



# Upgrading UK influence in the European Union:

## A strategy to improve upstream scrutiny of EU legislation

Tobias Ellwood MP

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November 2012

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#### **About the author**

Tobias Ellwood was elected MP for Bournemouth East in 2005. In January 2006 he was made Opposition Junior Whip and in July 2007 appointed Shadow Tourism Minister. From May 2010 Tobias was Parliamentary Private Secretary to the Defence Secretary during which time he completed the senior executive course in National and International Security Studies at the Kennedy School of Government, Harvard University. In October 2011 he moved to his present role as PPS to the Europe Minister in the Foreign and Commonwealth Office.

Before entering Parliament, he spent five years in the Army with the Royal Green Jackets and served in Northern Ireland, Cyprus, Kuwait, Germany, Gibraltar and Bosnia. After leaving the Army, he worked as a researcher for the former Defence Secretary, the Rt Hon Tom King, (now Lord King), before taking jobs at the London Stock Exchange and the law firm Allen and Overy.

Tobias has written and published papers on the British Conservative Party, Post-Conflict Reconstruction, Options for Afghanistan, Strategic utility of our Aircraft carriers and Daylight Saving Time.

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## FOREWORD

Whatever happens in the coming years, the European Union is likely to undergo fundamental change. If the EU hopes to reconnect with voters across the member states and close the democratic deficit, decision making simply has to give greater weight to the will of national parliaments, which at the end of the day, remain the elected chambers that command the most trust and legitimacy amongst citizens.

What the future could hold for the UK in Europe remains an open question but on a day-to-day basis important EU issues will continue to drop into the Government's in-tray which will need careful and considered responses.

We should therefore welcome the fact that the Government is seeking new ways to boost its influence in EU decision making and Parliament's role in scrutinising EU policy. Enhancing the knowledge and influence of Parliament on EU issues not only makes good practical sense but will also help to ensure that the fundamental questions regarding the UK's place in the EU are answered against a background of lively but well-informed political debate. Decisions firmly rooted in democratic debate have a far greater chance of standing the test of time. I look forward to the Government advancing the ideas for boosting Parliament's role laid out in this report and elsewhere.

Mats Persson  
Director, Open Europe

## 1. EXECUTIVE SUMMARY

The Eurozone crisis has brought fresh focus on the entire EU project and reopened questions about democratic deficit and the role of national parliaments - indeed, the role of citizens - in European policy-making. These questions are, naturally, most urgent for countries in the Eurozone like Germany, Italy and Greece. For Britain, the Government's Review of the Balance of Competences will provide a crucial analysis of what the EU does and what this means for the UK. The current debate should encourage Parliament to look at new ways to improve the way in which scrutiny of EU issues is carried out - to promote a new understanding of what the EU does, increase transparency and accountability about the way EU policy is made, explore how Parliament can influence it and examine how Britain can enhance her role in the process.

Government policy is clear. The Government believes that Britain should play a leading role in an enlarged and reformed European Union, but that no further powers should be transferred to Brussels without a referendum. The United Kingdom plays a strong and positive role with its partners, with the goal of ensuring that all the nations of Europe are equipped to face the challenges of the 21<sup>st</sup> century: global competitiveness, global warming and global poverty. The crisis in the Eurozone means that the nature of the EU is almost certain to change in nature. In due course that will pose important choices to every European country, Britain included, about their place in Europe's future, but in the meantime it must profoundly be in our country's interests to make the best of our membership as it stands.

However, such is the alienation from "Brussels" and everything to do with the EU today, that there is little appetite amongst MPs to understand fully how the EU actually works - and how to use parliamentary power to change it or its policies. Indeed few MPs seem even to be aware of the power Parliament now holds, in one of the few positive provisions of the Lisbon Treaty, in influencing or forcing a fundamental rethink of EU legislation, particularly if it joins forces with as few as nine other EU countries. If we are honest, UK MPs are generally not interested in EU details. But they should ensure that they have a real understanding in how the EU works and what it does, especially given the context of potential further integration and what that might mean for the UK and its relationship with the EU. Few MPs visit Brussels, few speak European languages well and few bother to exploit networking opportunities in other capital cities with like-minded politicians. Consequently we do our citizens a disservice by providing inadequate oversight and influence over what the EU does. We are not informed despite the possibility of British people being asked to vote in a referendum on the EU in the coming years.

In short, Parliament is not as good at changing EU policy upstream as it should be, but excels at complaining about the same policy when it becomes law. Such a “complain-but-don’t-change” approach is clearly not in Britain’s interests considering that, according to one estimate, around 10% of all UK law is decided at the EU level, which includes 50% of all business legislation that is so important to jobs and growth.<sup>1</sup>

A new approach is needed. If we are fully to master all the EU mechanisms at our disposal then a clear strategy must be given, which allows Government Ministers, the civil service and Parliament to contribute towards shaping, tempering or indeed rejecting proposed EU legislation emanating from Brussels.

This means, firstly, broadening the current (underpowered) system of EU scrutiny; and, secondly, a cultural shift towards engagement, which will assist in projecting Britain’s national interests in EU decision-making and encouraging other member states to support us in the process.

Essentially we must understand the EU in order to shape it better and improve its ‘democratic deficit’. MPs must be encouraged and rewarded for developing a specialism and building influence in European capitals. We must get away from reducing every debate on EU legislation to the broken record of wrangling about our fundamental relationship with the EU - important though that debate is - and focus on the policy in question. This rhetoric undermines progress made by the Government in enhancing our influence in Brussels (in Councils, the Commission and European Parliament, through UKREP), and through ad hoc bilateral and minilateral alliance building with other member states. It also overshadows the critical role we play as one of the three big players in the EU. Germany and France need us as do Spain, Italy and Poland. In a whole variety of areas from foreign policy and security to climate change, energy, the single market and trade we are the “lead” nation.

The Lisbon Treaty also begins to recognise the case for so called ‘European Localism’<sup>2</sup>, the antidote to centralisation. But to date there has been no voice providing a constructive plan to maximise British interests and influence within the Europe we have today, not the Europe some might want to have in the future. The Commission still judges success on a legalistic and legislative basis.

If we are in it, we must be committed to deliver on our priorities and aims. If we are committed, we can lead. If we lead we project influence. This paper considers how that enhanced commitment might start from a principally parliamentary perspective.

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<sup>1</sup> See Open Europe, ‘Still out of control? Measuring eleven years of EU regulation’, June 2010, <http://www.openeurope.org.uk/Content/documents/Pdfs/stilloutofcontrol.pdf>

<sup>2</sup> See Anthony Browne and Mats Persson, ‘The case for European localism’, Open Europe, September 2011, <http://www.openeurope.org.uk/Content/documents/Pdfs/EUlocalism.pdf>

## 2. MAIN RECOMMENDATIONS

### Parliament

1. A recognised timetable for Government to notify Parliament of EU proposals, including improved communications with Parliament on EU activities which could affect the UK.
2. Parliamentary floor debate on the Commission's Work Programme and Presidency priorities.
3. Dedicated/ring-fenced Oral Parliamentary Question times on EU issues for departmental ministers in recognition of scale of EU legislation affecting UK.
4. Evidence sessions ahead of sectoral Councils with the lead Minister to discuss the agenda.
5. New powers for MPs to force a debate on the floor of the House if the European Scrutiny Committee or select committee does not.
6. Understanding of - and commitment to - EU matters noted and rewarded by Government and Whips' office. Ministerial and civil servant career path should require exposure to EU affairs.

### Procedure

7. New powers for the Scrutiny or relevant select committee to force a debate and vote, on the floor of the House, if it does not agree with government motions.
8. New sitting times for the European Scrutiny Committee, to match those of the European institutions and therefore keep up with the thoroughfare of documentation sent from Brussels.
9. Consideration of the Scrutiny Reserve system confirmed by Statute so that Ministers gain Parliamentary approval before negotiating in the Council of Ministers - accepting the need, where appropriate, for Ministers to be given flexibility in negotiations.
10. European Committees A, B and C scrapped. Responsibility of detailed scrutiny of EU proposals given instead to the respective Select Committees, involving the Scrutiny Committee.
11. Opportunities provided to bring together and improve co-operation between UK MPs, Peers and MEPs involved and interested in European scrutiny, including Westminster Hall debates.

## Outreach

12. Increased opportunities, responsibility (and funding) provided for individual MPs, Select Committees and European APPGs to visit Brussels to engage with UKREP, MEPs and Commissioners with a view to engaging in upstream discussions on proposals.
13. Visits to other European capitals to nurture relationships and build alliances with national parliaments.

