

Issued by the Department
of the Clerk of the House
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The European Scrutiny System in the House of Commons



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A short guide for Members of Parliament
By the staff of the European Scrutiny Committee

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Introduction

This guide describes the European scrutiny system in the House of Commons.

Further advice is available from the Clerk of the European Scrutiny Committee and his colleagues. Contact details are given near the end of this guide.

Further copies of the guide are available (phone 5465). So also are two other publications:

- a summary of the European scrutiny process; and
- a description of the institutions of the European Union and the legislative procedures.

The European Scrutiny Committee's website (www.parliament.uk/escom) includes these three publications, the Committee's Reports and much other information.

The purpose of the scrutiny system

The main purpose of the scrutiny system is to ensure that the House of Commons, and through the House other organisations and individuals, has opportunities to seek to influence UK Ministers on EU proposals and to hold UK Ministers to account for their activities in the Council of Ministers. It is only UK Ministers who are directly accountable to the House; none of the European Union institutions (even, collectively, the Council of Ministers) is answerable to any national parliament.

The scrutiny system may also have influence in other ways. It provides an additional source of analysis and opinion about EU legislative proposals, and can highlight any flaws in them. Through the use of scrutiny reserves and otherwise it can encourage better organisation of business by the institutions and greater transparency, especially in the Council. It can pursue on a national level the concerns of the European Court of Auditors.

If the “subsidiarity early-warning mechanism” (see page 17) comes into operation, national parliaments and their scrutiny systems will also have a direct role in policing the principle of subsidiarity.

The scrutiny system supplements, but does not replace, the usual opportunities Members have to examine and question government policies, such as parliamentary questions and select committee inquiries.

The scope of the House of Commons system

The Commons scrutiny system is a document-based one: it concentrates on examining EU documents and the Government's policy towards them. It deals with all "European Union documents", as defined in the House's Standing Order No. 143:

"(i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament"

This includes drafts of Regulations, which are directly applicable to Member States, of Directives, which are binding as to the result to be achieved but leave the form and method of implementation up to each Member State, and of Decisions of the Council, together with budgetary documents. The system also catches later stages of legislation — for example, any amended proposal, Presidency compromise proposal or amendments proposed by the European Parliament.

"(ii) any document which is published for submission to the European Council, the Council or the European Central Bank"

This brings in a range of documents, usually from the Commission, including Green Papers and White Papers setting out proposals for future action (often legislation); Communications to the Council (often seeking endorsement of some action proposed or taken by the Commission); Commission reports, usually on how some policy or programme is working; and draft Council 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.

"(iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council"

This allows scrutiny of the EU's inter-governmental Common Foreign and Security Policy (Title V of the EU Treaty, also known as the EU's "second pillar").

"(iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council"

This allows scrutiny of EU inter-governmental action relating to police and judicial co-operation in criminal matters, covering areas such as cross-border and drug-related crime (Title VI of the EU Treaty, also known as the EU's "third pillar").

"(v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation"

The most important documents in this category are the reports of the Court of Auditors — both the regular general reports and the special reports on particular areas of expenditure.

“(vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown”

This is a long-stop. It operates at the discretion of the Government (sometimes following a request by the European Scrutiny Committee), and it allows documents which would not otherwise have been caught by the Standing Order to be subject to the scrutiny process. It also covers Explanatory Memoranda on documents for which no official text is likely to be available in time for scrutiny before agreement is reached in the Council (see page 7).

About 1,000 documents a year fall within these categories. Each must be formally deposited in Parliament within two working days of its arrival in the Foreign and Commonwealth Office in London. “Deposit” means that it is available in the Vote Office and is submitted to the European Scrutiny Committee. All 1,000 documents are considered by the Scrutiny Committee.

Note that most proposals are examined not on the basis of a single document at a specific point in the legislative process but at several different points as new documents are published. Scrutiny begins at an early stage, since the documents deposited include Commission consultation papers and Green and White Papers; they also include the Commission’s Annual Policy Strategy and its Work Programme, which list the proposals to be put forward in the following year.

Documents awaiting consideration by the Scrutiny Committee are listed in its “Remaining Business” paper, which is on the Committee’s website and is available from the Committee staff.

