



House of Commons

European Scrutiny Committee

Banking Union and Economic and Monetary Union

Fourteenth Report of Session 2012–13

Documents considered by the Committee on 17 October 2012,
including the following recommendations for debate:

Banking Union
Economic and Monetary Union



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European Scrutiny Committee

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Economic and
Monetary Union**

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Economic and Monetary Union

Report, together with formal minutes

*Ordered by The House of Commons
to be printed 17 October 2012*

Notes

Numbering of documents

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

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

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

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

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

Abbreviations used in the headnotes and footnotes

EC	(in "Legal base") Treaty establishing the European Community
EM	Explanatory Memorandum (submitted by the Government to the Committee)*
EP	European Parliament
EU	(in "Legal base") Treaty on European Union
GAERC	General Affairs and External Relations Council
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
RIA	Regulatory Impact Assessment
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Euros

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

Further information

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

*Explanatory Memoranda (EMs) can be downloaded from the Cabinet Office website:
<http://europeanmemorandum.cabinetoffice.gov.uk/search.aspx>.

Letters sent by Ministers to the Committee relating to European documents are available for the public to inspect; anyone wishing to do so should contact the staff of the Committee ("Contacts" below).

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1 Banking Union

(a) (34217) 13682/12 COM(12) 512	Draft Regulation amending Regulation (EC) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) No .../... conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions
(b) (34218) 13683/12 COM(12) 511	Draft Regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions
(c) (34231) 13854/12 COM(12) 510	Commission Communication: <i>A roadmap towards a Banking Union</i>

<i>Legal base</i>	(a) Article 114 TFEU; co-decision; QMV (b) Article 127(6) TFEU; consultation; unanimity (c) —
<i>Documents originated</i>	12 September 2012
<i>Deposited in Parliament</i>	(a) and (b) 14 September 2012 (c) 19 September 2012
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	EM of 2 October 2012
<i>Previous Committee Report</i>	None
<i>Discussion in Council</i>	18–19 October 2012
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Not cleared; recommended for debate on the Floor of the House, together with the European Council document on the Economic and Monetary Union, ¹ and Opinion of the Treasury Committee on the documents requested

Background

1.1 In recent years various measures have been discussed, and some introduced, to strengthen economic governance in the eurozone and in the wider EU. Much of this activity has been concerned with countering the present eurozone difficulties. Measures advocated have included a “banking union”. In this context the Commission has published a Communication, document (c), about establishing the Banking Union and two draft Regulations, documents (a) and (b) concerning supervision of the banking sector.

¹ See chapter 2 of this Report.

The documents

1.2 The draft Regulation, document (b), (the ECB Regulation) would confer specific tasks on the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions. The draft Regulation, document (a), (the EBA Amending Regulation), would amend consequentially the Regulation establishing the European Banking Authority (EBA).

1.3 The ECB Regulation would give the ECB specified supervisory tasks in relation to the prudential regulation of credit institutions established in the eurozone. It would have “direct oversight of banks, to enforce prudential rules in a strict and impartial manner and perform effective oversight of cross border banking markets” — a Single Supervisory Mechanism (SSM) to enforce “strict prudential rules in a strict and impartial manner” was identified at the June 2012 European Council as a necessary precursor to recapitalisation of banks through the European Stability Mechanism (ESM). This proposed transfer of responsibilities to the ECB is intended to ensure an effective prudential supervisory mechanism within the eurozone. There is an option for non-eurozone Member States to participate in the SSM through a “close cooperation” arrangement on an opt-in basis.

1.4 The EBA Amending Regulation includes changes to the voting arrangements in relation to decisions in accordance with Articles 17 (breaches of EU law) and Article 19 (binding mediation) of the EBA Regulation. These changes specify that any decision proposed by the panel established under Article 41 of the EBA Regulation “shall be considered as adopted unless it is rejected by a simple majority which shall include at least three members of participating Member States and three votes from members of Member States which are neither participating Member States ... nor have entered into a close cooperation with the ECB” (rather than being adopted by simple majority).