### 3. BACKGROUND: THE UK IN THE EU

The question of Europe and the UK's role in it has for many years been an awkward one for the British. Perhaps marred by 20<sup>th</sup> century events on the Continent, historical prowess and a prevailing relationship with both the Commonwealth and the US we have never shared the same strategic vision of ever closer union in Europe as many of our continental counterparts.

#### Country membership of Europe?

Visit Brussels, and you will step into a curious, complex and seemingly unstoppable, unaccountable bureaucratic multilingual, out of touch European political bubble - which for many, simply confirms suspicions and the city is never visited again. Dig a little deeper and you will also find a myriad of issues being discussed and debated by those who have chosen to understand and master the peculiarity that is the EU.

Although two of the signal achievements of the European Union (the single market and enlargement) were British led initiatives, the general view is that, rather than leading from the front, we have treated the European evolution as a damage limitation exercise. It is a difficult task to explain the benefits that enlargement and the single market bring to British citizens in terms of prosperity and security, with the caricature often making the headlines about the UK being outvoted in Brussels. The lack of EU transparency and accountability troubles us as does the transfer of powers and competence from Westminster. But despite all this 'euroscepticism' there is recognition by all three main political parties that Britain must remain a member of the club. And with a good slice of our domestic laws now originating from Brussels - this report asks how we can use the EU:

- To involve and expose MPs in the UK more to the scrutiny and amendment of EU proposals;
- To involve and expose MPs more to the process of influencing legislation in the EU;
- Whilst at the same time both protecting and enhancing the interests of UK plc.

Debating the fundamentals of our relationship with Europe has its place but without increasing MP opportunities for serious involvement in EU affairs we will relinquish influence and forego opportunities to promote Britain's interests. This is not to ignore the fundamental short-comings in the EU's structure and the Eurozone, nor the desire to repatriate powers. We must finally recognise there is more chance of projecting Britain's national and regional interests in EU decision-making and encouraging other member states to support us if we adopt a more pro-active and constructive strategy built around alliance-building in Brussels and serious scrutiny in London, and even more national parliamentary and democratic oversight of the positions taken up by all national governments.

## British Leadership in Europe?

Currently the UK has four strategic aims in the EU:

- i) Growth via liberalisation, expansion of trade, the deepening and broadening of the single market, more innovation and cutting back regulatory burdens;
- ii) The protection of our sovereignty;
- iii) The projection of shared interests and values; and
- iv) The task of cultural change: firstly in our attitude towards working with the EU and secondly within the EU itself.

With improved scrutiny of EU policy at home we would be better placed to affect EU decision making upstream and increase our influence abroad.

This in turn would allow us greater opportunity to fulfil our original aims. Other national parliaments might join us and the Nordics in this approach. To instil a real change across the EU, we need to ensure that this debate is a constructive one across Europe and not any one country's particular agenda.

MPs therefore need to understand how to influence the EU and, in particular, build alliances with our German, French, Spanish, Italian and Polish counterparts, amongst others. It is worth MPs knowing how the UK can provide a welcome balance between the other big players in Europe and how they can promote the UK's brand leadership in liberal economics, democratic transparency, the rule of law and an outward-looking foreign/defence policy at this pivotal time. Through the adoption of this model the UK could seek to lead a group of like-minded member states.

Subsidiarity (or “EU-localism”) should now become the norm. Enshrined in the Lisbon Treaty<sup>3</sup>, as one of the few meritorious sections in that Treaty, the principle of subsidiarity recognises that some decisions are indeed better left to sovereign states to make<sup>4</sup>. That is precisely what we should be aiming for in a reformed EU that does less, better.

Indeed in December 2009, before the ink of the Treaty signing had dried, the Commission’s President Jose Manuel Barroso wrote to all member nations a letter of re-assurance recognising the case for subsidiarity. However, such was the momentum across Europe towards centralisation there was little interest in considering the counter arguments. Europe is now a different place and Britain is well positioned to lead and re-invigorate the case for subsidiarity. This can be put into effect by adopting the proposals outlined in this document. However, it remains an uphill challenge as the principle of a red card was not adopted under the Lisbon Treaty. The argument should be considered at the time of the next Treaty negotiation.

## Recognising our role and successes

As the recently published European Foreign Policy Score card<sup>5</sup> produced by the European Council on European Affairs illustrates, the UK plays the most significant role next to Germany in leading EU policy formation in a range of areas. Yet these are rarely debated in Parliament or commented on in the press in an informed way. For example the recent EU trade agreement secured with South Korea was very much a British success story. But did we successfully explore what it meant in concrete terms and sell it? In 50 financial services directives proposed by the Commission, the UK’s position has generally been upheld. As yet another example, the free market telecoms market liberalisation directive was led by a British MEP, Malcolm Harbour.

## Recommendations for this chapter:

- We need to manage both long term aspirations and short term objectives. Too often Britain’s frustration with the entire EU project overshadows our ability to influence day to day events and decisions.
- We are a senior player and a leader in many areas. There is a significant role for us to play in championing subsidiarity and stemming the tide of centralisation but this requires a cultural shift in Britain’s attitude to Europe in favour of cultivating relationships, developing allies,

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3 Article 5 of the Treaty on European Union reads, “Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level”

4 See also page 13

5 See Justine Vaisse, ‘The sick man of Europe is Europe’, 20 February 2012, [http://ecfr.eu/content/entry/commentary\\_the\\_sick\\_man\\_of\\_europe\\_is\\_europe](http://ecfr.eu/content/entry/commentary_the_sick_man_of_europe_is_europe)

and offering alternative solutions which have a chance of receiving support. We must also encourage the philosophy that “more Europe” in terms of regulation does not necessary mean a “better Europe”.

- We must develop more confidence about our role in Europe and not allow the debate to be dominated by arguments exclusively about whether we should be in or out. We need to harness the silent majority of support which is not calling for withdrawal but is more interested in the way the EU should or should not be acting in different policy areas.

#### **4. GETTING GOOD AT BRUSSELS**

Improving the accountability and efficiency of the EU institutions, whilst important, is beyond the scope of this paper. Yet whilst Britain obsesses about the so called ‘democratic deficit’ under our noses, other nations have chosen to master the complex structures, develop influential relationships and in some cases lead procedures in the EU whilst we are left on the side lines. We need to get good at Brussels.

The scrutiny committees of both Houses do excellent and complementary work. Reports from the Lords are well-respected across Europe and the European Scrutiny Committee in the Commons is unrivalled in the comprehensive and thorough nature of its work. And yet MPs continue to point to gaps in the system of scrutiny, with Parliament having far too little influence on the development of EU policy.

The size and structure of the European Union make full democratic accountability difficult to achieve. Although a much less powerful institution than it was during the Delors Presidency, the Commission cannot be held directly to account by any single Sovereign Parliament. However, it is worth noting that the President and Commissioners are appointed by member states and are therefore open to influence.

The dominance of Qualified Majority Voting in the Council and increased powers for the European Parliament emphasises the need to exercise influence and create alliances with other member states. This requires Britain actively to understand and engage with our allies in European capitals as well as in the Commission, the Council of Ministers and the European Parliament in order to not only promote our own ideas, but also influence upstream ideas promoted by other countries which effective scrutiny might support, help turn into more useful legislation or if necessary kill off.

## Styles of national engagement with Brussels

There are three distinct styles of engagement employed by sovereign nations in dealing with the European Union: Firstly what could be called the 'Mediterranean' approach, where countries are content with allowing Brussels to go about its business with little interaction with their respective Parliaments. Secondly the Danish approach where the Government is prevented from taking any major decision without first consulting Parliament. And thirdly the UK approach where Government welcomes Parliamentary involvement and debate in the decision making but reserves executive power to itself. Perhaps contrary to Westminster backbench thinking, there is a desire from the Commission to engage with Sovereign Parliaments - if they chose to embrace it.

## Improving political networking

Unless a particular appointment or position demands it, our MPs and even MEPs are poor at developing European networks as part of a UK strategy to improve influence. Indeed the concept of collective European networking is not encouraged beyond the remits of the various All Party Parliamentary Groups with links to Europe i.e. thematic or geographic APPGs. There is no foreign language training - yet many senior politicians from other European countries speak at least two other languages. Indeed, right across the continent, bright young party activists are encouraged to stand as an MEP before entering the Sovereign Parliament so their blackberry is brimming with useful European contacts that might eventually be called upon when support is required. Efforts do not stop there - Germany and France for example, in addition to the Heads of State bilateral meetings, regularly hold joint Cabinet meetings.

Our reluctance to engage as a Parliament with other Parliaments is reflected in a limited travel budget set by Independent Parliamentary Standards Authority with just three visits to European capital cities permitted each year. Few MPs even exhaust this allowance and that set aside for Ministers is never used as the respective Government department pays for the visit.