Commission legislation

Legislation made by the Commission on its own authority is not routinely scrutinised. Much of it is ephemeral and comparatively unimportant. Council legislation often delegates implementing powers to the Commission, and much of this is for the day-to-day management of the Common Agricultural Policy. The Commission also has powers given to it directly by the Treaties — for example on competition rules and state aids. Although the European Scrutiny Committee does not routinely examine Commission legislation, it can investigate and report if an issue of principle or political importance arises.

The Explanatory Memorandum (EM)

Within ten working days of the deposit of a document, the government Department which takes responsibility for it should submit an Explanatory Memorandum upon it.

An EM should cover the following:

- a description of the subject matter, together with the scrutiny history if the document has been before Parliament already;
- where ministerial responsibility lies — both for the lead Department and other Departments that may have an interest;
- the legal base (usually the Treaty Article on which a proposal relies);
- the legislative procedure (co-operation, co-decision, assent or consultation) (for an explanation of these, see the guide to the EU institutions and legislative procedure available from the Committee staff);
- the voting procedure (usually qualified majority voting or unanimity);
- the impact on UK law;
- whether the proposal complies with the principle of subsidiarity;
- the Government's view of the document's policy implications;
- a Regulatory Impact Assessment if the proposal imposes burdens on business (this is sometimes submitted separately);
- when required, a risk assessment and scientific justification;
- what consultation has taken place (either in the UK or in the EU as a whole);
- the financial implications for the EU and the UK;
- the likely timetable for consideration of the proposal.

The EM is an important part of the scrutiny process:

- one is submitted on every document (except, by agreement with the Scrutiny Committee, the most trivial);
- the EM is signed by a Minister, and constitutes the Minister's evidence to Parliament;
- the process of submitting an EM concentrates minds — both in the Department that produces it and of the Minister who signs it;
- it is a public document and a useful source of information for businesses and the public. EMs are available from the Vote Office.

If a proposal is substantially amended or circumstances change, the Government must submit a supplementary EM.

Unnumbered Explanatory Memoranda

Although the scrutiny system is based on documents, scrutiny does not have to await the publication of an official text. If the official text of a document is unlikely to be available in time for scrutiny before a decision is reached in the Council, the Government submits an "unnumbered Explanatory Memorandum" (so-called because it does not relate to a numbered document). This describes what is likely to be in the document and stands proxy for it: a proposal can be cleared on the basis of an unnumbered EM, and the EM may even be debated in place of the document.

The European Scrutiny Committee

The European Scrutiny Committee is an all-party select committee appointed under Standing Order No.143, with all the usual select committee powers. It should not be confused with the separate European Committees (described below). It has 16 members, who are nominated by the House on a motion from the Committee of Selection.

The Scrutiny Committee has a staff of 14, headed by the Clerk of the Committee. This is substantially more than any other select committee. Legal advice is provided by Speaker's Counsel (European Legislation) and the Assistant Legal Adviser.

The Committee's main role is to sift EU documents on behalf of the House, identifying those of political or legal importance and deciding which should be debated.

It also has four other roles:

- to be a source of analysis and information, by reporting in detail on each document it judges to be important (about 500 a year), and by taking the oral or written evidence it requires to come to a decision;
- to monitor business in the Council, the negotiating position of UK Ministers, and the outcome;
- to keep under review legal, procedural and institutional developments in the European Union which may have implications for the UK and for the House;
- in co-operation with the equivalent committee in the House of Lords, to ensure that the scrutiny system works effectively and that the Government complies with its undertakings to Parliament.

In addition to its work directly related to documents and Council meetings, the Committee updates its knowledge of wider developments in the EU by means of visits to the EU institutions; visits to each Presidency country shortly before it takes up the Presidency of the Union and to candidate countries; participation in COSAC, which brings together the European affairs committees of all the national parliaments in the EU, together with MEPs; and regular informal meetings with the UK's MEPs and Members of the Lords EU Select Committee.

The European Scrutiny Committee's consideration of documents

The submission of an EM is the trigger for the scrutiny process. Although the Committee will already have the document and the Commission's explanatory memorandum on it, there is no point in formal consideration until the Government's evidence is also available.