1.5 The ECB would carry out its tasks within the existing EU supervisory framework and would not take over any tasks from the EBA. The EBA would continue to work towards a single rulebook, regulatory convergence and consistency of regulatory practice.

1.6 The accompanying Commission Communication, document (c), indicates plans for further legislative measures to follow in 2013. These are expected to include:

- development by the EBA of a “single supervisory handbook”;
- a single resolution mechanism, which would govern the resolution of banks in the Banking Union and guarantee customer deposits within it; and
- coordination of the application of resolution tools for participants in the Banking Union.²

Together the elements of the package are intended to put in place an effective SSM for eurozone banks. This, as agreed in the June European Council, is considered a necessary

² Also relevant in this context are a draft Directive on deposit guarantee schemes ((31816) 12386/10 + ADDs 1–2: see HC 428–iii (2010–11), chapter 7 (13 October 2010), HC 428–ix (2010–11), chapter 7 (24 November 2010), HC 428–xxix (2010–12), chapter 6 (8 June 2011) and HC 428–xxx (2010–12), chapter 19 (22 June 2011)) and a draft Directive on recovery and resolution of credit institutions and investment firms ((34012) 11066/12 + ADDs 1–2: see HC 86–vii (2012–13), chapter 7 (4 July 2012)).

first step to address the significant threats to financial stability across the Economic and Monetary Union.

The Government's view

1.7 The Financial Secretary to the Treasury (Greg Clark) first comments that:

- the ECB, in performing the proposed specified supervisory tasks would take decisions that involve determinations of civil rights and obligations (for example in relation to authorisation decisions and decisions concerning the imposition of financial penalties) and, as such, Article 47 of the Charter on Fundamental Rights (the right to a fair trial) would be engaged; and
- other rights would be likely also to be engaged during the performance of the ECB's supervisory tasks (for example the right to the protection of personal data, the freedom to conduct a business and the right to an effective remedy).

The Minister says that, although the Government is broadly content with the ECB Regulation in terms of its compliance with the Charter, it notes that improvements could be made to enhance the fairness of the ECB's decision-making procedures to help ensure compliance with Article 47 of the Charter, including

- more detail as to the procedures to be followed before a decision could be taken by the ECB in performing its supervisory tasks (with exceptions for urgent cases);
- a requirement that no person involved in the evaluation of the evidence on which a disciplinary decision was based would be involved in the final decision of the ECB; and
- a requirement that decisions could be referred to a separate review board established within the ECB (decisions of the ECB would be referable to the Court of Justice under Article 263 TFEU but the Court could only conduct a review on a "judicial review" basis rather than of the facts and merits of the ECB's decisions (that is a full appeal)).

The Minister adds that the EBA Amending Regulation does not give rise to any fundamental rights issues.

1.8 Turning to subsidiarity the Minister says that:

- the Commission states in its explanatory memorandum on the ECB Regulation that "the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore be better achieved by the EU. Recent events have clearly demonstrated that only supervision at the European level can ensure appropriate oversight of an integrated banking sector and a high level of financial stability in the EU and the Euro area in particular. The provisions of this proposal do not go beyond what is necessary to achieve the objectives pursued.";

- the Government notes that the ECB Regulation is part of a package of measures designed to help strengthen supervision and stability in the eurozone and is a necessary precursor to the direct recapitalisation of eurozone banks using the ESM;
- participation in the SSM is mandatory only for those Member States who have as their national currency the euro and on this basis the Government accepts the assessment of the Commission as regards the consistency of the ECB Regulation with the principle of subsidiarity;
- it is, however, continuing to consider the proportionality of the information gathering and investigation provisions of the Regulation (Articles 8 to 12);
- in particular the Government notes that the powers would not be limited only to firms based in participating Member States or those Member States who enter into a close cooperation arrangement;
- in addition, it notes that the obligation on competent authorities to assist the ECB under Article 11(4) would not be limited only to those authorities based in participating Member States and those Member States in a close cooperation arrangement — the Government is considering carefully whether this scope is appropriate; and
- the Government agrees that the EBA Amending Regulation is consistent with the principle of subsidiarity as it is appropriate to make changes to the voting modalities in relation to decisions of the EBA in light of the proposed SSM.