## Can the UK Permanent Representation to the EU (UK REP) fill the gap?

Owing to this lack of MP engagement, UKREP remains pivotal to our relationship, not just with the EU institutions but with the other 26 member states. It is responsible for negotiating the UK's interests in the drafting process of EU legislation. Once the Commission has formulated a draft proposal, a small team within UKREP, usually of 1<sup>st</sup> or 2<sup>nd</sup> Secretary rank, negotiate the text in the Council working groups with other nations. The organisation and timetabling of these working groups are the responsibility of whichever country holds the rotating Presidency of the Council.

There is no doubt that UKREP is staffed by very competent and professional diplomats and civil servants. But to most MPs its work is a mystery. Whilst it engages with other nations through the Council on specific issues, the majority of staff originates from Whitehall and not the FCO. Brussels is usually their first - and often last - overseas posting. They are therefore not necessarily as instinctively pro-active in general relationship-building nor in facilitating the needed political networking. For example there are no regular briefings/ workshops for UK MEPs, MPs or businesses.

Housed within UKREP are two UK Parliamentary clerks (who now have diplomatic status). They provide a direct link to Brussels for the two Scrutiny Committees. But they are there to serve Parliament as a whole and could be far more pro-active in communicating to MPs daily or weekly developments in the EU. They could provide factually - with UK REP - a proper EU forward look of activity without calling into question the principle of separation of powers. They are primarily there to ensure subsidiarity is honoured. But whilst they liaise regularly with their counterparts from other nations, they have no formalised engagement with them despite sharing the same corridor in European Parliament.

Although the Civil Service continues to label the EU as a place to avoid, on becoming Foreign Secretary, William Hague restored the process of "fast-tracking" civil servants to both work for UKREP and seek careers within the EU institutions.

UKREP, indeed the UK diplomatic service as a whole, does have one enormous inbuilt limitation in that our own highly capable but apolitical system of Government discourages civil servants from political lobbying on behalf of Government. This is in contrast to many of their European counterparts who develop extensive networks with politicians and political groups and regularly cross the line between ministerial appointments and the diplomatic service. In France, for example, Cabinet Ministers appoint their own office staff who are able to lobby and develop long term relationships. This is why MPs need to understand the system better.

## The Commission - where the ideas for EU law usually start

Lying at the heart of the EU's structure is the Commission. Although it is the only body which drafts proposals for new European laws, it seeks as much consensus as possible, e.g. with Germany, France and the UK, before publication. This is not commonly understood in the UK which perceives the Commission as an uncontrollable leviathan. In fact, it is now a relatively weak institution which is often unprepared to make proposals without the consent of the key member states.

As it has the 'right of initiative' in overseeing and implementing EU policies by proposing new laws to the EU Parliament and the Council, it is a critical part of the jigsaw puzzle to understand. The Commission follows a five year cycle where strategic aims are set along with more detailed, year on year objectives known as Annual Policy Strategies. These in turn are translated into specific objectives which appear in the Commission's Legislative and Work Programme.

With all 27 member states allowed to have one commissioner, EU interests are broken down into as many subject areas to pursue these programmes. When any one of these areas proposes a draft law, it is obliged to try to satisfy the widest possible range of interests and therefore consults through various committees, working groups and in house think tanks such as the Bureau of European Policy Advisors<sup>6</sup> as well as regularly holding public consultations.

If at least 14 of the 27 Commissioners agree, the draft is then sent to the Council, the European Parliament and national parliaments. The draft will be debated and amended before being considered for adoption into law by the member states in Council. The scope for the UK to lobby during the process is enormous but in reality much of this is left to UKREP alone.

Before it is sent to other institutions, each proposal must be legally signed off to confirm that it complies with proportionality and subsidiarity. In spite of this, there is no systemic involvement by UK MPs, Select Committees or Parliament before the draft has been voted on by the Commissioners. By that stage, the question of subsidiarity has been answered and only the proposal itself can be influenced during its passage through the EU institutions. By this point it is very difficult to alter. Subsidiarity simply does not seem to be taken seriously. The Commission and European Parliament have no institutional interest to reduce their powers.

Despite her seniority in the Commission, there is no regular Parliamentary engagement with our own Commissioner, Baroness Ashton. Such is their limited exposure to this world, MPs would be hard pushed to name or recognise but a handful of other Commissioners - despite the power they yield over EU law. Some select committees have developed contacts with Directorates-General covering their subject matter - but given the scope for influencing, not just the Commission itself, but other Member nations who are also round the table - there is clearly not enough engagement upstream.

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6 For further details, see BEPA's official website, [http://ec.europa.eu/bepa/about/index\\_en.htm](http://ec.europa.eu/bepa/about/index_en.htm)

## The Council of the European Union

The Council is where national ministers from each EU country meet to adopt laws and coordinate policies. It should not be confused with the European Council which is essentially the four or more summit meetings a year attended by the 27 heads of state. Nor mistaken for the Council of Europe<sup>7</sup> - which has nothing to do with the EU at all. The fact that these clarifications are also found on the EU's main web page<sup>8</sup> shows how baffling the whole pan European structure has become to the uninitiated, which must include the vast majority of European countries' citizens.

The Council as a body is the final hurdle in the approval of EU laws. It coordinates the broad economic policies of EU member countries, signs agreements between the EU and other countries, approves the annual EU budget, develops the EU's foreign and defence policies and coordinates cooperation between courts and police forces of member countries.

## The European Parliament

In many respects, the European Parliament is the hidden game changer of the EU albeit created as an elected body in 1979 in order to satisfy a tick in the democratic box. Its powers, once limited, are now substantial and in many respects equal to those of the Council. The Commission and the Council are treaty-bound to compromise on their amendments to proposed legislation. The European Parliament's pretensions aggravate MPs from all member states but it is an important piece in the chess game and is played very well by France and Germany. Ironically, though fragmented, British MEPs are highly respected and influential in key committees.

There is insufficient engagement between UK MEPs and Parliament or indeed Government. MEPs are not allowed passes in order to access the House of Commons and there is no formal relationship between UK elected representatives in Brussels and Parliamentarians, other than on an ad hoc basis.

With far larger 'constituencies' to communicate with, MEPs struggle to prove they are accountable to the electorate in the same ways MPs do. And the European Parliament, as a body, does not endear itself to the public by insisting on three places of work; namely Brussels and Strasbourg, as well as Luxembourg.

Whilst all this may be true, the European Parliament is part of the EU construct, and if MEPs cannot wield power on the floor of the Parliament itself, they certainly could be better utilised behind the scenes. Indeed the MEP committee rapporteurs play a significant role in proposing draft amendments.

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7 The Council of Europe's website can be accessed here, <http://www.coe.int/lportal/web/coe-portal>

8 The EU Council of Ministers' website can be accessed here, [http://europa.eu/about-eu/institutions-bodies/council-eu/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/council-eu/index_en.htm)

## Recommendations for this chapter:

- If we are committed to improving our influence in the EU, then we must move forward from the 'transactional' relationship and spend more time networking with our allies - both in Brussels and in their respective Parliaments. This requires an owned strategy of engagement.
- Britain already has a natural grouping of allies in Europe, but beyond Whitehall and the FCO network there is no strategy of engagement, either to win support for specific issues or simply to bank connections for future use. This needs to change and we must make use of the contacts that could be developed across Europe by Parliamentarians, think tanks and business.
- Such a strategy should also include greater engagement with European politicians who might be expected to advance either within their own national systems or the EU in the longer or shorter term. For example, Günther Oettinger, Commissioner for Energy was for four years Chairman of the CDU in Baden-Württemberg. Was any attempt made by Parliament to engage with him? Stefan Füle the Commissioner responsible for enlargement was once former Czech Ambassador in London. Did Parliament engage with him sufficiently during this time? And looking forward, the Green Party is expected to play a more significant role Germany's next Government, and the UMP will come back to power at some stage in France. Are we seeking ways to strengthen contacts with them now?
- We must learn from other nations about how to leverage greater influence in the key EU institutions.
- With many issues relating to Europe receiving cross party UK support, all parties should be encouraged to strengthen ties with their respective EU affiliated groupings. Treasury and DFID funding is already available.
- Government and Parliament should leverage the role our Commissioner plays within the EU and the connections she has. Baroness Ashton should be invited to visit Parliament and receive groups of MPs and Ministers on a regular basis. All Commissioners conduct their roles with balance but are capable of considerable influence in Brussels.
- The FCO should debate how our diplomats might increase engagement with policy makers at home and abroad and include Ministers and MPs in this process.
- Civil servant postings to Brussels should be seen as career enhancing and a requirement for promotion across Whitehall - rather than positions to be avoided.