The European Scrutiny Committee meets every sitting Wednesday. On every one of — usually — 30 or so items of business (both European documents and letters from Ministers) the Committee has an analysis and recommendation from the Committee staff. Once the briefing with the Committee's staff has been completed, the Committee considers the documents and agree its report

What the Committee must decide in each case is:

Is the document of political or legal importance?

Political importance may stem from the sensitivity of the subject matter, the financial implications, or the likely impact on the UK. Legal importance may arise because of a doubtful legal base, an unsupported assertion by the Commission of powers to act, difficulties of drafting, or impact on existing law.

If the Committee finds the document to be of political or legal importance, it reports on it in detail in that week's Report. The Report describes the document and its progress, and sets out any criticisms the Committee may have, as well as further information it is requesting (or has received) from the Government. Each Report is normally published a fortnight or so after the Committee's meeting, both in hard copy and on the Committee's website.

Documents not regarded as of political or legal importance are cleared immediately.

Does it have enough information to make a decision?

If the EM is comprehensive and of sufficient quality, and no doubts or questions arise, the Committee can often clear the document immediately. If not, further information is requested from the Government. On major or problematic proposals, there may be a lengthy dialogue between the Committee and the Government before the Committee is satisfied that it is in a position to take a decision. This dialogue is one of the most important aspects of the scrutiny process. In general it is in writing, but sometimes the Committee takes oral evidence (usually from a Minister). Such evidence sessions are always in public.

If a proposal is likely to be heavily amended, the Committee usually leaves it uncleared until more information is available about the progress of the negotiations or the likely outcome. Sometimes further information is requested even though the document is cleared.

Should the document be debated?

The Committee can choose to have the document debated either in one of the three European Committees (described below) or — for the most important documents — on the Floor of the House.

There is always a debate if the Committee recommends one, but the Committee cannot require that the debate be on the Floor of the House; for that the Government's agreement is needed. If the Committee decides on a European Committee debate, the document is automatically referred to one of the European Committees for debate, and a note to that effect is published in the Appendix relating to Standing Committees at the end of that day's Votes and Proceedings, which is in the Vote Bundle the following morning.

... or should the document be "tagged"

Documents which may not merit debate in their own right may be tagged by the Committee — that is, noted as relevant to a particular debate or any future debate on a particular subject in the House or in a European Committee. Tagging a document has no effect on clearance of that document from scrutiny, which is a separate decision.

In an average year, the Committee considers about 1,000 documents. It finds about 500 to be of political or legal importance, and reports substantively upon them. It recommends about 40 documents for debate in European Committee, and about three for debate on the Floor.

The Committee does not make a decision on the merits of each document, but, in assessing a document's importance, whether it has enough information and whether the document should be debated, it may well identify potential problems (as well as benefits) and question Ministers about them.

The Committee welcomes views from organisations and individuals outside Parliament on documents it is about to consider. These should be sent to the Clerk of the Committee as early as possible, preferably in electronic form. Matters of particular interest to the Committee include:

- how important is the proposal?
- which aspects of the proposal give cause for concern?
- would a debate serve a useful purpose?
- what matters might be covered by a debate?

Remember that the scrutiny process can be very rapid: if the Committee has the official text of a document and the Government's EM by noon on a Thursday, it will often report on the document the following Wednesday. Timing is critical at every stage of the scrutiny process.

The scrutiny reserve resolution

This resolution of the House of 17 November 1998 (replacing earlier versions) is set out in Appendix 3. It constrains Ministers:

- from giving agreement in the Council or European Council to legislative proposals and certain other decisions which the European Scrutiny Committee has not cleared; and
- from giving agreement to any such proposal or decision which is awaiting consideration by the House — in other words, which has been recommended for debate by the Scrutiny Committee, but on which the House has not yet come to a resolution (this is explained in more detail below).

However, a Minister may give agreement:

- if he or she considers that a proposal is confidential, routine or trivial, or is substantially the same as one on which scrutiny has been completed;
- if a proposal has been recommended for debate, but the Committee (usually for reasons of urgency or the protection of UK interests) has agreed that the resolution may be overridden; or
- for “special reasons”, provided that the Minister explains those reasons to the Scrutiny Committee at the first opportunity after deciding to give agreement. In practice, Ministers usually inform the Committee in advance. If a proposal is awaiting consideration by the House, the Minister must inform the House at the first opportunity after giving agreement.

