee noted the strong case for some fiscal transfers and debt mutualisation, but noted that proposals for an integrated budgetary and economic policy faced widespread political opposition. Although the full vision remained a distant prospect, the eurozone was on the road towards greater integration, with huge implications for the UK. A strong and prosperous eurozone was in the interests of all EU members, as was a strong and engaged UK.

101. After the report was published, the co-legislators reached agreement on the next leg of Banking Union, the Single Resolution Mechanism. In correspondence with the Minister we noted that the deal went some way towards addressing the concerns out in our report, including a shorter mutualisation period for the Single Resolution Fund and a somewhat more streamlined decision-making process. However, we remain concerned that the resolution process is complex, and that there is a risk that funding will be inadequate to deal with the scale of bank failures that have been witnessed in recent years. The Sub-Committee will continue scrutinising these issues in the next session.

Euro area crisis: an update

102. Since our last report on the crisis, published in February 2012, the Sub-Committee has reviewed developments every six months. 48

103. Our report on the Euro area crisis: an update brought together these pieces of work, combined with an up-to-date examination of the evolution of the crisis. During February and March 2014 the Sub-Committee heard evidence from Mario Monti, former Prime Minister of Italy; Erkki Liikanen, Governor of the Bank of Finland; Sir Jon Cunliffe, Deputy Governor for Financial Stability at the Bank of England; and a panel of economic experts. The report was published on 4 April 2014. 49

104. We found that there were welcome signs that the crisis had eased, including a return to growth. Nevertheless, it would be unwise to conclude that the storm has entirely passed. Fundamental weaknesses remain, making the euro area vulnerable to future shocks. These include immense economic imbalances between core and periphery Member States; destructively high levels of unemployment and youth unemployment; incomplete programmes of structural reform; anaemic growth; fears of a damaging deflationary spiral; and continued political tensions at the effect of ‘austerity’ on the lives of EU citizens. The crisis has also seen euro area authorities, notably the ECB and the Eurogroup, grow in influence, leaving the UK in an increasingly isolated position. We therefore urged the Government and Bank of England to ensure that the UK’s interests are effectively promoted through constructive relationships with these increasingly powerful institutions.

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Follow-up work

MiFID II: Getting it Right for the City and EU Financial Services Industry

105. The original report was published on 10 July 2012, and addressed the Commission’s important and far-reaching proposals for a new Markets in Financial Instruments Directive and Regulation (“MiFID II”).

106. The Sub-Committee has continued to correspond with the Government as negotiations have progressed. Agreement on the proposal was finally reached in early 2014. Many of the concerns expressed by the Sub-Committee were addressed in the final agreement, for instance on third country access, although the Government expressed disappointment at the outcome on investor protection.

European Banking Union: Key issues and challenges

107. The original report was published on 12 December 2012. The Government’s initial response, received in February 2013, was brief, so we wrote to the Minister asking the Government to provide a full response to each of the report’s 24 recommendations. A full response was received in March 2013.

108. The Commission response was received in July 2013. It stated that the Commission shared most of the Sub-Committee’s analysis, and that the points that it had raised had been analysed during negotiations. It particularly emphasised the safeguards in the compromise agreement on the Single Resolution Mechanism (SRM), including improved accountability mechanisms, and equal treatment for participants and non-participants. The Commission did not agree with our view that the Single Supervisory Mechanism could undermine the role of the European Banking Authority.

109. We have followed up this report in the context of our inquiry into ‘Genuine Economic and Monetary Union’ and the implications for the UK, which reflects at length on stage two of Banking Union, the negotiations on a SRM.
CHAPTER 5: INTERNAL MARKET, INFRASTRUCTURE AND EMPLOYMENT

Scrutiny

110. In the 2013–14 Session policy areas scrutinised by the Sub-Committee included competitiveness, research and innovation, the single market and youth unemployment.

Fourth Rail Package

111. The Sub-Committee scrutinised the proposals making up the Fourth Rail Package, which has the aim of establishing a Single European Railway Area.51

112. Reasoned Opinions were issued by the Swedish Riksdag, the Romanian Senat, and the Lithuanian Seimas, expressing concern over the ‘interoperability and safety’ element of the package. Having heard from government officials in June 2013, we concluded that transferring powers to the European Railway Agency (ERA) would not breach the principle of subsidiarity, as the overview of a central body seemed necessary to address the barriers identified by the Commission to a liberalised rail service.

High-speed broadband

113. The Sub-Committee also scrutinised the proposal for a Regulation aiming to reduce the overall cost of deploying new superfast broadband infrastructure.52 We wrote to the Government and the Commission, arguing that, while in principle the proposed measures seemed proportionate, they should have been introduced by means of a Directive rather than a Regulation. A Directive would enable Member States to implement the measures flexibly, through national legislation, rather than being directly bound by EU legislation.

114. In response, the Commission said that it chose a Regulation to ensure maximum efficiency and effectiveness, focusing on a limited number of directly applicable rights and obligations. It also argued that a Regulation could deliver results more quickly than a Directive, which would require time for transposition and would provide a lesser level of harmonisation.

115. The Sub-Committee continues to correspond with the Government on this dossier.

Single market for electronic communications

116. The proposal for a Regulation laying down measures concerning the European single market for electronic communications53 comprised a package of measures, including single EU authorisation across all 28 Member States, harmonised rights for consumers and changes to mobile phone roaming charges.

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52 COM(2013) 147.

117. We wrote to the Minister to request further information on the cost-benefit analysis conducted by the Government, while expressing concerns about the timetable for negotiations and about the proposed delegation of powers to the Commission to approve decisions made by Member State authorities on radio spectrum allocation.

118. We continue to scrutinise this dossier. The Minister has told us that the timetable has changed considerably, and that it is now almost certain that the proposal will not be agreed under the current Commission. The Government’s negotiating position is to try and gain support for a simplified version of the Regulation, which could be agreed by the end of 2014. It is unclear whether this will be acceptable to the Commission and other Member States: Neelie Kroes, the Commissioner responsible for the proposal, has stated that such a compromise is not possible.

Posting of workers

119. The Sub-Committee held a one-off, informal hearing with officials from the Department for Business, Innovation and Skills (BIS) in relation to the Posting of Workers dossier.

120. The existing Posting of Workers Directive allows companies to employ their own staff on projects in other Member States on home-country terms as long as this is for a limited time and they abide by a core set of employment conditions during the posting. The new proposal sought to improve the Directive’s existing provisions and put into place practical safeguards against social dumping and poor working conditions. One of the most contentious parts of the proposal was a provision aiming to improve the enforcement of workers’ rights, including the introduction into the construction sector of joint and several liability for the wages of posted workers (in order to tackle problems that have arisen with sub-contractors failing to pay wages). The Government had previously argued against the dossier, but later decided to support a substantially similar version of the text.

121. We decided to clear the document from scrutiny after the briefing from officials, on the basis that refusal by the Government to agree to the text as it stood would risk other parties agreeing a text which would be even more damaging to the UK.

The rights of EU migrant workers

122. On 30 May 2013 the Commission announced it was launching infringement proceedings against the UK, for its approach to benefits for EU nationals from other Member States in the UK.

123. The European Commission argued that the UK’s ‘right to reside’ test (which EU citizens living in the UK must pass in order to qualify for benefits) was discriminatory because it treated EU citizens differently from UK citizens, something which was not allowed under European law.

124. In July 2013 the Sub-Committee held two public evidence sessions on this issue. The first session was with NGOs and academics; the second session was with Mark Harper MP, Minister for Immigration. We then wrote to the Minister on 4 September 2013, asking him for data to back up the Government’s claim that EU migrant workers were engaged in ‘benefits tourism’.

125. The Minister replied on 17 September, advising that the Home Office and Department for Work and Pensions (DWP) were working with EU partners to collate evidence of abuse of free movement rights, in order to submit a report to the Commission. The Sub-Committee made clear its concern about the Government’s view that greater emphasis should be placed on qualitative rather than quantitative evidence for the abuse of free movement rights. The Sub-Committee accepted the limitations on gathering data in this area, but noted that the political and economic importance of the issue warranted views based on robust quantitative information. The Minister shared the report on the abuse of free movement rights with the Sub-Committee in January 2014.

126. Later this year, the Government are expected to release a review on this policy area under their ‘Balance of Competencies’ initiative.

Inquiry: Youth unemployment in the EU: a scarred generation?

