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**2016/0070: PROPOSAL for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services**

I am writing to respond to the committee's report on the proposal to amend the Directive on the posting of workers in the framework of the provision of services. Please see below my responses to the concerns and questions raised.

**A timeframe for receiving more detail on the government's position**

My officials are currently carrying out legal and economic analysis of the proposal. The interaction of the Posting of Workers Directive with other pieces of EU legislation, such as the Posting of Workers Enforcement Directive and Agency Workers Directive, means that it is important to analyse the proposal in this wider context before arriving at a position. I will update the committee as soon as further information is available.

**The government's assessment of compliance with the subsidiarity principle**

We are engaging with other Member States, to understand fully their perspectives on this issue. This will feed into our own national legal analysis, along with our analysis of the argument outlined in the impact assessment. I will update the committee on the issue of subsidiarity as soon as our analysis is complete.

### **The impact of the proposal on workers affected by company-level agreements**

Officials are currently considering the proposal from legal and economic perspectives, taking into account different categories of workers posted to and from the UK and the pattern of collective agreements, including at company level. I will update the committee as soon as further information is available.

### **The government's view of the proposal's effectiveness in responding to the identified problem**

The proposal's impact assessment will be the topic of the next Social Questions Working Group on 28 April. It is hoped that this session will facilitate in-depth discussion of the identified problem, and of the proposal's relationship with the presented evidence base. I will update the committee when further information is available.

### **The government's view of the different arguments put forward by other Member States**

The government does not yet have a position on the proposal, and as such, is engaging Member States with a wide range of perspectives to inform our own analysis. We and other Member States have sought and continue to seek further explanation from the Commission as to exactly what "remuneration" comprises in this proposal. It will be difficult to assess the implications of any references to equal pay until this is fully clarified.

### **The consultation of trade unions, and of businesses which post UK workers elsewhere as well as those that receive, or may be affected by, workers posted to the UK**

The government will carefully analyse the consequences of proposed amendments for UK businesses, and for workers both posted from and posted to the UK. We will consult a wide range of stakeholders, including trade unions.

### **The government's evaluation of the Commission's impact assessment, with particular regard to problem definition**

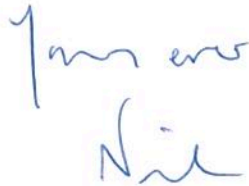
The Dutch Presidency has given all Member States the opportunity to submit their views on the Commission's impact assessment in the form of a questionnaire. We have attached our proposed questions (Annex I) for your information. The UK intends to request further information and clarification on areas including:

- varying sector wage levels and existing collective agreements across Member States, and the extent to which posted workers are affected given the lack of data on their skills and earnings;
- impact of implementing the Enforcement Directive across Member States and how this would interact with the policy options in the IA;
- administrative burden and compliance costs for businesses.

We aim to explore these issues further in our engagement with the Commission and other Member States at the Social Questions Working Group. The government is committed to coming to a position based on a thorough consideration of the legal and economic implications of the proposal.

I hope that this is useful to the committee.

I am copying this letter to Lord Boswell of Aynho, Chair of the Lords European Scrutiny Committee, Les Saunders (Cabinet Office) and Marzena Bujalska (BIS).

A handwritten signature in blue ink, appearing to read "Nick Boles". The signature is written in a cursive style with a large initial "N".

**NICK BOLES MP**