Despite its provisos, and the fact that a national scrutiny reserve has no legal status in the EU, the scrutiny reserve resolution is fundamental to the House’s scrutiny process. It imposes a general discipline on Ministers and Departments to provide EMs, to respond to the Scrutiny Committee’s requests for information and to arrange debates in advance of consideration by the Council.

The Scrutiny Committee monitors the operation of the resolution, and has a policy of calling Ministers who override the resolution without what it regards as good cause to give oral evidence.

European Committees

There are three European Committees (A, B and C). Under Standing Order No. 119, their responsibilities are as follows:

- A. Energy and Climate Change; Environment, Food and Rural Affairs; Transport; Communities and Local Government; Forestry Commission.
- B. HM Treasury; Work and Pensions; Foreign and Commonwealth Office; International Development; Home Office; Justice; and matters not otherwise allocated.
- C. Business, Innovation and Skills; Children Schools and Families; Innovation, Culture, Media and Sport; and Health.

Documents are referred to each of the three committees by the European Scrutiny Committee. The timing of debates is determined by the Government, and debate takes place upon a government motion.

Each Committee has thirteen members. A specific membership is nominated by the Committee of Selection for each debate according to the document or documents referred. Where practicable, the nominations include at least two members of the European Scrutiny Committee and at least two members from the relevant Departmental Select Committee. Sittings are chaired by members of the Chairmen's Panel. Any Member of the House may attend and speak at a European Committee, but may not move a motion, vote or be counted in the quorum. Any Member of the House may also table an amendment, and move it if the amendment is selected by the Chair.

At the beginning of the sitting, a member of the European Scrutiny Committee may make a brief statement explaining that Committee's decision to refer the document(s) to a European Committee. Proceedings then begin with up to an hour of questions to the responsible Minister or Ministers (who may open with a short introductory statement). The Chairman may allow up to an additional half an hour for questions if necessary. The Committee then debates the document or documents on the basis of a motion moved by the Minister, normally for a further 1½ hours. Amendments may be moved (subject to selection by the Chair), and the Chair puts the questions necessary to dispose of the business not later than 2½ hours after the start of proceedings.

The European Committee format has much potential. It brings together the processes of questions and debate. It is accessible to every Member of the House. It can demand a great deal of Ministers; they answer questions without notice, for an hour or even 1½ hours without the direct participation of civil servants. Yet the opportunities offered by this part of the scrutiny process have tended to be under-used.

Amendments

Amendments to the Government's motion should be handed in or sent to the Public Bill Office.

Information on debates

The list of documents recommended for debate appears on the wallsheet, "European Union Documents referred to European Committees", posted in the lobbies and elsewhere about the House. Similar information appears in the Future Business section of the Order Paper, Part E "Business to be taken in European Committees". It can also be accessed from the Scrutiny Committee's website.

Documents for the debate are available from the Vote Office usually a week or more before the debate (though extra documents are sometimes added later). The document pack will include the Scrutiny Committee's Report (or Reports), which is intended to provide a concise briefing on the document and its implications.

If you are nominated to be a member of a European Committee, you will be notified personally of the debate, and the document pack will be sent to you by the Vote Office.

Proceedings on the Floor of the House

Documents debated on the recommendation of the European Scrutiny Committee

Each year the Scrutiny Committee recommends for debate on the Floor of the House about three documents which it regards as of particular importance. In the 2006-07 session, for example, there were debates on the implementation of the Hague Programme on justice and home affairs, Galileo, and on a European Union programme for critical infrastructure protection.

As indicated above, debates can take place on the Floor of the House only if the Government is willing to provide time. The Standing Orders provide that debates can last for an hour and a half, but the Government has sometimes agreed to the Scrutiny Committee's requests for a longer period.

As in a European Committee, it is up to the Government to table the motion on which the document is to be considered by the House. The motion, if tabled in advance, can be found in the Future Business section of the Order Paper, part C. Amendments to the Government's motion can be given to the Clerks in the Table Office.

A document pack is available from the Vote Office (as for European Committee debates).