1.9 On the policy implications of the ECB Regulation the Minister says that:

- overall, the Government supports this set of proposals;
- most importantly, the ECB's new supervisory tasks are to be conferred by way of a Regulation under Article 127(6) TFEU, which requires unanimity;
- this gives the Government a lot of reassurance that the position that the new SSM shall be primarily aimed at the eurozone and optional for non-eurozone Member States can be maintained;
- as articulated during the June European Council, the UK should not participate in the Banking Union, including the proposals for the new SSM;
- the new supervisory arrangements are intended to help address the problems in the eurozone rather than promoting the functioning of the single market; and
- given this, the UK should not submit the prudential supervision of its credit institutions to the ECB and, as such, should not participate in the supervisory mechanism to be established under these proposals.

1.10 The Minister, commenting that the detailed elements of the ECB Regulation are also broadly in line with UK interests, says that:

Membership

- the ECB Regulation sets out that the ECB “will be responsible for specific tasks concerning the prudential supervision of credit institutions which are established in Member States whose currency is the Euro”;
- non-eurozone Member States would be able to participate in the new supervisory framework on an opt-in basis subject to meeting specific conditions — they would not however enjoy voting rights in the new supervisor;
- the new supervisory arrangements are intended to help address the problems in the eurozone — the Commission’s proposal for the eurozone to make up the core membership is therefore appropriate;

Institutional coverage

- the Commission’s proposal is for all eurozone banks to fall under the prudential supervision of the ECB;
- the Government supports this approach as it would help preserve financial stability, avoid unnecessary complexity in regulatory architecture and ensure that future burden sharing within the Banking Union is borne by the eurozone;
- a wide scope reflects the experience of the financial crisis which showed that financial stability problems do not arise solely as a result of the failure of large systemically important firms — the failure of classes of small firms such as the Cajas in Spain and to an extent the Landesbanks in Germany also undermine stability;
- the ECB’s supervisory remit would extend to branches of credit institutions operating in participating Member States (that is eurozone Member States and those Member States in a close cooperation arrangement, but excluding branches of third country credit institutions) and consolidated supervision tasks where the parent company is established in a participating Member State or Member State in a close cooperation arrangement;
- it is also proposed that the ECB would participate in the consolidated supervision of parent companies not established in a participating Member State;
- this would be relevant where one or more of the licensed credit institutions within the group was established in a participating Member State;
- in discharging these roles the ECB would be taking on the responsibilities of the national competent authorities in participating Member States for performing the supervisory tasks referred to in Article 4 of the ECB Regulation, that is competence would be transferred from the eurozone Member State competent authority to the ECB;
- no additional competences beyond those transferred from the national competent authority would be transferred;

ECB supervisory tasks and powers

- Article 4(1) and (2) of the ECB Regulation sets out the proposed supervisory tasks for the ECB which it would have “exclusive” competence to carry on;
- other supervisory tasks are to continue to be the responsibility of national competent authorities (for example conduct of business supervision and markets regulation);
- however, for those outside the Banking Union the current allocation of competencies between home and host and the Member State of the group would not change;
- the detailed aspects of the ECB Regulation remain under review — during the course of the negotiations the Government will seek to ensure that the new framework for the ECB is well defined, including in setting out that Member States which are not in the eurozone and do not choose to enter into a close cooperation arrangement are not subject to supervisory decisions of the ECB, as provided for in Article 139 TFEU;
- the ECB’s objectives in carrying out its new tasks are also important — these should be clear, delineated from its monetary policy objectives and ensure that the single market would not be undermined;

Governance issues and decision-making

- the ECB Regulation would require establishing a supervisory board to plan and execute the supervisory tasks conferred on the ECB;
- however, consistent with the provisions of the TFEU and the ESCB Statute, this board could only be responsible for planning and executing the ECB’s supervisory tasks;
- ultimate responsibility for decision-making must remain with the Governing Council (the ESCB Statute is part of the Treaty and amending it would therefore require Treaty change);
- so the Governing Council of the ECB would have overall responsibility for the performance of both the ECB’s monetary policy and supervisory tasks;
- the governance and decision-making arrangements remain under consideration by the Government;
- however, the governance and decision-making arrangements should be transparent, free of conflicts of interest and capable of delivering effective, fair and timely decisions;
- this should include the introduction of clear objectives for the ECB when performing its supervisory tasks, requirements for establishing internal review panels, a complaints scheme and robust reporting requirements; and