- Parliament should discuss with IPSA how the importance of the EU can be better reflected in opportunities for engagement in Brussels and language training.
- UKREP needs to upgrade engagement with MPs and MEPs in communicating upstream proposed legislation. Its own bargaining position in the Council can be enhanced if it is able to present legitimately Parliament's concerns and ideas. The National Parliamentary officers also have a key role to play in this and supplying a forward agenda.
- Diary commitments permitting, Government Ministers should also factor in greater engagement with European capitals rather than only travelling when an issue or international conference demands it, bringing the EU into policies and speeches. When in Brussels for Councils, they should see key MEPs and Commissioners, as well as think tanks and business groups.
- Joint bilateral or minilateral summits and/or ministerial meetings with other European Governments (as regularly seen on the continent) should be introduced in London.
- Greater engagement with MEP committee rapporteurs and others who play an influential role in introducing amendments to the Commission's proposals.

## 5. GETTING BETTER IN LONDON

With none of the EU institutions directly answerable to any single Parliament, EU member states were given a formal role in scrutinising the work of the European Union in 2006. Different approaches have been adopted over time across Europe (see Annex D) with varying degrees of success. Here in the UK, Parliamentary examination and analysis of EU law is down to the House of Commons European Scrutiny Committee and the House of Lords European Union Committee.

Surprisingly, for a nation keen on limiting the role of the EU, to date only one EU proposal has been rejected by the UK Parliament.

### The Question of Subsidiarity - The Yellow Card / Orange Card

When considering any EU document, the Scrutiny Committee's remit is extremely limited. Each document is solely judged on whether it's appropriate for the proposal to be made at EU rather than national level. However, under Article 5 of the Treaty on European Union it is possible for a mere nine of the 27 nations to determine that a proposal made by the Commission should not be considered at EU level but sent back for review.

For many proposals, the national parliaments of EU member states have an “early warning mechanism”. Under this system, each national parliament has two votes. If one third raise an objection - a “yellow card” - on the basis that the principle of subsidiarity has been violated then the proposal must be reviewed. If a majority do so this is considered an “orange card” and the Council or Parliament can vote it down immediately. If the logistical problems of putting this into practice are overcome, including the short time span available (8 weeks), then the national parliaments would form a “virtual third chamber”.

Recently, on 24 May 2012, this mechanism achieved its first result. The number of national chambers submitting a reasoned opinion crossed the threshold for a yellow card in relation to Monti II (EU employment proposals on posted workers). It will be interesting to see what effect this has.

### House of Commons European Scrutiny Committee (ESC)

The House of Commons scrutiny system is ‘document-based’ in that it concentrates on examining draft EU documents and the Government’s policy towards them, primarily the “legal and political importance” of such documents as defined in Standing Order 143. It also holds to account Ministers involved in EU matters and produces studies on specific issues. But its primary focus is scrutinising all EU proposed legislation sent from the Commission.

Compared to other national parliaments across the EU, the ESC is small with just 16 Members (8 Conservative, 6 Labour and 2 Lib Dem). Austria for example has 26 Members on its main committee and 16 on a Permanent Subcommittee, out of a lower House of just 183 Members.

The breadth of documentation the ESC scrutinises includes Green and White Papers, Communications to the Council (often seeking endorsement of some action proposed or taken by the Commission); Commission update reports relating to ongoing programmes, Recommendations, Resolutions and Conclusions, which are not formally binding, but which, when endorsed by the Council, may commit it to policies or action in the future. Such is the volume (around 1,000 documents a year to consider) it has been described as ‘censorship by mass’<sup>9</sup>. Consequently documentation such as the Draft Directive concerning the minimum safety and health requirements for the use of work equipment by workers at work have been cleared but ought to have been subject to a full debate in Parliament. It is however difficult to scrutinise the work of the EU scrutineers as the ESC sits in private.

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9 Chris Huhne MEP, in evidence to the House of Commons’ Modernisation Select Committee, 14 July 2004. See also the Second Report on Scrutiny of European Business, Session 2004-05, March 2005, Volume II - oral and written evidence

As the flow diagram at Annex C illustrates, if the proposal is deemed to be contentious it can either be sent to a specialist European Committee or go directly onto the floor of the House for further debate.

## Europe Committees A, B and C

Any contentious proposal can be sent to the appropriate European Committee A, B or C depending on the subject matter, as defined in Standing Order 119:

**Committee A:** Environment, Food and Rural Affairs; Transport; Communities and Local Government; and the Forestry Commission.

**Committee B:** HM Treasury; Work and Pensions; Foreign and Commonwealth Office; International Development; Home Office; Justice; and matters not otherwise allocated.

**Committee C:** Business, Enterprise and Regulatory Reform; Children Schools and Families; Innovation, Universities and Skills; Culture, Media and Sport; and Health.

Around 50 documents are recommended for consideration by Committee every Parliament. However, these are not standing committees but are formed by the Committee of Selection, as required, in support of the ESC. Such is the makeup of these Committees (see Annex C) that this secondary stage of scrutiny is weak, lacks expertise and is not seen as a priority by the Government Whip's office.

## Debates on the Floor of the House

Each year the ESC recommends around five documents for debate on the Floor of the House. In the past this has included debates on Galileo, the EU infrastructure programme, EU Transport and most recently on the EU's human rights strategy beyond Europe. These debates are usually limited to one and half hours (by standing order) though can be extended if requested by the ESC. In reality, these debates often wander off the detailed subject and onto the wider issue of the UK's relationship with the EU.

## The Scrutiny Reserve

As set down in a Resolution of the House (17 Nov 1998) Government is prohibited from agreeing any EU proposal until it is deemed to have been appropriately scrutinised by Parliament. However this procedure is not defined in statute. Government can and does (around 70 times a year) override this resolution, with some reasons being more legitimate than others, such as the sensitivity and classification of documents in certain foreign policy and national security decisions and the need for timely decisions to advance the UK's interests. Two of the most controversial instances are the creation of the European Defence Agency (2004) and EU arrest warrant (2003).

## The Explanatory Memorandum (EM)

Within ten working days of the deposit of any EU document, the Government Department which has responsibility for that subject is obliged to submit an EM to the ESC. The EM is signed by a Minister, and constitutes the Minister's evidence to Parliament outlining the document's policy, financial and legal implications for the UK. In reality, owing to time constraints EMs are sifted by the ESC Clerks. If they are not deemed interesting or relevant they are not brought to the attention of the committee. If moderately interesting/relevant clerks will give their thoughts in a single paragraph and if very interesting/relevant in a couple of pages.

An important Annex to the EM is the Impact Assessment which is Government's interpretation on how the EU proposal will impact the UK law. Despite its importance this document is never seen by members of the Scrutiny Committee.

## Role of House of Commons Departmental Select Committees

In contrast to the European Committees A, B and C, Departmental Select Committees develop a competent level of expertise in their subject matter. However, although it is explicitly mentioned in their core tasks<sup>10</sup>, few committees integrate themselves into matters Europe - EFRA, Transport and BIS Select Committees are the most notable exceptions. Although there is a strong case for "mainstreaming" EU work into these committees, as EU work has been mainstreamed across government, there is currently no incentive to follow or scrutinise EU legislation. Departmental Select Committees set their own agendas but Standing Order 143 does give the ESC the formal power to seek an opinion from any Select Committee.

## House of Lords European Union Select Committee

The House of Lords take a different but complementary approach to scrutinising EU legislation. It comprises 20 Members from across the parties, with a further 52 on the now six Sub-Committees. Over 70 Members of the Upper House are involved in the scrutiny of EU affairs.

Documents are received in the same way as in the Commons, but almost half the documents are allowed to be sifted out by the Chairman and the remainder are sent to one of the six sub-committees:

- Economic and Financial Affairs
- Internal Market, Infrastructure and Employment

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<sup>10</sup> See House of Commons, Liaison Committee, 'Select Committee effectiveness, resources and powers', Second Report of Session 2012-13, 8 November 2012, page 10, <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmliaisn/697/697.pdf>

- External Affairs
- Agriculture, Fisheries, Environment and Energy
- Justice, Institutions and Consumer Protection
- Home Affairs, Health and Education

Membership of these committees is permanent and draws upon a wealth of experience from all corners of the House. Their reports are well-respected both in the UK and more widely.

## Conference of Community and European Affairs Committees (COSAC)

COSAC<sup>11</sup> is a six monthly gathering of national scrutiny committees from across the EU. It is a formal body authorised by the Lisbon Treaty<sup>12</sup> and meetings usually take place in the capital of the country holding the Presidency of the Council. It also scrutinises proposals, conducts inquiries, prepares reports and even organises intergovernmental conferences. In reality it is little more than a talking shop. It is a wasted opportunity. It could be used properly to be so much more.

