

## LEGISLATION COMMITTEE

Date:	9 May 2006
Time:	9.30 to 10.30
Venue:	Committee room 1, Senedd, Cardiff Bay
Title:	Scrutinising European Legislation - The European Union Committee

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## BRIEFING

**SCRUTINISING EUROPEAN LEGISLATION - THE EUROPEAN  
UNION COMMITTEE**

*Role of the Committee*

The House of Lords, as part of the national parliament, performs a valuable service for the United Kingdom in scrutinising and reporting on proposed European legislation. The Committee is the successor to the European Communities Committee, first established in 1974, the year after the United Kingdom joined the Community. Since its establishment the Committee has scrutinised and reported on a wide range of issues which affect people's everyday lives and the longer-term future of both the United Kingdom and Europe.

*Purpose of the European Union Committee's Work*

The primary purpose of the Committee is to scrutinise EU law in draft before it is agreed in the EU, as the opportunities for scrutiny by our Parliament at a later stage (eg when EU law is implemented in the UK) are limited. Hence the Committee seeks to carry out its work at the earliest possible stage in the EU decision-making process.

Some key activities the Committee undertakes to this end are:

- ? The accumulation, presentation and summary of relevant material, including information, statistics, explanation and analysis.
- ? The provision of information to the House and to the public as a contribution to transparency.
- ? Drawing the attention of the House, the Government, European institutions and the public to significant matters contained within that information and in particular making recommendations-"focusing the debate".
- ? Contributing to the law-making process by detailed analysis of draft texts, by exposing difficulties and proposing amendments.
- ? An examination of the Government and its role in agreeing European legislation and, as part of that process, compelling the Government not only to think through what it is doing, or has done, but sometimes to account for it.
- ? An examination of the Commission and the policies it formulates.

### *Remit and Organisation of the Committee*

The Committee is appointed at the beginning of every parliamentary session.

Its terms of reference are:

"To consider European Union documents and other matters relating to the European Union."

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The Committee has 18 members, each of whom (other than the Chairman) serves on one or more of the seven sub-committees through which the Committee conducts its investigations. Other members of the House are co-opted to the subcommittees, so that a total of around 70 members are actively involved in the work of the Committee and its sub-committees, representing around 10% of the membership of the House.

The sub-committees each consider policy areas as follows:

? Economic and Financial Affairs and International Trade (A)

(including the EC Budget)

? Internal Market (B)

(including communications, energy, transport, research & space)

? Foreign Affairs, Defence and Development Policy (C)

? Environment and Agriculture(D)

? Law and Institutions (E)

? Home Affairs (F)

? Social Policy and Consumer Affairs (G)

(including health, worker protection and education)

Additional sub-committees may be set up ad hoc to examine specific proposals.

### *How the Sub-Committees Work*

The sub-committees meet regularly when the House of Lords is in session. They conduct inquiries based either on the scrutiny of EU documents or on subjects chosen by the sub-committees from within their field of activity. The subcommittees are assisted by clerks, committee specialists and other staff and by consultant specialist advisers appointed for their expert knowledge of the subject under inquiry. The sub-committees operate in the same way as other investigative committees of the House of Lords and the House of Commons. They invite written and oral evidence from government departments, EU institutions and other interested bodies and individuals, in order to consider a wide range of points of view before reaching conclusions.

Sub-committees look at the policy implications of proposals; whether they are properly matters which the EU (rather than the UK) should be legislating for

("Subsidiarity"); whether they have been subject to a proper cost analysis

("Regulatory impact of assessment") and whether they inappropriately delegate power to EU official committees ("Comitology").

Draft reports setting out conclusions and recommendations are then prepared and agreed by the sub-committees, and approved by the Select Committee, before they are published. Reports range from major reviews of significant policy issues, to shorter analyses of specific legislative or policy proposals.

A number of the reports published are subsequently debated in the House. The Government has undertaken to reply to all reports, whether debated or not, within two months of publication.

### *Scrutiny of the Three Pillars of the European Union*

The Treaty of Maastricht, which came into effect in 1993, set up the European Union comprising three "pillars":

1. The European Community and its legislation.
2. A Common Foreign and Security Policy.
3. Justice and Home Affairs.

The second and third "pillars" are based on inter-governmental co-operation.

Instruments adopted under these pillars, where they are legally binding, are binding under international law and not as community law.

The Committee has always adopted the same procedure for scrutiny of intergovernmental pillar documents as that for community legislation. This procedure is

described in more detail in the following paragraphs.

### *How the Scrutiny System Works*

The Committee considers a wide range of documents under all three pillars. They include not only proposals for legislation under the first pillar and proposals for binding legal instruments under the second and third pillars, but also discussion documents such as white and green papers.

Documents are deposited in the United Kingdom Parliament by the Government.

Over 1,000 documents are deposited each year, along with an explanatory memorandum signed by a Government Minister. This sets out the legal, financial and policy implications of every document, and the procedure and timetable for its consideration and adoption. Many of the documents are routine or of comparatively minor importance (for example, minor adjustments to existing policies); in any case the number of documents is too great for the Committee to give detailed consideration to them all.

The Chairman of the Committee therefore conducts a "sift". The Chairman considers all the explanatory memoranda, sifts the more significant documents from the less important ones, and decides which should be referred to the sub-committees for further examination. About a quarter of the documents deposited are referred to the sub-committees.

Each sub-committee then examines the documents referred to it. A sub-committee will take note of many of them, choosing a few each year on which to conduct a

substantial inquiry and make a report. A number of further documents are the subject of a short inquiry.

The Committee may sometimes set out its views in a letter to the appropriate Government Minister if views can be expressed succinctly without the need for extensive evidence (for example, to follow up an earlier report) or where Council decision on a proposal is likely to be reached quickly. The Committee's correspondence with ministers is published at regular intervals as a report to the House and made available on the internet.

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### *Other Activities*

The Select Committee, in addition to considering draft reports prepared by the subcommittees, also hears regular sessions of evidence from Foreign Office ministers, particularly following each European Council, and from the ambassadors of Presidency countries. The Committee scrutinises the Commission's Annual Work Programme and takes a strategic overview of EU issues. The Committee on occasion acts as an investigative committee producing reports. The Committee plays an active role in the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC).

### *The Scrutiny Reserve Resolution*

The scrutiny system originally rested on an undertaking given by the Government that they will not, except in special circumstances, agree to any proposal in the Council until

it has been cleared by the Committee. This was formalised in a Resolution of the House of Lords agreed on 6 December 1999. This "scrutiny reserve" gives the House an opportunity to influence the position which the Government adopts on the proposal in negotiation with other Member States. The full text of the Reserve is available on the website (on the EU Committee page). In summary, the Reserve has the effect that the Government should not agree an EU law until the Committee has had a chance to consider it, although exceptions can be made.

### *Wide-Ranging Scrutiny*

The Committee's wide remit and capacity to take a longer term view mean that its work is characterised by its commitment to serving the public interest by analysing the merits of policy proposals in depth. Recent work includes:

The Draft Constitutional Treaty (several reports) - Fighting Illegal Immigration - Reform of the Common Fishing Policy - Financial Services Action Plan -The Working Time Directive - Climate Change - Sexual Equality in Access to Goods and Services - Development Aid - Gas Markets and Supply Fraud - The EC Budget.

### *Further Information*

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Web: [www.parliament.uk](http://www.parliament.uk)- look for "Committees", "Lords Select

Committees" then pages on the EU Committees for membership, current inquiries, transcripts of oral evidence and lists and texts of reports.

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