- the Government’s objective will be to promote an ECB in which the objective of a safe and sound banking system is pursued in a way which is proportionate, effective and efficient, protects and strengthens the internal market, recognises the importance of the single market being globally competitive and ensures independent decision making both at first instance and on appeal and provides a mechanism for addressing complaints — where appropriate this should involve non-ECB staff.

1.11 Next the Minister discusses the EBA Amending Regulation, saying that it causes some concerns for the UK:

- firstly there are risks surrounding how decision-making in the EBA would work under the new framework, with the ECB potentially dominating this through the coordination of bloc-voting of Banking Union members; and
- secondly, there is a risk of asymmetry in the treatment of the ECB versus other competent authorities in relations with the EBA under the proposed arrangements.

1.12 On EBA voting rights the Minister says that:

- although the Government accepts that making changes to voting modalities is consistent with the principle of subsidiarity it has concerns about the substance of the amendments proposed;
- the composition of the EBA Board of Supervisors would not change and would continue to comprise representatives from national competent authorities as voting members;
- some measures have been proposed to address the risks of power imbalances in the EBA, in anticipation of the concerns of non-eurozone Member States;
- however, the ECB Regulation specifies that the ECB would “coordinate and express a common position of representatives from competent authorities of the participating Member States when participating in the Board of Supervisors and the Management Board of the EBA, for issues relating to the tasks conferred on the ECB by this Regulation”;
- this effectively requires participating Member States to caucus in adopting positions and voting in the EBA and to take a single coordinated position in the EBA;
- this risks ECB domination of EBA decision making — eurozone Member States would have a majority on all issues where decisions were taken on a one supervisor one vote basis, a blocking minority on all issues decided by QMV under the Nice rules and a qualified majority under the Lisbon rules;
- the EBA must continue to serve the whole single market and the voting arrangements in the EBA must reflect this need;

- exercise of a eurozone bloc-vote within the EBA could be damaging for the integrity of the single market, particularly if the interests of non-participating Member States were not given sufficient consideration; and
- the Government will therefore seek to secure sufficient changes to the EBA voting arrangements to protect the interests of Member States that are not members of the eurozone and do not choose to enter into close cooperation arrangements.

1.13 On maintaining symmetry in regulatory arrangements the Minister says that:

- as an EU institution the ECB cannot legally be bound by EBA decisions on binding mediation and would be subject to a “comply or explain” arrangement, whereas the UK’s (future) Prudential Regulation Authority (and other national regulators) would be bound by EBA decisions as at present;
- the EBA should have the same powers and authority in relation to the ECB as other national authorities;
- it would be inequitable if, for example, the ECB and a national supervisor brought a case to binding mediation with only the national supervisor bound by the outcome; and
- the Government will therefore argue strongly for symmetry in the treatment of competent authorities, including the ECB when performing its supervisory tasks.

1.14 The Minister concludes his remarks on the policy implications of the proposals by saying that:

- as the proposals stand, they are not a bad result for the UK — reflecting the Government’s successful engagement in the process so far;
- most importantly the ECB’s new supervisory tasks are to be conferred by way of a Regulation under Article 127(6) TFEU, which requires unanimity; and
- other elements of the proposals are also in line with Government thinking, including nomination of the ECB as single supervisor and maintenance of the EBA’s function to set detailed single market rules.

1.15 The Minister then gives us a Government assessment of impact of these proposals for UK firms, saying that:

- the new supervisory arrangements would have implications for those UK credit institutions with branches in eurozone Member States and those Member States which enter into close cooperation arrangements, UK credit institutions whose parent undertakings are located in the eurozone and those firms which have subsidiary companies authorised as credit institutions in eurozone Member States and those Member States in close cooperation arrangements;
- in particular, the new supervisory structure may result in additional costs, for example, as regards compliance with additional requests for information from the ECB as well as the relevant national competent authorities; and

- these costs are anticipated, however, to be small relative to the benefits to be derived from the establishment of the SSM, in terms of strengthened supervision within the eurozone.