## Keeping Parliament informed - the National Parliament Office

The NPO is based in Brussels and acts as Parliament's eyes and ears in Brussels. It monitors the activities of the EU Institutions which are relevant to the House's scrutiny of EU business. Its staff attends committee meetings and plenary sessions of European Parliament, and monitors key events relating to EU matters (such as weekly Commission meetings and the Council of Ministers) and regularly meet staff of the Institutions. It writes briefing papers reporting on relevant outcomes which are passed on to the two scrutiny committees and appropriate Select Committees. It also produces a weekly information sheet (the Commons European Business) detailing European business in the House of Commons for MEPs and interested parties in Brussels.

## The Inter-parliamentary EU Information Exchange (IPEX)

IPEX is a platform for the mutual exchange of information between the national Parliaments and the European Parliament concerning issues related to the European Union. It attempts to share details via the web of all EU documents issued by the Commission and of the state of Parliamentary scrutiny in each member state, allowing scrutiny committees across Europe to compare their reports with those written by their EU counterparts.

<sup>11</sup> COSAC's website can be accessed here, <http://www.cosac.eu/en/cosac/>

<sup>12</sup> See Article 10 of Protocol (No 1) on the role of national parliaments in the European Union, attached to the Lisbon Treaty

## UK Tri-Partite Meetings

Meetings are occasionally held drawing together the Scrutiny Committees from both Houses as well as representatives covering EU legislation from Wales, Scotland and Northern Ireland.

## Committee of the Regions

The Committee of the Regions<sup>13</sup> is another large talking shop that should either be scrapped or reformed. It is a political assembly made up of 344 members (24 from the UK) which attempts to provide regional and local levels with a voice in EU policy development and legislation. It receives and comments on proposals received from the Commission.

## Economic and Social Committee

The Economic and Social Committee<sup>14</sup> was established in 1957 as a forum for discussing issues relating to the Common Market. Today it acts as a consultative assembly responding to proposals put to it by the Commission. It has 344 members from every member state (24 from the UK). Members fall into one of three categories: business people, union representatives or civil society. Members are appointed by national governments for a five year term. Again, it could be used so much more smartly to engage different sectors in the UK and EU and to influence the Commission and EP.

## Pre- and post-European Council scrutiny

The four formal summits of the European Council, which brings together all the heads of states across the EU, are the flagship communications the Government has with Parliament. There has long been differing views about whether a pre- or post submit debate and/or statement is most appropriate. The news media portray the British position in terms of red-lines, isolation, division and snub. Historically, the Government only allocated two days a year for these debates. It is now for the Backbench Business Committee to decide if they want to allocate more time.

## Recommendations for this chapter:

- Understanding EU policy needs to be rewarded and seen as a skill set required for promotion.
- The power of member states working together through the Yellow and Orange Cards system needs to be understood by Parliament so where necessary it can be implemented with good result.

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<sup>13</sup> The Committee of the Regions' website can be accessed here, <http://cor.europa.eu/en/Pages/home.aspx>

<sup>14</sup> The European Economic and Social Committee's website can be accessed here, [http://europa.eu/about-eu/institutions-bodies/ecosoc/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/ecosoc/index_en.htm)

- The Yellow Card should form the incentive in strengthening ties with key allies across Europe and a strategy of engagement with European Governments, Parliaments and individuals, including Parliament to Parliament contacts. We should think about putting this on the Brussels agenda, maybe with other Member States who share our interest in national parliaments and subsidiarity.
- Any future Treaty change should include some system of the red card system with the right quota and powers. This would go further than the present yellow and orange cards by forcing not just a reconsideration but a complete abandonment of the proposal. This was tried during the last Constitutional treaty negotiations.
- In a similar vein an UKREP sponsored programme should be created which introduces Parliamentarians, APPGs and Ministers to Brussels, helping build connections and learn about new Commission proposals. This could apply bilaterally across EU posts.
- A review of the ESC should be conducted with considerations given to its remit, size, and frequency of meetings and whether it should now meet in public. Given the Committee's remit, the Committee provides a useful but limited role. But its focus on documentation means that it cannot influence policy. It makes no distinction about the important issues (regardless of the type of document) and is precisely the bureaucratic and opaque system that we criticise Brussels for.
- Explanatory Memorandums and Impact Assessments need reforming and should be placed on line. In preparing these documents the question of why should this proposal be considered by the EU rather than Sovereign Parliaments would help focus civil servants' minds on the principle of subsidiarity/localism.
- The process of UK scrutiny of EU legislation should also be placed under the microscope. The European Committees A, B and C should be scrapped with duties handed to select committees which would take the power to inquire into proposals from the EU, in particular the Commission. This would require additional resources and training.
- Consideration should be given to providing additional powers to summon Ministers, representing the UK at European Council meetings, to give oral evidence before or after Council meetings are held, potentially in private.
- Parliament should consider how to include, on a systematic basis, the policy and technical expertise of the Select Committees in debates relating to EU issues.
- Parliamentary engagement with MEPs should be formalised with regular opportunities to meet both in Brussels and Westminster, as parliamentarians and political party members.

- The workings of the Economic and Social Committee, the Committee of the Regions and COSAC should be modernised to become more relevant and less of an expensive talking shop, or scrapped.
- Greater use of think tanks such as the Konrad Adenauer Stiftung, Bruegel, Centre for European Policy Studies and Notre Europe (Paris).
- The National Parliamentary Officers should ensure they disseminate their work to the select committees, and not just the ESC.

## 6. MORE INFORMED DEBATE - MORE INFORMED CONSTRUCTIVE EURO-SCEPTICISM

### The UK and the EU: the big strategic questions

|                       |  |
|-----------------------|--|
| The Single Market     | The UK has to date largely won the argument: the Single Market is broad and deep with strict rules on cartels and state subsidies, although there is still plenty of room for further progress.  |
| Enlargement           | The EU now comprises 27, soon to be 28, members, a victory for a British vision of a wide EU and a defeat for those who wanted a narrow Western European club.   |
| Political integration | Not an argument Britain has won. While Britain has successfully stayed out of the Euro and Schengen the level of political integration is deeper than most of the British public are comfortable with and the discourse of ever deeper political integration is dominant in most European countries. |
| Social Europe         | Still inconclusive: There are significant damaging pieces of European social legislation in place, such as the Working Time and Agency Workers Directives but there is a growing consensus on the need to lift regulatory burdens on small businesses.   |

The United Kingdom has been a member of the EU for nearly forty years. In that time Britain has won two of the major strategic arguments facing the EU, to date largely lost one and a fourth remains inconclusive and unsettled.

Parliament, however has tended to react to decisions rather than debate and develop coherent policy. When debate does take place, too often it is dominated by well rehearsed arguments focusing on Britain's fundamental

relationship with Europe. This invariably calls for a more aggressive attitude towards the EU - which may grab headlines domestically but often actually achieves little other than keeping us on the sidelines and stifling informed debate.

### Matching Parliamentary scrutiny with Government engagement

The notion that greater UK engagement would lead to the eventual replacement of Westminster, its laws and democratically accepted systems of governance has dominated the debate in the UK, firstly relating to Maastricht, then the introduction of the Euro and finally the Lisbon Treaty. This grand argument is recognised by Government as past its sell by date, replaced by the requirement for more detailed scrutiny of the constant drip of legislation proposed by the Commission.

A void, however, has developed between the engagement and energy employed by the Government through the Council and UKREP with the EU - and that of Parliament. This needs to be reconciled.

### Upgrade of communication relating to EU matters

If the impact of the EU in Britain is to be fully understood in Parliament then the daily flow of information from Brussels must increase and become the norm. The posting of two National Parliamentary clerks in the heart of the EU is not leveraged to support those outside the ESC and work with UKREP.

The House of Commons Daily Order Paper and associated website could be better used to communicate updates from Brussels and provide explanations of events in Brussels. Section F of the Order Paper is devoted to 'Business taken by in European Committees' but this simply re-produces the detailed text of the legislation change which is often very technical in its description.

Increasing Parliamentary interest and scrutiny has been considered by Parliament and Government for a number of years. However, little has changed. Government tends to avoid general or specific main Chamber debates on Europe and, while it is still early days, the House of Commons Backbench Affairs Committee has sometimes appeared rather random in its choice of topics.

### All Party Parliamentary Groups

The APPGs for European states provide established links to allies across Europe but this forum is not utilised by Government as a serious vehicle to command influence. The APPG on European Reform and their Green Paper on 10 July are a reflection that MPs themselves are not content with the status quo and is proving itself willing to not just be critical of EU matters but to put forward

constructive proposals on how the EU could move forward. APPG Europe too needs to find its niche again, with a rejuvenated leadership.