Documents taken forthwith in the House (after debate in European Committee)

Under the terms of the scrutiny reserve resolution, a resolution of the House (not of a European Committee) is necessary in order for a document recommended for debate to be cleared. Following debate in a Committee, the sequence of events is as follows:

- the Chairman of the European Committee reports formally to the House the resolution agreed to (or the fact that no resolution was agreed to);
- the Government tables a motion relating to the document (not necessarily the same as the one agreed by the Committee);
- when the motion is moved in the House, it is taken forthwith (without debate). However, amendments may be tabled and, subject to selection by the Chair, moved and voted upon. The division (if any) is usually a deferred one;
- once the House has come to a resolution in respect of the document, the document is cleared. (Consideration on a motion for the adjournment would not be sufficient.)

Documents "tagged" to a Motion in the House

The Scrutiny Committee may decide that an EU document would be relevant to a particular debate or any debate on a particular subject (whether or not that debate is on European matters). It is not formally part of the motion. "Tagging" a document has no effect on its clearance from scrutiny.

Pre- and post- Council scrutiny

Although scrutiny is carried out mainly by examining the Government's policy and actions on each document, the Scrutiny Committee also monitors each Council meeting and the actions of UK Ministers there. It does this mainly, but not exclusively, through written reports. Procedures are as follows:

- Three weeks or so before a Council meeting, the government Department with responsibility for the relevant subject area sends the Scrutiny Committee an "annotated agenda". This lists the matters expected to come before the Council, indicating the latest state of play from the UK point of view. The list of matters is provisional at this stage.
- A day or two before each Council meeting, a written ministerial statement is made, setting out why the items are on the agenda and the Government's general position on them.
- Not more than five days after the Council meeting, a written ministerial statement is made, setting out what happened at the meeting and the part played in it by the UK, including any votes.
- In recesses, the written ministerial statements are replaced by ministerial letters.

Each of these sources of information is placed on the Scrutiny Committee's agenda for its next meeting. The Committee may decide to request further written information or to take oral evidence from a Minister. In practice, it normally takes oral evidence following meetings of the European Council or in respect of particular documents.

The written ministerial statements are published in Hansard. Ministerial letters sent during recesses are placed in the Library, where any Member may consult them. Any oral evidence is taken in public.

Other aspects of scrutiny

Involvement of departmental select committees

Departmental select committees, each with a more limited policy area to cover than the European Scrutiny Committee, have the ability to conduct more detailed inquiries into EU matters, but they are not formally part of the European scrutiny system, except in the following respect. The European Scrutiny Committee has the power to require such a committee to provide its opinion on a particular document, within a specified time. Partly because of the limited time usually available for scrutiny, the Scrutiny Committee uses this power only two or three times a year.

Informal links between the Scrutiny Committee and departmental select committees are much more important. While departmental select committees often undertake EU-related inquiries entirely independently, work by the Scrutiny Committee sometimes triggers activity, such as the taking of evidence or production of a Report in advance of a European Committee debate. The Scrutiny Committee also provides information about forthcoming Commission proposals through its annual examination of the Commission's Work Programme.

Where practicable, the Committee of Selection also nominates at least two members from the relevant Departmental Select Committee to serve on a European Committee (see page 12).

National Parliament Office

The UK Parliament has a National Parliament Office in Brussels, the main purpose of which is to act as "the eyes and ears" there of the scrutiny committees and other committees of the two Houses. It can also assist Members with European matters, particularly those visiting European institutions in a representative capacity. It has two members of staff from the Commons and one from the Lords. Now that 25 of the national parliaments in the EU send staff to Brussels for a similar purpose, the NPO has become a valuable aspect of liaison between national parliaments.

Inter-parliamentary links

Members of the scrutiny committees of the two Houses participate in COSAC, which brings together the European affairs committees of the national parliaments of Member States and candidate countries, together with MEPs. It meets twice a year. There are also occasional bilateral meetings with the European affairs committees of other national parliaments, either at Westminster or abroad. For example, the Scrutiny Committee always meets its counterpart committee during its visit to the country about to take over the EU's Presidency. The two scrutiny committees organise informal meetings at least twice a year with the UK's MEPs.

Within the UK, the Chairmen of the two scrutiny committees at Westminster and the committees dealing with European matters in the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly meet informally twice a year.