127. Our inquiry on youth unemployment was launched in September 2013 and a report was published on 10 April 2014.  

128. The report recognised that the responsibility for dealing with youth unemployment rests primarily with Member States, and that the key measures to address the issue should be introduced at national level. But it also concluded that the EU should continue to have a role in providing funding and other forms of support to reduce youth unemployment. EU funding should not be used to subsidise national approaches, but should be put towards establishing new initiatives and trying new methods.

129. The report welcomed the fact that the EU’s Youth Employment Initiative targeted regions that were experiencing the highest levels of unemployment. We recommended that the UK Government focus such funding wholly on the five areas in the UK with more than 25 per cent youth unemployment, while using the European Social Fund and government spending to target those areas, such as Outer London, where youth unemployment is high, but below 25 per cent.

130. We regretted the UK Government’s delay in submitting a plan for spending the Youth Employment Initiative funds. The Sub-Committee was also disappointed by the Government’s lack of support for using the funds under the Youth Employment Initiative to pilot Youth Guarantee schemes.

131. We concluded that the current system for managing EU funding in the UK was too centralised and insufficiently tailored to local needs. We therefore

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55 Don Flynn, Director, Migrants Rights Network; Jonathan Portes, Director, National Institute of Economic and Social Research; Professor Jo Shaw, Salvesen Chair of European Institutions, Dean of Research and Deputy Head of the College of Humanities and Social Science, University of Edinburgh; and John Springford, Fellow, Centre for European Reform.

welcomed the UK Government’s commitment to introduce greater localisation into the allocation of funding, in particular by giving greater autonomy to Local Enterprise Partnerships.

132. We made use of social media throughout the inquiry, in particular using Twitter to seek the views of the public on questions for the Minister for Employment and the Minister for Skills and Enterprise.

Follow-up work

The Effectiveness of EU Research and Innovation Proposals

133. The original report was published in April 2013 and considered the effectiveness of EU research and innovation proposals, concluding that the new round of proposals for 2014–2020 represented a good opportunity for UK businesses to access pan-EU funding. The Government responded in June 2013. We then wrote on 19 July to David Willetts MP, the Minister of State for Universities and Science, to express our disappointment that the Council did not feel able to accept the €80bn budget originally proposed by the Commission. At the same time we were pleased to note that the Government’s work in the area of National Contact Points (which support bodies seeking EU research and innovation funding) was consistent with some of the recommendations of the report.

134. We received a response from the Commission in February 2014, broadly agreeing with our conclusions. The Commission focused on the Sub-Committee’s call to reduce the time between a successful applicant being awarded and actually receiving the funds. The Commission also stated that it was revising the impact assessment guidelines in line with our recommendations.

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CHAPTER 6: EXTERNAL AFFAIRS

Remit

135. In 2013–14 the External Affairs Sub-Committee scrutinised proposals in the area of international trade, alongside foreign affairs, defence and development matters. The Sub-Committee’s remit includes restrictive measures and sanctions regimes, the European Neighbourhood Policy, Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP).

136. The Sub-Committee also examines the 2010 UK-French defence treaties in a quadrilateral parliamentary partnership with the House of Commons Defence Committee and the French Sénat and Assemblée Nationale. Three meetings were held during the 2013–14 Session, in May 2013 in Paris hosted by the Sénat, in London in October 2013 hosted by the House of Commons, and once again in Paris in May 2014, this time hosted by the Assemblée Nationale.

Scrutiny

137. The Sub-Committee scrutinised a number of Commission communications, proposals and directives, including the Association Agreements between the European Union and Georgia, the Republic of Moldova and Ukraine, a range of restrictive measures including those applied to individuals and entities in Iran, Russia, Ukraine and Zimbabwe, the Council Decisions launching a European Union CSDP mission in Mali and EU Training Mission to Mali (EUTM Mali) and the Council Decision launching a CSDP Mission to the Central African Republic (EUFOR RCA).58

EU Special Representatives

138. The Sub-Committee considered proposals on the appointment of European Union Special Representatives (EUSRs),59 who support the High Representative of the Union for Foreign Affairs and Security Policy, promoting the policies and interests of the EU in troubled regions and countries. There are currently eleven EUSRs and the draft Council decisions proposed amending and extending their mandates and budgets.60

139. We wrote to the Minister for Europe and the High Representative for Foreign Affairs on 1 July 2013 expressing our dismay at the delay in receiving the associated explanatory memoranda, given that the date of expiry of the existing mandates for the EUSRs had been known several months in advance. The Sub-Committee also expressed particular concern regarding the EUSRs for Sudan and South Sudan, asking whether it was wise to merge their mandate with that for the Horn of Africa.

59 Unnumbered Document.
60 The II EUSRs cover the following countries or regions: Afghanistan, the African Union, Bosnia and Herzegovina, Central Asia, Kosovo, the South Caucasus and the crisis in Georgia, the Southern Mediterranean region and Sudan.
140. We also pursued some of our recommendations from a previous report on the European External Action Service (EEAS), for example that there should be zero real growth in the EEAS budget, and that salaries should be rigorously reviewed, in particular the high pay scales of EUSRs which in the Sub-Committee’s view merited reconsideration.\(^{61}\)

141. On 27 March 2014 the Minister replied, noting that, as part of the review of the 2007 guidelines on EUSRs, the Government had secured a reduction in the salaries of EUSRS from the AD16 range on the EU pay scale to the upper end of the AD14 range, resulting in savings of €29,000/year per EUSR for all future appointments.

**Investor-State Dispute Settlement**

142. The proposal for a Regulation on Investor-State Dispute Settlement aimed to allocate financial responsibility for investor-state dispute settlement claims brought against the EU, now that the EU has acquired competence to conclude treaties in some areas of investment policy.\(^ {62}\)

143. The Sub-Committee pursued two issues with the Government. The first was the fact that there was an 11-month delay in receiving a response to a November 2012 letter from the Committee about the proposal. By the time the response finally arrived the Government had already given agreement to a Presidency compromise text as the basis for trilogue negotiations with the European Parliament, leading the Committee to assert that an override had occurred.

144. The second issue was the fact that the Government remains in dispute with the Commission about the nature of the EU’s competence on investment matters. The Commission maintains that it has exclusive competence on all investment matters, including portfolio investment as well as Foreign Direct Investment (FDI), while the Government maintains that the Commission only has exclusive competence over FDI.

145. Correspondence between the Government and the Committee is ongoing.

**Revised Proposal for a European Voluntary Humanitarian Aid Corps**

146. This proposal, to develop a new corps of European volunteers to be deployed in humanitarian projects worldwide, was first scrutinised by the Sub-Committee in November 2012.\(^ {63}\)

147. The Sub-Committee initially had subsidiarity concerns about the added value of such a scheme and the significant budget proposed for it. We entered into correspondence with the Government, setting out our concerns, many of which were shared by the Minister. In a revised proposal deposited in November 2013 many of our concerns were addressed.\(^ {64}\) These included a significant (38%) reduction in the budget allocated to the scheme, and measures to ensure that volunteers are primarily skilled and professional.

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\(^{63}\) COM(2012) 514.

specialists and that the scheme complements, rather than duplicates, the work of non-governmental organisations.

148. In light of these improvements, the Sub-Committee cleared the proposal from scrutiny in December 2013.

Non-inquiry evidence sessions

149. The Sub-Committee held one-off hearings with a range of experts and government officials. Topics included the future of the CSDP, EU Restrictive Measures regimes (sanctions), an update on the situation in Ukraine, an update on the situation in the Central African Republic, Mali and South Sudan, the relationship between the EU and Zimbabwe and an update on the interim agreement between the E3+3 and Iran.65

150. Private briefings allow the Sub-Committee to receive information from government officials to inform their scrutiny work. An example of this was a private briefing received from FCO officials as follow-up to our scrutiny of changes to the restrictive measures regime imposed on Zimbabwe.

EU Restrictive Measures

151. The Sub-Committee took evidence from barristers representing individuals and entities affected by EU restrictive measures who had successfully challenged those measures before the General Court, and also received a private briefing from FCO officials on the same subject. We explored why repeated scrutiny overrides were occurring on Council Decisions imposing restrictive measures and why restrictive measures imposed by the EU were being struck down by the General Court.

Inquiries

European Court of Auditors report on EU-Funded Water and Sanitation Projects in Sub-Saharan Africa

152. The Sub-Committee launched a short inquiry into the highly critical European Court of Auditors (ECA) report in June 2013. We took evidence from a range of witnesses in June and July, and published a substantive letter to the Commission in July 2013.66

153. We heard evidence from the ECA, UK Government, small NGOs in Africa, WaterAid, the European Commission and an academic. We concluded that there was huge waste of resources in many of the EU’s water and sanitation projects. Our letter received constructive and positive responses from the Government, the ECA and the Commission, although the Commission raised some points of disagreement.