## Greater Opportunity to scrutinise Government

With better understanding of what the EU does and Britain's objectives within it, Government should be given more opportunity to make its case and Parliament more opportunity to ask questions.

### Recommendations:

- Use studies and offer solutions to specific issues to educate Parliament and the public. For example, the Common Agricultural Policy - it is costly, undemocratic and subject to fraud but has remained relatively unchanged for years.
- Introduce/ring-fence dedicated Oral Questions for Ministers across Whitehall on EU matters, recognising that some departments have more involvement in EU issues than others.
- All Party Parliamentary Groups pertaining to Europe should be offered a role in developing relationships with other nations' Parliamentarians, seeking views on issues, presenting reports etc.
- Greater and more varied selection by Backbench Business Committee on debates relating to EU affairs. Debate headings should be more meaningful.
- Better use of the National Parliament Office based in Brussels in working for all Parliamentarians and not just the Scrutiny Committee members, as well as better with UKREP.
- Improved use of the Order Paper and Parliamentary websites to communicate EU matters to Members.
- In order to improve transparency, accountability and indeed interest, a new forum of Parliamentary scrutiny should be introduced which draws together Lords, MPs and MEPs in the same debate. This could include a joint debate on the Commission Work Programme and Presidency priorities.

## 7. LEARNING FROM OTHER NATIONS

All 27 Member States of the EU have Parliamentary systems of scrutiny in place which can be broken down into three distinct models; mandating systems, document-based systems and advisory systems.

Thirteen Member States have bicameral parliamentary systems, with European Affairs Committees in each Chamber. The Parliaments of Belgium, Ireland, Romania and Spain have joint committees of both Chambers. Variations between the systems of scrutiny are due to differing constitutional and legal frameworks and include:

- to what information they have access;
- how comprehensive their scrutiny is;
- when in the decision-making process they become involved;
- how much civil society, interest groups and MEPs become involved;
- how the individual systems work.

Most national parliaments attempt to influence the EU through scrutiny of their respective governments. Only a couple of national parliaments are proactive in influencing decisions at the national or EU level.

In most national parliaments, MEPs can take part by invitation in meetings of the European Affairs Committee. In Belgium, they can be full members of the European Affairs Committee with full voting rights. In Greece and Germany they can participate but without voting rights.

### When does scrutiny take place?

According to COSAC, some national parliaments begin scrutiny shortly after the publication of a Commission legislative proposal. Most which seek to adopt formal positions on legislative proposals do so during the Council working group phase. Only a few leave formal adoption of a position until just prior to the Council meeting which is set to adopt the proposal.

Some national parliaments also seek to influence decisions during the pre-legislative phase in the Institutions, through focus on Green and White papers, communications and other consultation documents.

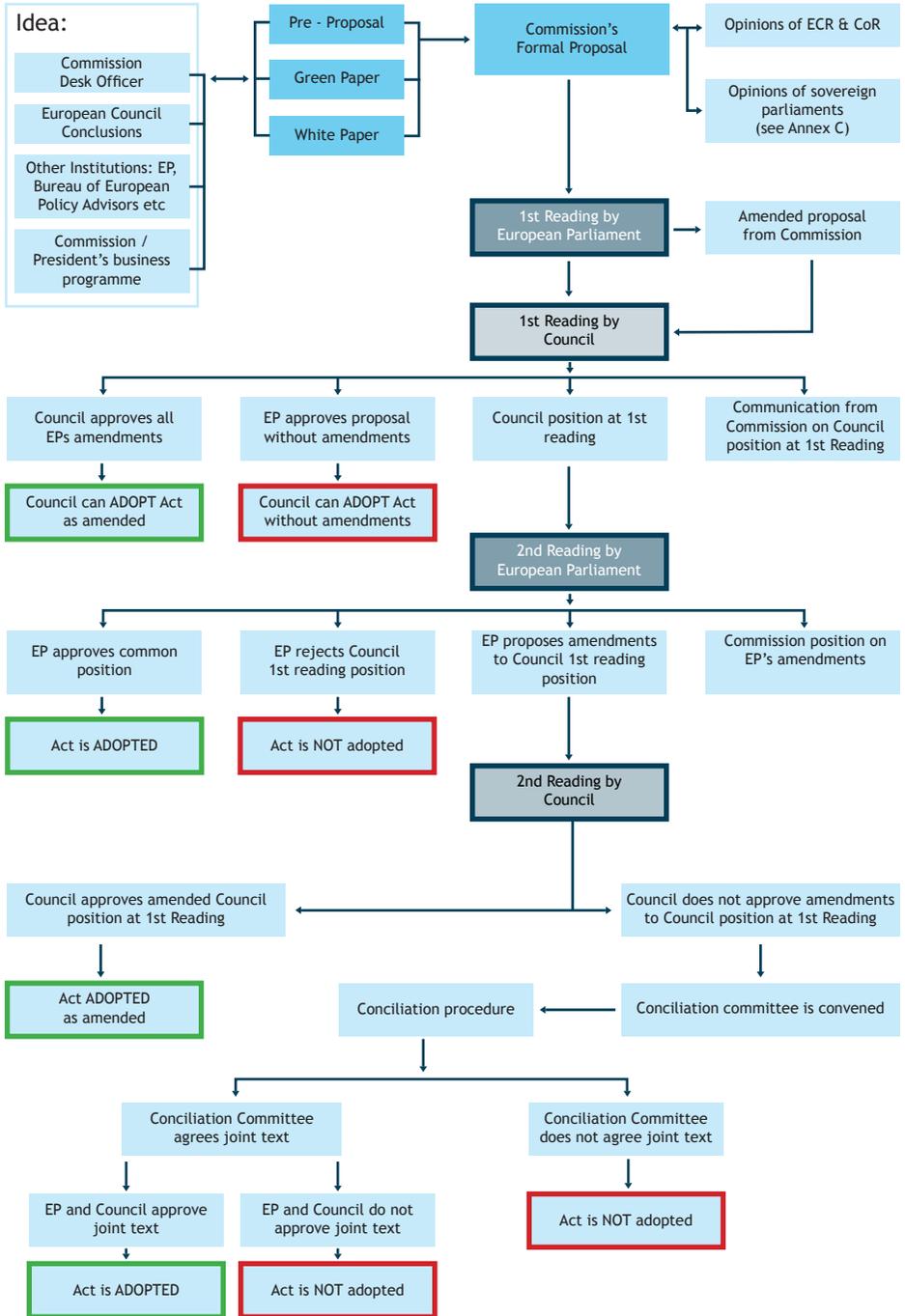
## Changing nature of scrutiny

The Lisbon Treaty formalised a process that began in 2006 where all new proposal and consultation papers are sent direct to national parliaments. As a result, the Commission receives an increasing number of opinions on issues of subsidiarity, a number of which also stray into policy comment.