Subsidiarity Protocol of the Lisbon Treaty

The Lisbon Treaty gives national parliaments a direct role in the EU's legislative process. It provides that, if a third of national parliaments or their chambers present reasoned opinions objecting to an EU legislative proposal on the ground that it does not comply with the principle of subsidiarity, the Commission (or other institution) would have to reconsider its proposal. (The principle of subsidiarity is that the European Community should act only if the objectives of a proposed action cannot be sufficiently achieved by the Member States and can be better achieved by the Community.)

The European Scrutiny Committee's proposals for how the House's procedures should accommodate the opportunity to provide a reasoned opinion are contained in its report *Subsidiarity, National parliaments and the Lisbon Treaty*, HC 563, Session 2007-08. The Committee is in discussion with the Government on the arrangements for giving effect to the subsidiarity protocol (Article 6) provision in the Lisbon Treaty.

The House of Lords scrutiny system

The principles of deposit of documents, submission of EMs, sifting, investigation, debate if necessary and clearing are similar in the Lords and Commons, but the mechanisms are different.

The Select Committee on the European Union has 20 members, but most of its work is carried out through seven sub-committees. It has the power to co-opt other Lords onto sub-committees, and some 70 Members of the House are normally involved in this way.

Although the Lords Committee has a sifting role, it is more selective than the Commons Committee and its work is more like that of departmental select committees in the Commons. Whereas the Commons Committee reports quickly, often within a week, on a wide range of documents (some 500 a year), the Lords Committee reports on a much smaller number of documents in considerably greater detail in longer inquiries.

The great advantage of these different working methods is that the systems in the two Houses are complementary rather than competing. Despite their different approaches, the Committees work in close informal co-operation on many scrutiny matters, especially in ensuring that the Government honours its scrutiny obligations to Parliament.

The strengths of the European scrutiny system

- wide coverage, from an early stage
- written evidence from Ministers on every document
- rapid scrutiny and reporting
- sifting for legal and political importance
- analysis of any document found to be of legal or political importance
- public access to Explanatory Memoranda and, via the Internet or in hard copy, to the Scrutiny Committee's Reports
- a process of written or oral questioning of Government until the Scrutiny Committee has the information it needs to reach a decision on a document
- debates on the most important documents
- the European Committee format
- a scrutiny reserve
- pre- and post-Council scrutiny of the Government's policy in negotiations, and the outcome.

Of course, while the scrutiny system is valuable in itself in requiring Ministers to account for their activities in the Council, much of its value depends on the use which is made of it (and of the information it generates) by the House and Members in general and by people outside the House.

Sources of information

Information on documents awaiting consideration

Documents deposited are listed in the yellow demand form, sent to members by the Vote Office. The documents themselves are available from the Vote Office.

Documents awaiting consideration by the Scrutiny Committee (including those awaiting consideration for a second or subsequent time) are listed in the Committee's "Remaining Business" paper, which is on the Committee's website and can be obtained from the Committee staff (ring 5465).

Explanatory Memoranda

Explanatory Memoranda are available to any Member from the Vote Office. (The "Remaining Business" paper indicates whether the Explanatory Memorandum for a particular document has yet appeared.) EMs are also available from the Cabinet Office's website ([www.http://europeanmemorandum.cabinetoffice.gov.uk](http://europeanmemorandum.cabinetoffice.gov.uk))

The Scrutiny Committee's Reports

The Committee's Reports are published in hard copy and on the Committee's website about a fortnight after each meeting. They can be requested or ordered from the Vote Office, or can be sent to Members by the Committee's staff as they are published.

Papers relating to debates on documents

Documents recommended by the Scrutiny Committee for debate are listed in the Future Business section of the Order Paper, Part E "Business to be taken in European Committees". This information can also be accessed from the Committee's website. Future Business E indicates the documents referred and the dates of forthcoming debates along with the motion once received. If Members are unable to locate the proposed motion, the Public Bill Office (3256 or 3258) can provide advice.

A document pack for each debate, including the document itself, the Government's Explanatory Memorandum and the Scrutiny Committee's Report, is available from the Vote Office, usually a week or more in advance of the debate. It will be sent directly from the Vote Office to those Members nominated to serve on a European Committee.