154. We have continued to correspond with the Government and with Andris Piebalgs, Commissioner for Development. In January, we requested information on the evaluation of the monitoring processes currently in place and on the plans to engage effectively with organisations at the grass-roots level. The Commission has undertaken to update the Sub-Committee upon

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65 E3+3 is the collective name for France, Germany and the UK, and China, Russia and the USA.
66 The substantive letter can be found at: http://www.parliament.uk/documents/lords-committees/eu-sub-com-c/EU%20WASH/130729LordBoswell-CommissionerPiebalgsWASH.pdf
the completion, in autumn 2014, of this evaluation work and of the study on engaging the private sector. We have maintained correspondence with the Government, requesting that the issues we considered be raised in the Council.

*The Transatlantic Trade and Investment Partnership*

155. The inquiry on the Transatlantic Trade and Investment Partnership (TTIP) was launched in July 2013. We heard from an exhaustive list of witnesses, including the European Commissioner for Trade Karel De Gucht and Chief Negotiator Ignacio Garcia-Bercero, representatives of the financial services industry, the automotive industry and the agriculture and food and drink industries. We also visited Brussels and Washington D.C. to hear from witnesses on both sides of the Atlantic. Our report was published in May 2014.\(^{67}\)

156. Our report concluded that, as the most ambitious trade and investment pact ever attempted, the deal could set the template for a new generation of 21st century trade and investment agreements. We judged that it should be possible to make progress on UK objectives in relation to the motor industry and geographical indications, but that access to US public procurement contracts would be more difficult to obtain. They also suggested that the inclusion of financial services regulatory matters in TTIP would be the hardest fought of the UK’s objectives, as a result of vehement opposition from the US.

157. We urged that Member States, not just the European Commission, should promote the TTIP initiative and address public concerns over the prospect of a deal. They recommended that the UK Government should develop a communications strategy that involves ministers with sectoral responsibilities, not just trade ministers, and seek to explain how TTIP is relevant, not just to large multinational companies, but also to consumers and small businesses.

158. The Government’s response is expected by 13 July 2014.

159. The Sub-Committee’s conclusions and recommendations received coverage in the business sections of broadsheet newspapers (such as the *Daily Telegraph*) and were featured on the BBC’s World Business Report programme.

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CHAPTER 7: AGRICULTURE, FISHERIES, ENVIRONMENT AND ENERGY

Scrutiny

160. The Sub-Committee’s remit includes the Common Agricultural and Fisheries Policies (CAP and CFP), environmental protection, climate change and energy policy.

161. Over the course of the session we scrutinised the finalisation and initial implementation of the reforms to the CAP and CFP, the proposal for a regulation on the prevention and management of the introduction and spread of invasive alien species and the EU forest strategy.

Common Fisheries Policy Reform

162. As part of our scrutiny of the Commission’s proposals to reform the CFP we held three evidence sessions in June and July 2013.68

163. The witnesses included Richard Benyon MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs; representatives of the National Federation of Fishermen’s Organisations (NFFO), SEAFISH,69 the Discard Action Group and two academics from the School of Environmental Sciences at the University of Liverpool and from the Department of Development and Planning at Aalborg University.

164. These evidence sessions focused on a number of areas related to the reform of the CFP, including implementation, enforcement, lessons that can be learnt from Norway and ongoing research and innovation.

165. Following these evidence sessions we wrote to both the Minister and the Commissioner for Fisheries and Maritime Affairs (Commissioner Maria Damanaki) on 24 July setting out our views on implementation of CFP reform. We proposed five lines of action that were required to support the ban on the discarding of fish: increased funding for a regionalised approach; a stronger commitment to marine research; further research into the area of survivability of fish once captured; a review of existing rules and regulations; and the promotion of a wider consumption of varied species.

166. The Government replied in November 2013. The Commission replied in February 2014, stating that the issues we had raised were either in the process of being dealt with or would be in the near future.70

Common Agricultural Policy Reform

167. As part of our scrutiny of the Commission’s proposals to reform the CAP, we held two evidence sessions in September 2013.71

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69 A Non-Departmental Public Body set up to improve efficiency and raise standards across the seafood industry. It is funded by levies on the first sale of seafood products.
70 The exchange of correspondence between the Committee and Government has subsequently been made available on the Committee’s website: http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-environment-and-agriculture-sub-committee-d/scrutiny-work1/parliament-2010/common-fisheries-policy-reform/
168. In the first evidence session we heard from the President and the Director of Policy of the National Farmers Union (NFU) and the Executive Director of the Institute for European Environmental Policy (IEEP). In the second session, the Sub-Committee spoke with Gwilym Jones, a member of the Cabinet of Mr Dacian Cioloş, European Commissioner for Agriculture and Rural Development.

169. These evidence sessions focused on a number of areas related to the reform of the CAP, including the strengths and weaknesses of the deal reached, the outstanding issues to be addressed in the implementation of Pillar 1 (covering support for production), modulation, innovation in the farming sector and environmental sustainability.

170. Following these sessions, we wrote to the Government in October 2013, raising a number of issues, including the level of flexibility available when implementing crop diversification, the extent to which the UK’s implementation of CAP reform would be driven by a fear of penalties, the progress made by the Government on support for the European Innovation Partnership for sustainable and productive agriculture and the development of the Farming Advice Service. The Government responded to our letter on 30 October.

EU Forest Strategy

171. In March and April 2014 we conducted four evidence sessions to examine a Communication from the Commission, entitled A new EU Forest Strategy: for forests and the forest-based sector.

172. We heard evidence from representatives of Confor, the National Trust, the Confederation of European Forest Owners (CEPF), the European State Forest Association (EUSTAFOR) and the Forests and the European Union Resource Network (FERN). We also heard from Dan Rogerson MP, Parliamentary Under-Secretary of State for Water, Forestry Rural Affairs and Resource Management and Ignacio Seoane, Deputy Head of Unit of the Agriculture and Rural Development Directorate General in the European Commission.

173. Following these sessions we wrote to the Government and the Commission in May 2014. The issues raised included: the need for a long term vision for EU forestry; incoherent governance of forestry policy and policies affecting forestry; the tension between Member State competence for forestry policy on the one hand and the applicability of other EU policies to forestry on the other; and the importance of reviewing the EU’s Timber Regulation.

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72 Previous reforms divided the CAP into two ‘Pillars’: production support and rural development.

73 The exchange of correspondence between the Committee and Government has subsequently been made available on the Committee’s website: http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-environment-and-agriculture-sub-committee-d/scrutiny-work1/parliament-2010/common-agricultural-policy-reform/

74 COM(2013) 659.

75 The correspondence can be found at: http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-environment-and-agriculture-sub-committee-d/scrutiny-work1/parliament-2010/eu-forestry-policy/
Inquiries

*Counting the Cost of Food Waste: EU Food Waste Prevention*

174. This inquiry ran from August 2013 to April 2014. We took evidence in the UK from groups covering the whole supply chain of food production, including the National Farmers’ Union, the Food and Drink Federation, supermarkets and the Industry Council for Research on Packaging and the Environment (INCPEN). Other witnesses included the Waste and Resources Action Programme (WRAP), FareShare and WWF UK. The Sub-Committee visited the Netherlands to take evidence from government, industry and food bank representatives.

175. The report, published on 6 April, concluded that efforts to reduce food waste are fragmented and untargeted, and called on the new Commission to publish a five-year strategy on food waste prevention within six months of taking office. We called for greater collaboration and shared financial responsibility along the supply chain so that, for example, retailers work more closely with farmers and consumers to reduce food waste. We also called for the Government and European Commission to assess how the redistribution of unsold food for human consumption might be encouraged through fiscal incentives such as VAT exemptions and tax breaks.

176. The report received significant media attention, both nationally and locally, across a range of media—newspaper, television, radio and online (particularly on social media websites). On the day of publication, the *Independent on Sunday* put the report on its front page and accompanied it with in-depth coverage.

177. The Government response was received on 3 June, and there will be a debate in due course. The report was also sent to the European Commission and European Parliament. Following the European elections, the report will be highlighted again to the new Commissioners and European Parliament Committee Chairs.