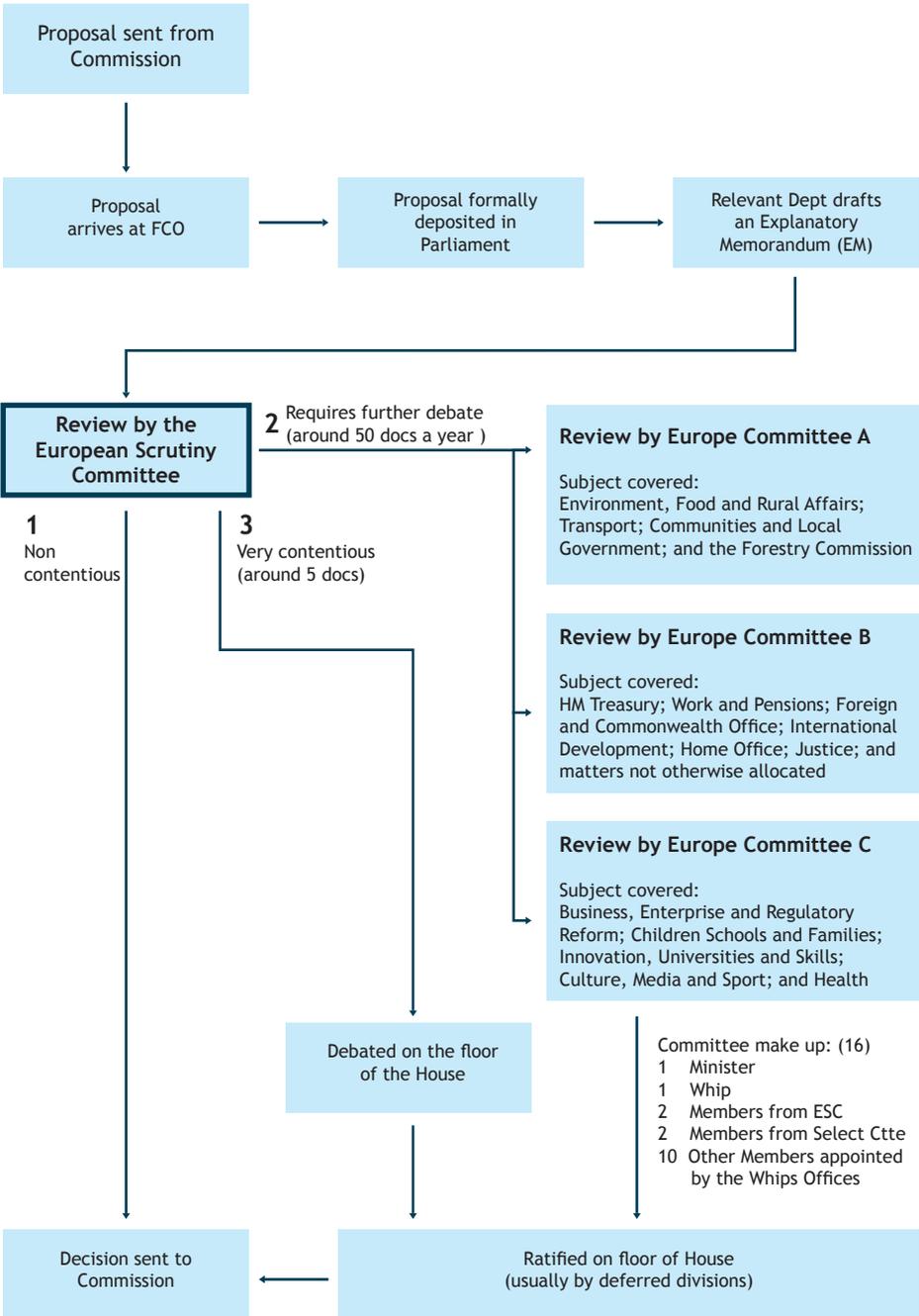
States including most obviously Estonia, Hungary, Lithuania and the Netherlands are increasingly moving towards a mix of the two models. This has been prompted in part by the Barroso Commission initiatives of 2006 which began the direct feed of documents from the EU to national parliaments.

Within all these models there are differences in the types of committee which conduct scrutiny. In most Parliaments, the European Affairs Committee is the main body for scrutiny, but COSAC argues that in an increasing number of parliaments Select Committees which deal with sectors or policy areas also contribute to the process to a lesser or greater extent (including in Italy and Finland).

# ANNEX A: THE EU LEGISLATIVE PROCESS



# ANNEX B: SCRUTINY OF EU LEGISLATION BY THE HOUSE OF COMMONS



## ANNEX C: SCRUTINY OF EU LEGISLATION BY THE HOUSE OF COMMONS

|                         | Member State | Role of scrutiny committee   | Scrutiny reserve? | Transparency  | Effectiveness   |
|-------------------------|--------------|--|-------------------|---|---|
| Strong mandating system | Denmark      | <p>Europaudvalget - Sees all EU proposals at early stage, top level briefing on strategic background, mandates government before it votes at Council of Ministers, focused on formulation and issuing voting instructions for Council.</p> <p>In addition, the Committee mandates the Government concerning votes in the European Commission's various committees. From 2005, has a system for subsidiarity check and new rules and procedures for involving the Danish standing committees as well as enhancing co-operation with MEPs.</p> | Yes               | Some meetings held in public, majority held in secret   | Willing to use powers, government cannot deviate from mandate, must consult committee to obtain new mandate.  |
| Mandating systems       | Finland      | <p>The Grand Committee - Mandates government before Council meetings based on proposals by sectoral committees. The Grand Committee has delegated powers on all EU matters except CFSP and CSDP which have been given to the Foreign Affairs Committee. The Grand Committee usually forwards EU matters to the appropriate sector committee for scrutiny and opinion. Mixed system with elements of document and mandate based. Government adopts parliament's position on all proposed EU acts.</p>   | Yes               | Televised, unless in closed session. Meetings closed to public. Documents become public after meeting | Government can deviate from mandate under some circumstances, but must explain action to committee and Parliament. Normally very strictly observed by Parliament. |
|                         | Sweden       | <p>Advisory Board - Discusses government's position prior to Council of Ministers. Is focused on formulation and issuing voting instructions. Mandates are politically but not legally binding. The Riksdag is able to exercise an influence at an early stage in the EU decision-making process. Sectoral committees examine and write statements on the EU's Green and White Papers and other EU documents.</p>  | Yes               | Documents and records of meetings published on website  | Government can deviate from mandate but is usually unwilling to do this.  |

|                        | Member State | Role of scrutiny committee  | Scrutiny reserve?         | Transparency   | Effectiveness  |
|------------------------|--------------|---|---------------------------|--|--|
| Mandating systems      | Austria      | Hauptausschuss - Considers position of the Government prior to meeting of the Council of the European Union. Decides on mandates on behalf of parliament, focused on formulation and issuing voting instructions for Council of Ministers. The permanent subcommittee on European Affairs was established in 2000.<br><br>EU-Ausschuss - Safeguards the right of the Bundesrat to play a role in EU matters. Can issue reasoned opinions regarding the principle of subsidiarity. | Yes                       | Open meetings except when discussing confidential material | Has ability to issue a "binding opinion" constituting a mandate that the government cannot negotiate. However has been reluctant to use it; government can deviate if has compelling reason. |
|                        | Romania      | Joint Committee on European Affairs - Discusses general policy and legislative texts. Examines draft legislation transmitted through the sectoral committees of the Houses. On the basis of recommendations from sectoral committees, formulates national position with respect to the adoption of any and all EU decisions and legislation except Treaty reforms where Parliament retains full powers.   | Yes                       | Not generally open to the public                           |  |
|                        | Estonia      | European Union Affairs Committee - Government must present negotiating position to committee. Responsible for mandating government on basis of sectoral committees  | Yes                       | No public meetings, but minutes are published              | Government must follow opinion, if not must explain why.   |
| Weak mandating systems | Slovakia     | Committee on European Integration - Government obliged to present negotiated position to committee, adopt binding positions for government.   | Yes, 14 days              | Closed meetings  | Binding decisions and plans to expand powers to ask other parliamentary committees to develop an opinion on EU drafts.   |
|                        | Lithuania    | Committee on European Affairs - Document based system but can mandate government, examine and present. The Committee may examine and present conclusions on all EU proposals - except proposals within the domain of CFSP which are dealt with by the Committee on Foreign Affairs. The scrutiny made by the Committee is to a large extent based on the recommendations of the sectoral committees.  | Yes - politically binding | Meetings generally in public                               | Scrutiny reserve system has been strictly observed.  |

|                        | Member State | Role of scrutiny committee  | Scrutiny reserve? | Transparency  | Effectiveness   |
|------------------------|--------------|---|-------------------|---|---|
| Weak mandating systems | Hungary      | Committee on European Affairs - Focuses on the supervision of government and revision of the process of approximation of laws. Document-based system but can mandate government, only politically binding. In EU affairs, the Committee on European Affairs exercises the powers exercised jointly in the legislative process by standing committees and the plenary.   | No                | Some closed meetings, most documents made public                        | Government can deviate from mandate under some circumstances, but must explain action.  |
| Document-based systems | Germany      | Committee on the Affairs of the European Union - Deliberates on EU matters, drafts positions and suggests recommendations. Government obliged to inform, vote and take account of committee's view. The Committee is the only parliamentary committee able to adopt opinions that are as binding on the Federal Government as the decisions of the Bundestag. The Federal government shall take the opinion of the Bundestag into account.<br><br>Committee on questions of the European Union - The Committee is the lead committee on all documents from the Council and the Commission that are of importance for the federal states. It generally discusses the documents on the basis of recommendations from the sectoral committees. It also examines whether there is sufficient legal basis in the EU Treaties for the draft legislation and checks that the principles of subsidiarity and proportionality are respected. | No                | Documents published but not minutes, only a few meetings held in public | Emphasis on exploring opinions of experts, no override powers, has power to move an amendment to a recommendation for a decision submitted by a committee but this is rarely used.            |
|                        | Poland       | European Union Affairs Committee (Sejm) - Preliminary review of acts. Government obliged to present negotiated position to committee which takes positions and expresses opinions. Position should form basis for government; if it deviates it must explain reasons why.<br><br>European Union Affairs Committee (Senate) - May express opinions to the Government concerning its negotiating position in the Council. If the Government decides not to seek opinion, it must explain why. Cannot compel Government to follow its opinion.   | Not officially    | Meetings in public, all documents released into public domain           | Committee can express opinion which the government does not have to accept. Scrutiny reserve not official under the 2004 act. However Polish ministers do tend to cite the reserve principle. |