In the case of debates on the Floor of the House, the motion is published in Future Business part C and the Table Office (3302, 3303) can provide advice on it. The document pack is available from the Vote Office usually a week or more in advance for a debate on the Floor of the House.

Information on Council meetings

Written ministerial statements before and after each Council meeting are published in Hansard (except in parliamentary recesses, when such statements are available to Members in the Library instead). Links to such statements are provided from a page on the Scrutiny Committee's website.

General advice

For advice on the scrutiny process and other parliamentary proceedings, contact the Clerk of the European Scrutiny Committee (Alistair Doherty) on 5467 or at dohertyah@parliament.uk.

For advice on proceedings in European Committees, contact the Public Bill Office (3258 or 3256).

For advice on the substance of EU documents and the wider policy area, contact the appropriate division in the Library (initial contact number 5680).

For advice on the availability of EU documents and Explanatory Memoranda, contact the European Section of the Vote Office (4669).

Appendices

Appendix 1 Orders of reference of the European Scrutiny Committee (S.O. No. 143)

143.—(1) There shall be a select committee, to be called the European Scrutiny Committee, to examine European Union documents and—

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

The expression 'European Union document' in this order and in Standing Orders No. 16 (Proceedings under an Act or on European Union documents), No. 89 (Procedure in standing committees) and No. 119 (European Standing Committees) means—

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

(3) The committee and any sub-committee appointed by it shall have the assistance of the Counsel to the Speaker.

(4) The committee shall have power to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the committee's order of reference.

(5) The committee shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time.

(6) The quorum of the committee shall be five.

(7) The committee shall have power to appoint sub-committees and to refer to such subcommittees any of the matters referred to the committee.

(8) Every such sub-committee shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report to the committee from time to time.

(9) The committee shall have power to report from time to time the minutes of evidence taken before such sub-committees.

(10) The quorum of every such sub-committee shall be two.

(11) The committee shall have power to seek from any committee specified in paragraph (12) of this order its opinion on any European Union document, and to require a reply to such a request within such time as it may specify.

(12) The committees specified for the purposes of this order are those appointed under Standing Order No. 152 (Select committees related to government departments) including any subcommittees of such committees, the Select Committee on Public Administration, the Committee of Public Accounts, and the Environmental Audit Committee.

(13) Unless the House otherwise orders, each Member nominated to the committee shall continue to be a member of it for the remainder of the Parliament.

Appendix 2

Standing Order on European Committees (S.O. No. 119)

119.—(1) There shall be three general committees, called European Committees, to which shall stand referred for consideration on motion, unless the House otherwise orders, such European Union documents as defined in Standing Order No. 143 (European Scrutiny Committee) as may be recommended by the European Scrutiny Committee for further consideration.

(2) If a motion that specified European Union documents as aforesaid shall not stand referred to a European Committee is made by a Minister of the Crown at the commencement of public business, the question thereon shall be put forthwith.

(3) Each European Committee shall consist of thirteen Members nominated by the Committee of Selection in respect of any European Union document which stands referred to it, and the Committee of Selection may nominate the same membership in respect of several documents.

(4) In nominating the members of a European Committee, the Committee of Selection shall have regard to the qualifications of the Members nominated and to the composition of the House; and where practicable it shall nominate at least two members of the European Scrutiny Committee and at least two members of the select committee appointed under Standing Order No. 152 whose responsibilities most closely relate to the subject matter of the document or documents.

(5) The quorum of a European Committee shall be three, excluding the chairman

(6) Any Member, though not nominated to a European Committee, may take part in the committee's proceedings and may move amendments to any motion made as provided in paragraphs (9) and (10) below, but such Member shall not make any motion, vote or be counted in the quorum; provided that a Minister of the Crown who is a Member of this House but not nominated to the committee may make a motion as provided in paragraphs (9) and (10) below.