**Follow-up work to previous inquiries**

*Leaving a bitter taste? The EU Sugar Regime*

178. The report was published in September 2012, but the Government’s response was delayed by seven months, appearing eventually only three working days before the debate in Grand Committee on 3 June 2013. The Government supported the principles underlying the report, including an end to sugar beet quotas, and took the opportunity to update us on the latest state of play on sugar policy in the negotiations to reform the Common Agricultural Policy. In its response, the European Commission also welcomed our support for the Commission’s proposal not to prolong sugar quotas beyond 2015.

179. Publication of the report was timed to coincide with the ongoing discussions in the European Parliament about reform of the Common Agricultural

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Policy, including sugar policy. Efforts were therefore made to ensure awareness of the report among key MEPs. In support of that approach, Committee staff attended a European Parliament seminar on sugar shortly after publication. Ultimately, on the key issue of the ending of sugar beet quotas, it was agreed as a compromise that production quotas should end in 2017. This was in line with the compromise proposed in our report.

No Country is an Energy Island: Securing Investment for the EU’s future

180. This report was published in May 2013\(^\text{78}\) and the Government response was received on 2 July 2013. The Government supported most of our conclusions, describing the report as "a timely and welcome contribution to the important debate about the future of EU energy policy". Notably, the Government agreed with our recommendation that a unilateral EU-wide greenhouse gas emissions reduction target of 40% by 2030 should be set and our view that structural reform of the EU’s Emissions Trading System was required.

181. Similarly, the European Commission described the report as timely, particularly in advance of the publication of a 2030 framework for energy and climate policy. After publication, we held an evidence session with the Secretary of State to pursue some of the issues. The Secretary of State agreed that there was a danger of Member States relying too heavily on national mechanisms to guarantee domestic energy capacity.

182. The report was debated in Grand Committee on 29 July 2013. The speaker’s list clearly illustrated the wide range of views in the House on the potential role of shale gas.

183. Later in the year our Chairman was invited to present our findings to a well-attended seminar in the City of London on investment in energy. In January 2014 the European Commission published its framework for energy and climate policy until 2030, which covered many of the issues considered in the report.\(^\text{79}\) In particular, the Commission grounded many of its proposals on the need to secure investment in the energy sector. There was notable alignment on the overall 40% greenhouse gas reduction target and on the need for a more coherent approach to EU energy governance, while respecting the right of Member States to decide on their own energy mix.


\(^{79}\) The Commission’s framework for energy and climate policy until 2030 can be found here: [http://ec.europa.eu/clima/policies/2030/index_en.htm](http://ec.europa.eu/clima/policies/2030/index_en.htm)
CHAPTER 8: JUSTICE, INSTITUTIONS AND CONSUMER PROTECTION

Scrutiny

184. The Justice, Institutions and Consumer Protection Sub-Committee continued to scrutinise proposals in the field of criminal justice and procedures, fundamental rights, copyright and intellectual property.

185. In particular, we scrutinised Regulations on the financing of European political parties, a package of Directives dealing with procedural rights in criminal law, including one introducing safeguards for children suspected or accused in criminal proceedings, Regulations relating to pensions of European Union officials and a Council Decision on the signing of the World Intellectual Property Organisation (WIPO) Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled.

Increasing the number of Advocates-General of the Court of Justice of the European Union

186. In April 2011 we published a report on the workload of the Court of Justice of the European Union, recommending an increase in the number of Advocates General assisting the Court of Justice and the number of judges serving the General Court (GC). We published a second report on 29 April 2013, criticising Member States’ ongoing failure to address this practical solution to the significant workload problems affecting the GC.

187. A draft Council Decision to increase the number of Advocates-General was considered by the Committee in May 2013. The European Union Act 2011 requires both Houses debate any increase to the number of Advocates-General, and such debates duly took place in the House of Lords on 10 June, and in the House of Commons on 11 June. On 25 June the Council agreed to appoint three additional Advocates-General.

Briefing Session with the Fundamental Rights Agency

188. In October 2013 we held a one-off session with officials from the Fundamental Rights Agency (FRA), to discuss the work of the Agency and

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80 The other two Directives dealt with the Right to Silence, and Access to Legal Aid. In relation to both, the Sub-Committee recommended that the Government should not opt in to their negotiation.

81 The Sub-Committee suggested that the Government should opt in only if they were confident that they could address their concerns with the proposal during the course of the negotiations.


84 Council Number 7013/13.

85 The witnesses were Morten Kjaerum, the Director of the Fundamental Rights Agency (FRA); Philip Geddes, Member of the FRA Management Board for the UK; and Joanna Goodey, Head of Freedoms and Justice Department.
its interaction with other agencies and institutions.\textsuperscript{86} The session covered topics such as the accountability of the FRA, its interaction with the Council of Europe and the differences between the roles of the FRA and the Council of Europe’s Commissioner for Fundamental Rights. We will seek to hold similar sessions with other EU agencies in the future.

**Subsidiarity Assessment: European Public Prosecutor’s Office**

189. On 22 October 2013 the Select Committee agreed a report recommending that the House agree a Reasoned Opinion challenging the Commission’s proposal establishing a European Public Prosecutor’s Office (EPPO) on grounds of subsidiarity.\textsuperscript{87} The House agreed the Reasoned Opinion on 28 October 2013.\textsuperscript{88}

190. The Committee considered that the EPPO, as proposed by the Commission, would create a significant and disruptive incursion into the sensitive criminal law systems of the Member States. It argued that the objective of protecting the Union’s financial interests could best be achieved by Member States working within the existing framework, rather than establishing a new pan-European body with extensive powers.

191. In the event sufficient Reasoned Opinions\textsuperscript{89} were issued by chambers of national parliaments to require the Commission to review the proposal.\textsuperscript{90} In a subsequent Communication the Commission signalled its intention to maintain the proposal, with no alterations; it is currently the subject of negotiation in the Council and European Parliament.\textsuperscript{91} In January the Justice Sub-Committee wrote to the Commission to express its dissatisfaction with the Commission’s review, in particular the Commission’s failure to address specific arguments raised by the House in its Reasoned Opinion. The Commission replied in March.

192. In January 2014 we also launched an inquiry into the impact of the EPPO on non-participating Member States such as the UK. The report will be published in July. We heard from a range of witnesses, including leading academics, the President of Eurojust, the Director General of the European Anti-Fraud Office (OLAF) and the Home Secretary.

\textsuperscript{86} The FRA’s objective is to provide the EU Institutions and the Member States (when implementing EU law) with assistance and expertise in relation to the protection of fundamental rights. In practice, it fulfills its remit by research and raising awareness of fundamental rights among citizens; for example, it undertakes surveys about the situation of fundamental rights across the EU.


\textsuperscript{88} COM(2013) 534.

\textsuperscript{89} Other chambers that issued Reasoned Opinions on the EPPO proposal: The House of Commons; the Czech Senát; the Cypriot Vouli ton Antiproposon; both chambers of the Dutch Parliament; the French Sénat; Hungarian Országgýûlé; the Irish Houses of the Oireachtas; Maltese Kamra tad-Deputati; Romanian Camera Deputatilor; Slovenian Državni zbor; and the Swedish Riksdag.

\textsuperscript{90} Because the EPPO proposal relates to police co-operation or criminal justice, it only required only a quarter of votes to be issued to trigger a yellow card.

\textsuperscript{91} See COM(2013) 851: Communication from the Commission on the review of the proposal for a Council Regulation on the establishment of the European Public Prosecutor’s Office with regard to the principle of subsidiarity in accordance with Protocol 2.
Opt-in Report

The Eurojust Regulation: Should the UK Opt In?

193. The proposal to reform the European Union Agency for Criminal Justice Cooperation (Eurojust) was published on 17 July 2013. The proposed Regulation was subject to the UK’s opt-in procedure (outlined in Chapter 2).

194. The proposed Regulation retained Eurojust’s core functions, but included new provisions reforming the agency’s governance and management structure—including, significantly, its interaction with the proposed EPPO, UK participation in which is ruled out by the Coalition Agreement. The proposed Regulation also included provisions augmenting the existing powers of Eurojust’s members and new arrangements governing Eurojust’s accountability to the European Parliament and to national parliaments.

195. The Government’s main concerns were over aspects of the proposal which change Eurojust’s governance and management structure, and the interaction with the proposed EPPO. The Government also opposed conferring mandatory powers on members of Eurojust; under the current legislation members’ powers are discretionary.

196. In September we considered the proposed Regulation and, on 28 October 2013, published a report urging the Government to opt in to its negotiation. We argued that, as the UK is a key member of Eurojust, and because of the proposed linking of Eurojust and the EPPO, the Government should participate fully in the negotiations on the Eurojust proposal, even if it did not ultimately take part in its adoption. The EU Treaties include specific enhanced cooperation provisions allowing a number of Member States to create an EPPO in the absence of unanimous support. We therefore argued that the UK ought to take full part in the discussions addressing the position of those states wishing to work together in Eurojust, but who do not wish to participate in the EPPO.