|                        | Member State | Role of scrutiny committee   | Scrutiny reserve?     | Transparency   | Effectiveness   |
|------------------------|--------------|--|-----------------------|--|---|
| Document-based systems | Latvia       | European Affairs Committee - Government obliged to present position to committee, which reviews and approves negotiating position. At the moment the European Affairs Committee is the only body involved in this examination.   | No                    | Meetings in public, minutes and documents made public                | Good co-operation between government and parliament e.g. access to governmental EU database on EU legislation, agendas, government positions and reports. |
|                        | France       | Committee on European Union (Assemblée nationale) - Examines proposals of European acts and directives and monitors EU activity.<br>Committee on European Union (Sénat) - Systematically reviews EU texts before they are adopted by the EU institutions.  | Yes - one month       | Meetings are generally closed, minutes and documents are made public | Problems of timing. Delays sometimes result in poor or late comments. Meets before Council meetings.  |
|                        | Malta        | Standing Committee on Foreign and European Affairs - Analyses and checks that the explanatory memoranda reflect accurately the political, economic and social effects on Malta.  | Yes but not statutory | Meetings in private, audio recordings, website                       | More of an advisory role.   |
|                        | Bulgaria     | Committee on European Affairs and Oversight of the European Funds - Basis of scrutiny is annual working programme of the National Assembly on EU issues. Sectoral committees debate proposals and submit a report to the Committee. These reports are taken into account for the Committee's final report to the National Assembly. When a draft EU Act relates to foreign policy issues, the Committee holds a joint sitting with the Foreign Policy and Defence Committee. | Yes                   | Meetings are generally open to public.                               |   |

|  | Document-based systems | Member State  | Role of scrutiny committee            | Scrutiny reserve?   | Transparency   | Effectiveness |
|--|------------------------|---|---------------------------------------|---|--|---------------|
|  | Czech Republic         | <p>Committee for European Affairs - Deliberates on draft EU legislation and may relay such drafts accompanied by its opinion to other competent committees or to the plenary session. May request the relevant Government Minister to attend the Committee meeting prior to the Council meeting; the Minister shall provide Members of Parliament with information on the position that the Czech Republic will adopt on the matter being deliberated in the Council. Opinions are not binding for the Government, although the Government must take them into account.</p> <p>Committee for European Union Affairs - The Committee deals with all EU policies regulated by the Treaty on the Functioning of the EU. The area of common foreign and security policy falls within the competence of the Committee on Foreign Affairs, Defence and Security. Both Committees may ask specialised Committees to deliver their opinion. Government obliged to take the Senat's position into account.</p> | <p>Yes<br/>limited to<br/>35 days</p> | <p>Public access in general, but may only be filmed if requested by committee members</p> | <p>Information problems and no mandating powers.</p> |               |
|  | Italy                  | <p>Committee on EU policies - May adopt opinions on EU draft legislative acts, and such opinions are submitted to the competent sectoral committee.</p> <p>14th Standing Committee on EU policies - Examines the draft Community measures sent by the government or published in the Official Journal of the European Communities, as well as the information reports issued by the government on relevant Community processes and the compliance of existing national measures with the provisions of the draft Community measure in question, when they concern the institutions or the general policies of the EU. May request that the opinion given, the observations and the proposals made be sent to the government, if sectoral committee has not given its opinion.</p>   | <p>Yes<br/>limited to<br/>20 days</p> | <p>Meetings generally in public</p>   |  |               |

|                             | Member State | Role of scrutiny committee   | Scrutiny reserve?                | Transparency  | Effectiveness   |
|-----------------------------|--------------|--|----------------------------------|---|---|
| Document-based systems      | Netherlands  | <p>Committee on European Affairs - Responsible for informing, co-ordinating and initiating discussion of EU issues. Can draw the attention of the sectoral committees to specific developments and advise them. Nearly all committees are responsible for controlling the government with regard to European matters relating to their own policy areas and in their "own" Council formations.</p> <p>Committee for European Co-operation Organisations - Responsible for examining all European Commission proposals sent to the Eerste Kamer by the Government. May take note of the proposal or may refer it to a sectoral committee.</p> | No - except special rules on JHA | Open meetings and documents made public   | Has special powers over legislation that fall within freedom, security and justice, empowers committee to give assent before Council meeting. |
| Weak document-based systems | Slovenia     | <p>Committee for European Affairs - Discusses and formulates the position of the National Assembly on legislative proposals and other EU-related matters. Scrutinises government's negotiating position before Council meetings.</p> <p>International relations and European Affairs Committee - May convey to the National Assembly its opinion on all matters within the competence of the Assembly. A member of the Council attends meetings of the EU or Foreign Policy Committees of the Assembly do so.</p>  | No                               | Meetings open to public, except by agreement, documents published after meetings                |   |
|                             | Ireland      | <p>Joint Committee on European Affairs - Scrutinises information on legislative proposals. Considers all Council proposals, ministers offer oral briefings before General Affairs Council meetings. Detailed scrutiny of EU legislative proposals is performed by the appropriate sectoral committee "downstream" in the policy-making process. Ministers must consider recommendations.</p>   | No formal system                 | Meetings in public, information on web, except for preparatory meetings with the policy advisor |   |
| Weak advisory role          | Cyprus       | Committee on European Affairs - Scrutinises government decisions on European affairs, invites ministers to answer questions on bills of law and regulations of a harmonising nature.   | No                               | Limited but moving to introduce new measures to interact with public                            | Meetings vary according to work, considering changes to committee to allow more sectoral involvement.   |

|                           | Member State | Role of scrutiny committee  | Scrutiny reserve? | Transparency   | Effectiveness   |
|---------------------------|--------------|---|-------------------|--|---|
| <b>Weak advisory role</b> | Portugal     | Committee on European Affairs - Evaluates subjects of interest and encourages greater participation by Parliament. Meets Ministers pre- and post-Council meetings and holds a small number of debates in plenary.   | No                | Public meetings  | Limited because only has advisory role.   |
|                           | Greece       | Special Standing Committee on European Affairs - Adopts recommendations on EU legislation and submits them to parliament and government. Expresses advisory opinion on any EU issue, opinion not binding, although government must answer opinion.  | No                | Public meetings, agendas on website, minutes only available on request         | Limited advisory role, has irregular meetings and only has to meet twice a month.               |
|                           | Spain        | Joint Committee for the European Union - Discusses EU laws, adopts resolutions to guide the action of the government in EU matters. May organise debates on a specific proposal for legislation.  | No                | Meetings usually held in private   | Meets once a month.   |
|                           | Luxembourg   | Committee for Foreign and European Affairs, for Defence, for Cooperation and for Immigration - Receives reports before and after Council and deals with institutional issues.   | No                | Meetings held in private   | Committee has advisory role, irregular meetings, only in lead up to important Council meetings. |
|                           | Belgium      | Joint Federal Advisory Committee on European Affairs - Document-based system, designed to co-ordinate parliamentary supervision of EU decision making and promote scrutiny. Draws up reports and adopts opinions on European questions at the request of either the President or by a standing committee of the Chamber of Representatives or the Senate. | No                | Public access to meetings generally, and documents released into public domain | Limited advisory role.  |



## About Open Europe

Open Europe is an independent think tank, with offices in London and Brussels, set up by leading UK business people to contribute positive new thinking to the debate about the future direction of the European Union.

While we are committed to European co-operation, we believe that the EU has reached a critical moment in its development. Globalisation, enlargement, successive No votes in EU referenda and the eurozone crisis have discredited the notion of 'ever closer union' espoused by successive generations of political and bureaucratic elites.

Faced with weak economic growth, rising global competition, insecurity and a looming demographic crisis, there is now an urgent need to find a new model for European cooperation, more in tune with modern economic realities and the preferences of citizens. We believe Europe has the potential to rise to these challenges and thrive as a vibrant economic region in the 21st century. Our vision is of a slimmed-down, outward-looking EU, which:

- facilitates and encourages free trade, internally and globally;
- is democratic, transparent and accountable to citizens;
- doesn't interfere in areas better – or equally well – handled locally or nationally; regulates far less but far better;
- is flexible enough to let powers flow back from the EU to its member states, and to let countries integrate with each other to different degrees.

## Who supports Open Europe:

Our supporters include men and women who run businesses operating in every industry sector and throughout the UK, as well as experts and high-profile figures from across the professions. All of them support Open Europe in a personal capacity. They include:

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