1.16 As to financial implications the Minister says that:

- there are no direct financial implications for the Exchequer from the present proposals;
- credit institutions that would become regulated by the ECB, including credit institution subsidiaries of UK firms established in eurozone Member States, would fund the new regulatory function through payment of a levy;
- at least some of the additional costs to firms are likely to be offset by a reduction in the levy charged to finance national regulators, whose remit, activity, and hence operating costs, should shrink;
- creation of a ‘single resolution mechanism’, referred to in the Commission Communication could, depending on the detail of the eventual proposal, entail more substantial direct financial consequences for firms based in eurozone Member States and those Member States in a close cooperation arrangement — for example, a unified Deposit Guarantee Scheme or Resolution Fund across the Banking Union could result in transfers across participating Member States to cover the costs relating to managing financial crises; and
- until further information is known it is not possible to assess the financial implications of these further possible measures.

1.17 Finally, noting that in its Communication the Commission has suggested that the SSM should be established by the 1 January 2013, the Minister tells us that technical working groups have begun meeting in September, with the intention of reaching a political agreement at the European Council on 18–19 October.

Conclusion

1.18 Given the importance of these proposals, both for the eurozone and, equally so for the UK, in relation to maintaining the single market for financial services, we recommend that they be debated on the Floor of the House, together with the European Council document on Economic and Monetary Union, discussed in Chapter Two of this Report. We also ask the Treasury Committee, in accordance with Standing Order 143(11), for an Opinion on the proposals. We suggest that Members, both in the debate and in the Treasury Committee, might wish to pay particular attention to the potential consequences for the single market and UK firms and to the importance of the safeguards the Government is seeking.

1.19 Given that until the debate takes place these documents remain under scrutiny, we presume that, in accordance with House’s Scrutiny Reserve Resolution of 17 November 1998, the Prime Minister will not be acquiescing in any political agreement that is proposed at the forthcoming European Council.

2 Economic and Monetary Union

(34314)	Towards a genuine Economic and Monetary Union: Interim Report
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<i>Legal base</i>	—
<i>Deposited in Parliament</i>	17 October 2012
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	EM Minister’s letter of 16 October
<i>Previous Committee Report</i>	None
<i>Discussion in European Council</i>	18–19 October 2012
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	For debate on the Floor of the House, together with the proposals for a Banking Union ³

Background

2.1 At the European Council of 28–29 June “the President of the European Council was invited to develop, in close collaboration with the President of the Commission, the President of the Eurogroup and the President of the ECB, a specific and time-bound road map for the achievement of a genuine Economic and Monetary Union”. The intention was for an interim report to be presented at the European Council of 18–19 October and a final one to be presented at the December European Council.

The document

2.2 This is the interim report, which builds on ideas expressed during bilateral meetings in September with all Member States and the European Parliament. It outlines areas for further work ahead of the final report due in December. The report focuses on the eurozone as its members face specific challenges from sharing a currency. It is clear that the process must be fully compatible with the single market in all aspects. The report has four substantive sections.

Integrated Financial Framework

2.3 The report notes that the proposed Single Supervisory Mechanism (SSM),⁴ which is a matter of priority, has three elements:

- a clear separation between European Central Bank monetary policy and supervisory functions;

³ See chapter 1 of this Report.

⁴ *Ibid*

- a balance between rights and obligations for all Member States participating in the new supervisory arrangements; and
- appropriate accountability of the new single supervisor, including to the European Parliament.

It also states that the SSM should operate consistently with the single market and, as such, the European Banking Authority (EBA) would maintain its roles in implementing a single rulebook and as a mediator of the other various supervisory bodies. However, the EBA voting modalities would need to be adapted.