197. The report was debated on 4 November. The Government told us on 5 December 2013 that it would not opt in to negotiations on the proposal, citing concerns in relation to the establishment of the EPPO, but did commit itself to considering whether to opt in after the proposal had been adopted. We continue to keep this matter under close review.

The block opt-out

198. The Sub-Committee conducted a joint follow-up inquiry on the UK’s opt-out decision with the Sub-Committee on Home Affairs, Health and Education. The report was published in October 2013, and paragraphs 28 to 33 give more details.

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92 COM(2013) 535
Follow-up work to previous inquiries

_The Fight Against Fraud on the EU’s Finances_

199. The report was published on 17 April 2013, in the 2012–13 Session, and the Government’s response was received, almost a month late, on 10 July.95

200. The response was comprehensive, agreeing with many of our conclusions and recommendations. While recognising that by its nature fraud is difficult to quantify, we noted that during the course of the inquiry no government body appeared able (or willing) to provide reliable UK statistics indicating the level of EU fund based fraud perpetrated in the UK. In particular, there were no data on referrals from the European Anti-Fraud Office (OLAF) to the relevant UK authorities.

201. In its response the Government supplied these statistics. It rejected the Committee’s suggestion that a single government department or agency coordinate the fight against EU fraud in the UK, instead arguing that adequate sharing of data already took place. The difficulty we experienced in obtaining adequate statistics during our inquiry casts some doubt on this claim.

202. Some aspects of the Government’s response were disappointing, including its failure to bring forward robust proposals to combat VAT fraud, and its continuing reliance on the Commission’s estimate of EU fraud, even while acknowledging the “lack of uniformity by Member States” in reporting fraud to the Commission.

203. One of our key recommendations was that the Government establish a single point of contact in the UK for OLAF.96 During the course of our current inquiry into the EPPO Commissioner Leppard of the City of London Police confirmed in his evidence that his police force has been fulfilling this role. We are disappointed that the Government did not communicate this information to us directly, but welcome the adoption of one of our main recommendations.

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95 European Union Committee, _The Fight Against Fraud on the EU’s Finances_ (12th Report, Session 2012–13, HL Paper 158)

96 This is in line with the recently agreed Regulation reforming OLAF (COM(2013) 533).
CHAPTER 9: HOME AFFAIRS, HEALTH AND EDUCATION

Scrutiny

204. The Home Affairs, Health and Education Sub-Committee is responsible for scrutinising proposals in the areas of health, education and sport, in addition to home affairs, where the remit includes police cooperation, asylum and migration, counter-terrorism, and civil protection.

205. During 2013–14 we scrutinised proposals relating to the relocation of the European Police College, readmission agreements, new psychoactive substances, Female Genital Mutilation, the EU-Canada Passenger Name Record Agreement and the EU Cigarette Smuggling Strategy.

Enhanced scrutiny

EU Cigarette Smuggling Strategy

206. Building on our scrutiny of the Tobacco Products Directive in the previous session, we conducted enhanced scrutiny of a Commission Communication on cigarette smuggling.\(^97\) We took oral evidence from Her Majesty's Revenue and Customs (HMRC) and the European Anti-Fraud Office (OLAF), and sent a detailed letter to the Government setting out our findings.

207. We supported the aims of the Strategy, but were disappointed that the Government had had little opportunity to respond to consultations during its development. We were pleased to hear of effective cooperation with industry to address illicit trade, but wanted to see greater cooperation between Member States. We urged the Government to recommend that the European External Action Service (EEAS) should play a role in encouraging countries to sign up to the World Health Organization (WHO) Protocol to Eliminate Illicit Trade in Tobacco Products to the Framework Convention on Tobacco Control. We also called for further work on sanctions and better consultation with relevant stakeholders about standardised packaging for tobacco products.

208. We received a helpful response from the Government, and in November 2013 succeeded in persuading the Government that the EEAS should have a role to play in encouraging countries to sign up to the Protocol.

Safe Harbour

209. The Sub-Committee undertook enhanced scrutiny of two Commission Communications relating to the strengthening of the safe harbour agreement between the EU and US regarding the transfer of personal data.\(^98\) We took evidence from industry experts, the Commission, data protection authorities and the Government. We concluded that the safe harbour agreement should not be suspended, thus disagreeing with the European Parliament. We

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\(^{97}\) COM(2013) 324: Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products—A comprehensive EU Strategy.

supported the efforts of the European Commission to negotiate strengthened provisions with US authorities.

210. We also found that more work needed to be done to increase understanding of safe harbour among citizens and businesses, and in particular that citizens should have more opportunities to complain about breaches of privacy concerning their personal data without incurring costs. We argued for a robust system of checks, audits and reports, and recommended that the Commission and US authorities should regularly evaluate the implementation of safe harbour. Finally, we concluded that it would be in the UK’s national interest to discuss privacy and security at EU level, so as to ensure that the UK’s concerns were understood.

211. A response from the Government is expected in June 2014 and from the European Commission in due course. We will carefully scrutinise any package of reforms to safe harbour brought forward following negotiations with the US authorities.

Subsidiarity Assessment

New Psychoactive Substances

212. On 4 November 2013 the Select Committee agreed a report99 recommending that the House agree a Reasoned Opinion challenging, on grounds of subsidiarity, the Commission’s proposals regarding new psychoactive substances (so-called “legal highs”).100 The House agreed the Reasoned Opinion on 11 November.

213. The Home Affairs, Health and Education Sub-Committee, which prepared the report, shared the Commission’s concerns about the risk that these substances present and supported the EU’s work towards common definitions and information-sharing, as well as Europol’s efforts to fight drug trafficking more generally. However, we did not consider that key decisions to ban new psychoactive substances should be taken at EU level.

214. In the event, although the UK Government shared our concerns, too few national parliaments submitted Reasoned Opinions to trigger the ‘yellow card’ procedure. The Commission responded to the Reasoned Opinion acknowledging that “a Member State is better placed than the Union to address risks that are restricted to its national territory and that, in the case of a geographically contained risk, national action is more suitable”. It clarified that the proposal should “provide flexibility to the Member States”. We welcomed this response and replied saying that we hoped to see this flexibility reflected on the face of the draft Regulation.

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Opt-in Report

The UK opt-in to the Europol Regulation

215. The draft proposal on the European Union Agency for Law Enforcement Cooperation and Training (Europol) was published in March 2013. The proposed Regulation was subject to the UK’s opt-in procedure (as outlined in Chapter 2). The Committee considered the opt-in and reported on 7 June 2013.

216. The Committee urged the Government to opt in to Europol and in July the House agreed with the Committee’s view. In the event the Government chose not to opt in but, in correspondence, the Minister stressed that the UK would continue to play a full and constructive role in the negotiations and was committed to opting in to the proposal once it was adopted, provided the Government’s negotiating objectives were met. In particular, the Government was concerned about the danger of operational direction of national law enforcement authorities by Europol, and the possible creation of an obligation upon for Member States provide data to Europol.

The block opt-out

217. The Sub-Committee conducted a joint follow-up inquiry on the UK’s opt-out decision with the Sub-Committee on Justice, Institutions and Consumer Protection. The report was published in October 2013, and paragraphs 28 to 33 give more details.

Inquiries

Strategic guidelines for the EU’s next Justice and Home Affairs programme: steady as she goes

218. The Stockholm Programme, which set the EU’s five-year justice and home affairs (JHA) agenda for 2010–14, expires at the end of 2014, and in July 2013 we therefore launched an inquiry to consider what should succeed it. After taking evidence from a wide range of expert witnesses, both in Brussels and Westminster, our report was published on 14 April 2014.

219. We reviewed the ‘shopping list’ style of the Stockholm Programme and concluded that, although it had made a significant contribution to the joint efforts needed to deal with serious organised crime and new international challenges, it was both too detailed and too diffuse. We recommended that the replacement programme should set clear strategic objectives for the further development of the European Area of Freedom, Security and Justice, with a clear emphasis on consolidation and implementation.

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220. The Sub-Committee recommended that high priority be given to the completion of negotiations on important legislation which had been proposed but not yet agreed, including the Passenger Name Record Directive, the Data Protection package, and the reforms of Europol and Eurojust. We concluded that evaluation must be at the heart of the next programme, and accordingly recommended reviews of the efficacy, transposition and implementation of existing JHA legislation. We urged that robust mechanisms be put in place to review any future legislation or activities.