(7) The European Committees, and the principal subject matter of the European Union documents to be referred to each, shall be as set out below; and, in making recommendations for further consideration, the European Scrutiny Committee shall specify the committee to which in its opinion the documents ought to be referred; and, subject to paragraph (2) of this order, the documents shall be referred to that committee accordingly—

European Committees	Principal subject matter
A	Matters within the responsibility of the following Departments— Environment, Food and Rural Affairs; Transport; Communities and Local Government; and the Forestry Commission.
B	HM Treasury; Work and Pensions; Foreign and Commonwealth Office; International Development; Home Office; Justice; and matters not otherwise allocated.
C	Business, Enterprise and Regulatory Reform; Children Schools and Families; Innovation, Universities and Skills; Culture, Media and Sport; and Health.

(8) The chairman may permit a member of the European Scrutiny Committee appointed to the committee under paragraph (4) above to make a brief statement of no more than five minutes, at the beginning of the sitting, explaining that committee's decision to refer the document or documents to a European Committee.

(9) The chairman may permit Ministers of the Crown to make statements and to answer questions thereon put by Members, in respect of each motion relative to a European Union document or documents referred to a European Committee of which a Minister shall have given notice; but no question shall be taken after the expiry of a period of one hour from the commencement of the first such statement:

Provided that the chairman may, if he sees fit, allow questions to be taken for a further period of not more than half an hour after the expiry of that period.

(10) Following the conclusion of the proceedings under the previous paragraph, the motion referred to therein may be made, to which amendments may be moved; and, if proceedings thereon have not been previously concluded, the chairman shall interrupt the consideration of such motion and amendments when the committee shall have sat for a period of two and a half hours, and shall then put forthwith successively—

- (a) the question on any amendment already proposed from the chair; and
- (b) the main question (or the main question, as amended).

The chairman shall thereupon report to the House any resolution to which the committee has come, or that it has come to no resolution, without any further question being put.

(11) If any motion is made in the House in relation to any European Union document in respect of which a report has been made to the House in accordance with paragraph (10) of this order, the Speaker shall forthwith put successively—

- (c) the question on any amendment selected by him which may be moved;
- (d) the main question (or the main question, as amended);

and proceedings in pursuance of this paragraph, though opposed, may be decided after the expiration of the time for opposed business.

(12) With the modifications provided in this order, the following Standing Orders shall apply to European Committees—

- No. 85 (Chairman of general committees);
- No. 88 (Meetings of general committees); and
- No 89 (Procedure in general committees).

Appendix 3

Resolution of the House of 17 November 1998 (The scrutiny reserve resolution)

Resolved, That

(1) No Minister of the Crown should give agreement in the Council or in the European Council to any proposal for European Community legislation or for a common strategy, joint action or common position under Title V or a common position, framework decision, decision or convention under Title VI of the Treaty on European Union:—

- (a) which is still subject to scrutiny (that is, on which the European Scrutiny Committee has not completed its scrutiny) or
- (b) which is awaiting consideration by the House (that is, which has been recommended by the European Scrutiny Committee for consideration pursuant to Standing Order No.119 (European Standing Committees) but in respect of which the House has not come to a Resolution).

(2) In this Resolution, any reference to agreement to a proposal includes—

- (a) agreement to a programme, plan or recommendation for European Community legislation;
- (b) political agreement;
- (c) in the case of a proposal on which the Council acts in accordance with the procedure referred to in Article 251 of the Treaty of Rome (co-decision), agreement to a common position, to an act in the form of a common position incorporating amendments proposed by the European Parliament, and to a joint text; and
- (d) in the case of a proposal on which the Council acts in accordance with the procedure referred to in Article 252 of the Treaty of Rome (co-operation), agreement to a common position.

(3) The Minister concerned may, however, give agreement—

- (a) to a proposal which is still subject to scrutiny if he considers that it is confidential, routine or trivial or is substantially the same as a proposal on which scrutiny has been completed;
- (b) to a proposal which is awaiting consideration by the House if the European Scrutiny Committee has indicated that agreement need not be withheld pending consideration.

(4) The Minister concerned may also give agreement to a proposal which is still subject to scrutiny or awaiting consideration by the House if he decides that for special reasons agreement should be given; but he should explain his reasons—

- (a) in every such case, to the European Scrutiny Committee at the first opportunity after reaching his decision; and
- (b) in the case of a proposal awaiting consideration by the House, to the House at the first opportunity after giving agreement.

(5) In relation to any proposal which requires adoption by unanimity, abstention shall, for the purposes of paragraph (4), be treated as giving agreement.

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