Integrated Budgetary Framework

2.4 The report describes the first priority as being the need to complete and implement the new steps for stronger economic governance (the ‘Six Pack’ of legislation strengthening the Stability and Growth Pact, the Treaty for Stability Coordination and Governance (SCG) and the ‘Two Pack’ of proposed legislation aimed at strengthening economic governance in the eurozone). Secondly, alongside stronger fiscal discipline, it outlines the need for a fiscal capacity for the Economic and Monetary Union (EMU), which could take various forms. It puts forward two possible functions for this fiscal capacity — a facility to tackle country-specific shocks by providing some degree of central absorption and a facility to incentivise structural reforms. The report also states that a fully-fledged integrated budgetary framework would require the establishment of a treasury function with clearly defined fiscal responsibilities. It says finally that, to prevent contagion, the pooling of some short term sovereign funding instruments (for example, treasury bills) on a limited and conditional basis could be examined further.

Integrated Economic Policy Framework

2.5 The report highlights the importance of completing the single market as a way to address some of the weaknesses in institutional quality, labour market and business climate indicators. It also identifies rapid implementation of the measures included in the June 2012 Growth and Employment Compact as a top priority. The report introduces the idea of individual contractual arrangements between eurozone Member States and the EU institutions on the reforms promoting growth and jobs these countries commit to undertake — these reforms could be those identified in the country-specific recommendations of the Council and be supported by limited, temporary, flexible and targeted financial incentives. It also raises the idea of some kind of eurozone *ex ante* coordination of major economic policy reforms with spill over effects for the eurozone. Finally, the report proposes that to avoid large and rapid build up of economic imbalances, macro-prudential policy tools could be provided to the single supervisor foreseen in the draft legislation on the SSM.⁵

Strengthened Democratic Legitimacy And Accountability

2.6 The report highlights the principle that democratic control and accountability should occur at the level at which the decisions are taken. It discusses how the European Parliament should be more involved in EU procedures, suggesting it should hold debates on the recommendations adopted in the context of the European Semester. It also notes the importance of “maintaining and securing the pivotal role of national parliaments, as appropriate” and that:

“A number of concrete steps to increase the level of cooperation between national parliaments and the European Parliament can also be taken, building on Article 13 of the Treaty on Stability, Coordination and Governance and on Protocol 1 of the Treaty on the Functioning of the European Union, in the respect of the Community method. In this spirit, ways to ensure a debate in the European Parliament and in national parliaments on the recommendations adopted in the context of the European Semester should be explored.”

The Government’s view

2.7 In his letter agreeing to deposit of this document the Financial Secretary to the Treasury (Greg Clark) says that:

“... the European Council will not actually reach decisions on the document. Rather, it is expected to discuss the report and note that a further report will be produced for the December Council. As such, in this instance, the normal scrutiny reserve resolution would not operate. Going forward we will ensure as far as possible that the final report, published before the December European Council, is made available to the Committee so it can provide its views and report to the House. However, as you know, the timing of the presentation of these reports rests with the President of the Council and the time between presentation and the Council will always be very short.”

2.8 In his Explanatory Memorandum the Minister says that:

- the Government welcomes the report’s focus on the eurozone Member States and agrees that they face specific challenges by virtue of sharing a currency; and
- it also welcomes recognition that this process must be fully compatible with the single market in all its aspects.

2.9 The Minister then comments further on the four sections of the report, saying that:

Integrated Financial Framework

- a separate Explanatory Memorandum has been provided on the Commission’s proposals for a SSM;⁶

Integrated Budgetary Framework

- there are no formal proposals contained in the report;
- the Government agrees that a priority is to complete and implement the new steps for stronger economic governance that have recently been agreed, or are currently under discussion, including the Commission’s ‘Two Pack’ proposals for the eurozone;
- the ideas for a eurozone fiscal capacity are interesting — further detail would be needed for a proper analysis of such proposals;
- in the meantime, the Government agrees these proposals could be explored as part of this work — this will need consideration of how this would be financed, the purpose and legal issue and any relationship to other eurozone facilities;
- the Government is clear that funding would be for the eurozone;
- ideas for eurozone treasury bills have been put forward by external commentators —these ideas could be considered as part of this process;