221. Moreover, we concluded that future legislation should be underpinned by appropriate data and a convincing rationale for EU-level action. EU agencies must be properly resourced, well managed and subject to light-touch parliamentary scrutiny. Finally, we urged the Government to continue to participate fully and constructively in the discussions to achieve political agreement on the EU’s next JHA programme, with a view to ensuring that the UK remains an influential participant in EU JHA matters.

222. The Government response was received on 5 June 2014.
CHAPTER 10: LOOKING AHEAD: THE 2014–15 SESSION

223. The Select Committee and the Sub-Committees will decide on subjects for new inquiries in due course. This chapter gives a flavour of some of the scrutiny and other work the committees expect to conduct during the 2014–15 Session.

EU Select Committee

224. A new European Parliament was elected in May 2014, and a new Commission will take office in November 2014. The Committee will seek to engage with the new institutions, particularly with a view to promoting the conclusions and recommendations of our report on the role of national parliaments in the EU. Our scrutiny of the annual Commission Work Programme will also continue.

225. At the beginning of the new session we will trial a pre-council evidence session with the Minister for Europe, ahead of the June European Council meeting, in place of the traditional post-council evidence session. We hope that a pre-Council session will allow us to discuss the items on the agenda of the meeting and, by exchanging of views with the Minister, to influence any negotiations that may take place.

226. We will also continue to engage with the Presidency of the Council of the EU, particularly by attendance at COSAC and other interparliamentary conferences, as well as by conducting informal sessions at the beginning of each presidency with the relevant Member State’s Ambassador.

Economic and Financial Affairs

227. The Sub-Committee expects to continue to examine the evolving role of the ECB and other eurozone authorities such as the Eurogroup, as well as analysing the potential impact on the UK and other non-eurozone Members.

228. The Sub-Committee will continue its scrutiny of key legislative proposals, including the proposal by a group of Member States to take forward a Financial Transaction Tax under enhanced cooperation, the regulation on structural reform of credit institutions, and the various proposals relating to shadow banking. It will also take account of the Commission’s review of the European Supervisory Authorities, and will scrutinise the 2015 draft EU Annual Budget.

Internal Market, Infrastructure and Employment

229. The Sub-Committee will pursue the recommendations in its report on youth unemployment, and continue to address recommendations in reports from earlier sessions. In particular, it will continue to lobby the European Commission and like-minded parliaments in other Member States on the points raised in its Reasoned Opinion and inquiry in the 2012–13 Session on the Commission’s proposal for improving the gender balance among non-executive directors of companies listed on stock exchanges.105

230. The Sub-Committee will scrutinise a range of proposals, including the Fourth Rail Package, a Directive on the activities and supervision of institutions for occupational retirement provision, and a Regulation aimed at improving port operations and onward transport connections at the EU’s 329 key seaports.\textsuperscript{106} The Sub-Committee will consider the Commission’s plans for opening the aviation market to the civil use of remotely piloted aircraft systems in a safe and sustainable manner.\textsuperscript{107}

**External Affairs**

231. The Sub-Committee will conduct enhanced scrutiny of the proposed Association Agreements between the EU and Georgia, and the EU and Moldova, and launch a longer-term inquiry into relations between the EU and Russia, following up its 2008 report on that subject.\textsuperscript{108} The Sub-Committee also plans to continue monitoring the progress of talks between the EU3+3 and Iran, and will consider the Government’s response to the TTIP report, due in July.

232. A delegation from the Sub-Committee will attend the CFSP/CSDP conference in Rome in November, and the Chairman is also due to host the 8th meeting of the UK-France Parliamentary Working Group on Defence at the House of Lords in the autumn.

**Agriculture, Fisheries, Environment and Energy**

233. Key scrutiny items for the Agriculture, Fisheries, Environment and Energy Sub-Committee will include a review of meat hygiene legislation, the Fisheries Partnership Agreements between the EU and third countries, a review of EU waste policy and continued follow-up work on the Food Waste Prevention report.

234. The Sub-Committee’s report on EU energy policy in May 2013 was intended to make a contribution to the debate on the EU energy and climate policy framework beyond 2020. Now that proposals for that framework have been published, including a proposal to reform the EU Emissions Trading System, the Committee will meet the Secretary of State, the Commission and various stakeholders involved in the sector.

**Justice, Institutions and Consumer Protection**

235. The Justice, Institutions and Consumer Protection Sub-Committee will continue to scrutinise the EU Justice Agenda for 2020, the proposals for a new EU framework to strengthen the Rule of Law and the proposal for a Directive on consular protection for citizens of the Union abroad.\textsuperscript{109} It will seek to follow-up the recommendations made in the reports of the 2013–14 Session and previous sessions.


\textsuperscript{107} COM(2014) 207


236. In summer 2014 the Sub-Committee will publish its report on the European Public Prosecutor’s Office and its impact on non-participating Member States, having concluded taking evidence at the end of the 2013–14 session.

**Home Affairs, Health and Education**

237. The Sub-Committee will continue to scrutinise new proposals from the Commission. The Sub-Committee will monitor closely the negotiations of the draft Europol Regulation and the new psychoactive substances proposals, as well as the data protection reforms package.

238. It will also scrutinise any set of reforms to safe harbour proposed by the US authorities and Commission. Furthermore, the Sub-Committee will consider the outcome of the June European Council meeting, when the future JHA Programme is likely to be agreed.
APPENDIX 1: LIST OF MEMBERS AND DECLARATION OF INTERESTS

The Members present when this report was agreed were:

- Lord Boswell of Aynho (Chairman)
- The Earl of Caithness
- Baroness Eccles of Moulton
- Lord Foulkes of Cumnock
- Lord Hannay of Chiswick†
- Lord Harrison
- Lord Maclennan of Rogart
- Baroness O’Cathain
- Baroness Prashar
- The Earl of Sandwich
- Baroness Scott of Needham Market
- Lord Tomlinson
- Lord Tugendhat
- Lord Wilson of Tillyorn

†Lord Hannay of Chiswick left the Committee in May 2014 but as Chairman of the Home Affairs, Health and Education Sub-Committee in 2013–14 took part in discussion of this report.

Declaration of Interests

Lord Boswell of Aynho (Chairman)

- Salaried Officer of the House of Lords (details in Register)
- Income is received as a Partner (with wife) from land and family farming business trading as EN & TE Boswell at Lower Aynho grounds, Banbury, with separate rentals from cottages and grazing

The Earl of Caithness

- Trustee of a Trust (in Scotland) in receipt of monies from the Common Agricultural Policy

Baroness Eccles of Moulton

- None relevant

Lord Foulkes of Cumnock

- None relevant

Lord Hannay of Chiswick

- Member, Advisory Board, Centre for European Reform
- Member, British Influence’s Forum for the Future of Europe

Lord Harrison

- None relevant

Lord Maclennan of Rogart

- Farmer in receipt of monies from the Common Agricultural Policy

Baroness O’Cathain

- None relevant

Baroness Prashar

- Deputy Chair, British Council
- President, UK Council for International Student Affairs

The Earl of Sandwich

- None relevant
Baroness Scott of Needham Market
None relevant

Lord Tomlinson
None relevant

Lord Tugendhat
Chairman, European Policy Forum Advisory Council
Member, Official Monetary and Financial Institutions Forum Advisory Council

Lord Wilson of Tillyorn
Trustee of the Carnegie Trust for the Universities of Scotland

A full list of registered interests of Members of the House of Lords can be found at http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests.
APPENDIX 2: TERMS OF REFERENCE AND SCRUTINY RESERVE RESOLUTIONS AND ASHTON-LIDINGTON UNDERTAKINGS REGARDING OPT-INS

Terms of reference

16 May 2013

(1) To consider European Union documents deposited in the House by a Minister, and other matters relating to the European Union;

The expression “European Union document” includes in particular:

(a) a document submitted by an institution of the European Union to another institution and put by either into the public domain;

(b) a draft legislative act or a proposal for amendment of such an act; and

(c) a draft decision relating to the Common Foreign and Security Policy of the European Union under Title V of the Treaty on European Union;

The Committee may waive the requirement to deposit a document, or class of documents, by agreement with the European Scrutiny Committee of the House of Commons;

(2) To assist the House in relation to the procedure for the submission of Reasoned Opinions under Article 5 of the Treaty on European Union and the Protocol on the application of the principles of subsidiarity and proportionality;

(3) To represent the House as appropriate in interparliamentary cooperation within the European Union.

Scrutiny Reserve Resolution

30 March 2010

That—

(1) Subject to paragraph (5) below, no Minister of the Crown shall give agreement in the Council or the European Council in relation to any document subject to the scrutiny of the European Union Committee in accordance with its terms of reference, while the document remains subject to scrutiny.

(2) A document remains subject to scrutiny if—

(a) the European Union Committee has made a report in relation to the document to the House for debate, but the debate has not yet taken place; or

(b) in any case, the Committee has not indicated that it has completed its scrutiny.

(3) Agreement in relation to a document means agreement whether or not a formal vote is taken, and includes in particular—
(a) agreement to a programme, plan or recommendation for European Union legislation;
(b) political agreement;
(c) agreement to a general approach;
(d) in the case of a proposal on which the Council acts in accordance with the procedure referred to in Article 289(1) of the Treaty on the Functioning of the European Union (the ordinary legislative procedure), agreement to the Council’s position at first reading, to its position at second reading, or to a joint text; and
(e) in the case of a proposal on which the Council acts in accordance with Article 289(2) of the Treaty on the Functioning of the European Union (a special legislative procedure), agreement to a Council position.

(4) Where the Council acts by unanimity, abstention shall be treated as giving agreement.

(5) The Minister concerned may give agreement in relation to a document which remains subject to scrutiny—
(a) if he considers that it is confidential, routine or trivial, or is substantially the same as a proposal on which scrutiny has been completed;
(b) if the European Union Committee has indicated that agreement need not be withheld pending completion of scrutiny; or
(c) if the Minister decides that, for special reasons, agreement should be given; but he must explain his reasons—
(i) in every such case, to the European Union Committee at the first opportunity after reaching his decision; and
(ii) if that Committee has made a report for debate in the House, to the House at the opening of the debate on the report.

Scrutiny of opt-ins

Ashton-Lidington undertakings

The Ashton undertakings require government departments to produce an EM within 10 working days of the publication of a proposal, and to indicate the Government’s preliminary views on whether they will opt in. The Government will not reach a final view on the matter for eight weeks, and will take account of any views expressed in that time by the EU Select Committee or the European Scrutiny Committee of the House of Commons. A Resolution formalising the eight-week scrutiny reserve was adopted on 30 March 2010, and is reproduced below.

Where the Committee makes a report to the House that it recommends for debate, the Government undertake to arrange a debate as soon as possible, on an amendable motion. The procedure for handling such reports was agreed by the House on 16 March 2010.\textsuperscript{110}

\textsuperscript{110} Procedure Committee, The Lisbon Treaty: procedural implications; Standing Order 19; Private notice questions; Guidance on motions and questions (2nd Report, Session 2009–10, HL Paper 51).
On 20 January 2011, the Minister for Europe made a Written Statement undertaking that the Government would continue to honour the Ashton undertakings, and would also extend them.\footnote{HL Deb, 20 January 2011, WS 20–22.} He committed to making “a written statement to Parliament on each opt-in decision, and the reasons for it”, and undertook to make an oral statement “where appropriate and necessary”. He urged the Houses’ EU Committees to “take full advantage of their existing right to call a debate on an amendable motion on any opt-in decision”. He also undertook to set aside Government time for a debate where there was a “particularly strong Parliamentary interest”. In addition, the Minister’s statement included opting-out of Schengen-building measures under Article 5(2) of Protocol 19, which had not been specifically mentioned in the Ashton undertakings.

**Opt-in Scrutiny Resolution**

**30 March 2010**

That, in relation to notification to the President of the Council of the European Union of the wish of the United Kingdom to take part in the adoption and application of a measure following from a proposal or initiative presented to the Council pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union—

(1) No Minister of the Crown may authorise such notification within 8 weeks after the proposal or initiative has been presented to the Council.

(2) A Minister may however authorise such notification sooner than provided by paragraph (1) if he decides that for special reasons this is essential; but he should explain his reasons—

(a) in every such case, to the European Union Committee at the first opportunity after giving that authorisation; and

(b) in the case of a proposal awaiting debate in the House, to the House at the opening of the debate.

(3) Where the European Union Committee is scrutinising the question of notification independently of the substance of the measure to which it relates, scrutiny of the substance of the measure will continue to be governed by the Resolution of the House of 30 March 2010, as amended.
APPENDIX 3: INDIVIDUAL COMMITTEE REMITS

The short lists below are indicative of the breadth of subject matter that each Sub-Committee handles. It is neither exhaustive nor prescriptive, and each individual EU document is subjected to a detailed review as part of the Chairman’s sift (see p. 11) in order to determine whether it merits examination and by which Sub-Committee.

Select Committee

- EU Treaties;
- International agreements amongst Member States;
- The Commission’s Work Programme;
- The EU’s multiannual financial framework; and
- EU enlargement

Economic and Financial Affairs Sub-Committee

- Customs and tax affairs, including VAT;
- The single currency and the euro area crisis, including the stability and growth pact, economic and monetary union, and monetary policy;
- Shares, trading, and derivatives;
- Structural cohesion funds; and
- The EU’s annual budget

Internal Market, Infrastructure and Employment Sub-Committee

- Electronic and digital communications (including television) and information societies;
- The European Social Fund;
- Company law policy, the services industry, and competitiveness;
- Research and innovation, technology and development; and
- Employment policy and free movement goods and services

External Affairs Sub-Committee

- Restrictive measures and sanctions;
- The Eastern Partnership and European Neighbourhood Policy;
- External action, the EU’s Common Foreign Security and Defence Policies;
- International trade; and
- Development and humanitarian aid
Agriculture, Fisheries, Environment and Energy Sub-Committee

- Common Agricultural and Fisheries Policies;
- Environmental protection, including climate change and the Emissions Trading System;
- Bio-fuels, nuclear safety and waste, EURATOM, and energy policy;
- Genetically modified products, food information and food additives; and
- Maritime affairs

Justice, Institutions and Consumer Protection Sub-Committee

- Criminal justice and procedures, including bail, and sentencing;
- Copyright and other forms of intellectual property, and technical company law;
- Judicial cooperation in civil justice, including succession and wills, access to documents, and mutual recognition;
- Fundamental rights; and
- Consumer protection, fraud, EU citizenship and culture

Home Affairs, Health and Education Sub-Committee

- Police cooperation, anti-terrorism and crime prevention;
- Migration, asylum, readmission agreements, borders and visa, including Schengen;
- Cybercrime and cyber-attacks;
- Public health, health and safety, drugs and sport; and
- Education
## APPENDIX 4: REPORTS PUBLISHED AND REPORT DEBATES

<table>
<thead>
<tr>
<th>Report</th>
<th>Published</th>
<th>Government response received</th>
<th>Commission response received</th>
<th>Debated in the House of Lords</th>
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<tbody>
<tr>
<td><strong>The UK opt-in to the Europol Regulation</strong> (2nd Report, HL Paper 16)</td>
<td>7 June 2013</td>
<td>18 July 2013</td>
<td>N/A</td>
<td>1 July 2013</td>
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<tr>
<td>[Home Affairs, Health and Education]</td>
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<td><strong>Subsidiarity Assessment: The European Public Prosecutor’s Office</strong></td>
<td>24 October 2013</td>
<td>N/A</td>
<td>14 March 2014</td>
<td>28 October 2013</td>
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<td>(3rd Report, HL Paper 65) [Justice, Institutions and Consumer Protection]</td>
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<td>[Justice, Institutions and Consumer Protection]</td>
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<td>Report</td>
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<tr>
<td>[Sub-Committee responsible]</td>
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<td>Government response received</td>
<td>Commission response received</td>
<td>Debated in the House of Lords</td>
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<tr>
<td>The Role of National Parliaments in the European Union (9th Report, HL Paper 151) [Select]</td>
<td>24 March 2014</td>
<td>Due on 26 May 2014</td>
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<tr>
<td>Strategic guidelines for the EU’s next Justice and Home Affairs programme: steady as she goes (13th Report, HL Paper 173) [Home Affairs, Health and Education]</td>
<td>14 April 2014</td>
<td>5 June 2014</td>
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## APPENDIX 5: INTERPARLIAMENTARY MEETINGS