An Integrated Economic Policy Framework

- there are no formal proposals in this area and these ideas are rightly focussed on the eurozone;
- there is little detail of how “individual agreements of a contractual nature” would work in practice;
- these arrangement might increase incentives for eurozone Member States to carry out reforms;
- the Government would need to see further detail before taking a position but is content for these proposals to be explored as part of this work;
- *ex ante* coordination would likely involve Member States sharing details amongst themselves of major reforms before they are implemented;
- again, there is little detail of how this would work in practice and the Government would need to see further detail before determining its position;

Strengthened Democratic Legitimacy and Accountability

- there are no concrete proposals in this section of the report, however it suggests relying on the European Parliament for accountability for decisions at EU level, but also retaining the role of national parliaments, as appropriate, but does not explain what this means in practice; and
- the Government is clear that there should be further consideration of how “we can use” national parliaments to enhance legitimacy and oversight.

Conclusion

2.10 Although purportedly there would be no direct impact on the UK by the measures foreshadowed by this document, there is potential for harm to UK interests, particularly in relation to the single market. So we presume the Prime Minister will be cautious in expressing any support during the forthcoming European Council for the elements outlined in the report.

2.11 As for the role of national parliaments in ensuring democratic legitimacy and accountability we are concerned:

- at the implications of the apparent presumption in the report about the primacy of the European Parliament; and
- the presumption that democratic legitimacy and accountability of a new strengthened EMU framework and cooperation under Article 13 of the SCG treaty should only be explored within the context of the European Semester.

We remind all concerned in this debate that national parliaments are representative of sovereign states. Incidentally, we note the rather odd phraseology — “we can use” — the Minister deploys. We presume he does not actually mean that governments use parliaments.

2.12 These matters are of high importance for the UK. So, ideally we would wish to recommend for debate the final report on them, that is to be presented to the December European Council, before that meeting. But given the likely timing of its publication we recognise that this will prove impracticable. So instead, we recommend that this present document, which does show in broad terms the thrust of the thinking of the four authors, be debated, for three hours on the Floor of the House, together with the Banking Union documents discussed in Chapter One of this Report.

2.13 In making this debate recommendation we note, notwithstanding the Minister’s comments, that the document will not be cleared from scrutiny until the debate takes place and take the view that actions by the Government which amounted to agreement of the report would be a serious breach of the scrutiny reserve.

Formal minutes

Wednesday 17 October 2012

Members present:

Mr William Cash, in the Chair

James Clappison

Michael Connarty

Julie Elliott

Chris Heaton-Harris

Kelvin Hopkins

Chris Kelly

Henry Smith

The Committee deliberated.

Draft Report (*Banking Union and Economic and Monetary Union*), proposed by the Chair, brought up and read.

Motion made, and Question proposed, That the Chair's draft Report be read a second time, paragraph by paragraph.—(*The Chair.*)

Paragraphs 1.1 to 1.17 read and agreed to.

Paragraph 1.18, read, amended and agreed to.

Paragraphs 1.19 to 2.13 read and agreed to.

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

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

The Committee further deliberated.

[Adjourned till Wednesday 24 October at 2.00 p.m.]

Standing Order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers —

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at www.parliament.uk.

Current membership

Mr William Cash MP (*Conservative, Stone*) (Chair)
Mr James Clappison MP (*Conservative, Hertsmere*)
Michael Connarty MP (*Labour, Linlithgow and East Falkirk*)
Jim Dobbin MP (*Labour/Co-op, Heywood and Middleton*)
Julie Elliott MP (*Labour, Sunderland Central*)
Tim Farron MP (*Liberal Democrat, Westmorland and Lonsdale*)
Nia Griffith MP (*Labour, Llanelli*)
Chris Heaton-Harris MP (*Conservative, Daventry*)
Kelvin Hopkins MP (*Labour, Luton North*)
Chris Kelly MP (*Conservative, Dudley South*)
Penny Mordaunt MP (*Conservative, Portsmouth North*)
Sandra Osborne MP (*Labour, Ayr, Carrick and Cumnock*)
Stephen Phillips MP (*Conservative, Sleaford and North Hykeham*)
Jacob Rees-Mogg MP (*Conservative, North East Somerset*)
Henry Smith MP (*Conservative, Crawley*)
Ian Swales MP (*Liberal Democrat, Redcar*)