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Location</th>
<th>Delegation</th>
</tr>
</thead>
<tbody>
<tr>
<td>12–13 May 2013</td>
<td>Chairperson’s meeting on the Committee on Environment and Committees on Energy</td>
<td>Dublin</td>
<td>Baroness Parminter</td>
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<tr>
<td>6 June 2013</td>
<td>Tripartite</td>
<td>House of Lords</td>
<td>Lord Boswell of Aynho, Lord Bowness, Lord Foulkes of Cumnock, Lord Hannay of Chiswick, Lord Harrison, Lord Maclennan of Rogart, Baroness O’Cathain, Baroness Scott of Needham Market, Lord Tomlinson</td>
</tr>
<tr>
<td>16–17 June 2013</td>
<td>Chairperson’s meeting of the Committees on Communications, Education and Transport</td>
<td>Dublin</td>
<td>Baroness O’Cathain</td>
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<tr>
<td>19 June 2013</td>
<td>Gender balance of company boards</td>
<td>Brussels</td>
<td>Baroness O’Cathain</td>
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<tr>
<td>20 June 2013</td>
<td>Interparliamentary Committee Meeting: The Stockholm Programme</td>
<td>Brussels</td>
<td>Baroness Corston, Lord Hannay of Chiswick</td>
</tr>
<tr>
<td>23–25 June 2013</td>
<td>COSAC (EU affairs committee of national parliaments)</td>
<td>Dublin</td>
<td>Lord Boswell of Aynho, Baroness Scott of Needham Market, Baroness Young of Hornsey</td>
</tr>
<tr>
<td>7–8 July 2013</td>
<td>COSAC Chairs (Chairs of EU affairs committees of national parliaments)</td>
<td>Vilnius</td>
<td>Lord Hannay of Chiswick</td>
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<tr>
<td>21–22 July 2013</td>
<td>Chairpersons of Committees on Rural Affairs: CAP reform</td>
<td>Vilnius</td>
<td>Baroness Scott of Needham Market</td>
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<tr>
<td>Date</td>
<td>Event</td>
<td>Location</td>
<td>Delegation</td>
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<tr>
<td>4–6 September 2013</td>
<td>Interparliamentary Conference for the Common Foreign and Security Policy and Commons Security and Defence Policy</td>
<td>Vilnius</td>
<td>Lord Tugendhat</td>
</tr>
<tr>
<td>13–15 October 2013</td>
<td>European Interparliamentary Space Conference</td>
<td>Brussels</td>
<td>Lord Haskel</td>
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<tr>
<td>16–18 October 2013</td>
<td>Economic and Financial Governance of the European Union</td>
<td>Vilnius</td>
<td>Lord Harrison</td>
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<tr>
<td>21 October 2013</td>
<td>Free movement and national welfare systems</td>
<td>Copenhagen</td>
<td>Baroness Hooper</td>
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<tr>
<td>27–29 October 2013</td>
<td>COSAC (EU affairs committee of national parliaments)</td>
<td>Vilnius</td>
<td>Lord Boswell, Baroness Corston, Lord Hannay of Chiswick</td>
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<tr>
<td>10–11 November 2013</td>
<td>Committees on Social Affairs and Labour: Employment Incentives to implement the Europe 2020 strategy</td>
<td>Vilnius</td>
<td>Earl of Liverpool</td>
</tr>
<tr>
<td>14 November 2013</td>
<td>Interparliamentary Committee Meeting: Europol</td>
<td>Brussels</td>
<td>Lord Hannay of Chiswick</td>
</tr>
<tr>
<td>20–22 January 2014</td>
<td>Interparliamentary Conference on Economic &amp; Financial Governance of the EU</td>
<td>Brussels</td>
<td>Lord Harrison</td>
</tr>
<tr>
<td>26–27 January 2014</td>
<td>COSAC Chairs (Chairs of EU affairs committees of national parliaments)</td>
<td>Athens</td>
<td>Lord Boswell of Aynho</td>
</tr>
<tr>
<td>16–17 February 2014</td>
<td>Meeting of Chairpersons of the Committees on Justice and Home Affairs</td>
<td>Athens</td>
<td>Lord Hannay of Chiswick</td>
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<tr>
<td>Date</td>
<td>Event</td>
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<tr>
<td>19 March 2014</td>
<td>Interparliamentary Committee Meeting: Priorities for 2014–20 in the field of Civil Liberties, Justice and Home Affairs</td>
<td>Brussels</td>
<td>Lord Hannay of Chiswick</td>
</tr>
<tr>
<td>3–4 April 2014</td>
<td>Interparliamentary Conference for the Common Foreign &amp; Security Policy and the Common Security and Defence Policy</td>
<td>Athens</td>
<td>Lord Tugendhat Baroness Quin</td>
</tr>
</tbody>
</table>
## APPENDIX 6: SUB-COMMITTEE MEMBERSHIP FOR THE 2013–14 SESSION

### Economic and Financial Affairs

<table>
<thead>
<tr>
<th>Member</th>
<th>Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>Viscount Brookeborough</td>
<td>Lord Hamilton of Epsom</td>
</tr>
<tr>
<td>Earl of Caithness</td>
<td>Lord Harrison (Chairman)</td>
</tr>
<tr>
<td>Lord Carter of Coles</td>
<td>Lord Kerr of Kinlochard</td>
</tr>
<tr>
<td>Lord Davies of Stamford</td>
<td>Baroness Maddock</td>
</tr>
<tr>
<td>Lord Dear</td>
<td>Lord Marlesford</td>
</tr>
<tr>
<td>Lord Flight</td>
<td>Lord Vallance of Tummel</td>
</tr>
</tbody>
</table>

### Internal Market, Infrastructure and Employment

<table>
<thead>
<tr>
<th>Member</th>
<th>Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lord Brooke of Alverthorpe</td>
<td>Baroness Hooper</td>
</tr>
<tr>
<td>Lord Clinton-Davis</td>
<td>Lord Kakkar</td>
</tr>
<tr>
<td>Lord Cotter</td>
<td>The Earl of Liverpool</td>
</tr>
<tr>
<td>Lord Fearn</td>
<td>Baroness O’Cathain (Chairman)</td>
</tr>
<tr>
<td>Lord Freeman</td>
<td>Baroness Valentine</td>
</tr>
<tr>
<td>Lord Haskel</td>
<td>Lord Wilson of Tillyorn</td>
</tr>
</tbody>
</table>

### External Affairs

<table>
<thead>
<tr>
<th>Member</th>
<th>Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baroness Bonham-Carter of Yarnbury</td>
<td>Baroness Quin</td>
</tr>
<tr>
<td>Baroness Coussins</td>
<td>Lord Radice</td>
</tr>
<tr>
<td>Lord Foulkes of Cumnock</td>
<td>The Earl of Sandwich</td>
</tr>
<tr>
<td>Baroness Henig</td>
<td>Lord Trimble</td>
</tr>
<tr>
<td>Lord Jopling</td>
<td>Lord Tugendhat (Chairman)</td>
</tr>
<tr>
<td>Lord Lamont of Lerwick</td>
<td>Baroness Young of Hornsey</td>
</tr>
<tr>
<td>Lord Maclennan of Rogart</td>
<td></td>
</tr>
</tbody>
</table>

### Agriculture, Fisheries, Environment and Energy

<table>
<thead>
<tr>
<th>Member</th>
<th>Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lord Bowness</td>
<td>Lord Plumb</td>
</tr>
<tr>
<td>Baroness Byford</td>
<td>Lord Renton of Mount Harry</td>
</tr>
<tr>
<td>Lord Cameron of Dillington</td>
<td>Baroness Scott of Needham Market (Chairman)</td>
</tr>
<tr>
<td>Lord Giddens (resigned from the Sub-Committee in December 2013)</td>
<td>Lord Whitty</td>
</tr>
<tr>
<td>Baroness Howarth of Breckland</td>
<td>Lord Williams of Elvel</td>
</tr>
<tr>
<td>Lord Lewis of Newnham</td>
<td></td>
</tr>
<tr>
<td>Baroness Parminter</td>
<td></td>
</tr>
</tbody>
</table>
Justice, Institutions and Consumer Protection

Lord Anderson of Swansea  Lord Elystan-Morgan
Lord Blair of Boughton  Lord Hodgson of Astley Abbots
Baroness Corston (Chairman)  Baroness Liddell of Coatdyke
Lord Dykes  Baroness O’Loan
Baroness Eccles of Moulton  Lord Rowlands
Viscount Eccles  Lord Stoneham of Droxford

Home Affairs, Health and Education

Baroness Benjamin  Lord Morris of Handsworth
Lord Blencathra  Baroness Prashar
Viscount Bridgeman  Lord Sharkey
Lord Faulkner of Worcester  Earl of Stair
Lord Hannay of Chiswick (Chairman)  Lord Tomlinson
Lord Judd  Lord Wasserman