



House of Commons
European Scrutiny Committee

The Work of the Committee in 2008–09

Sixth Report of Session 2009-10

Report, together with formal minutes

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Standing order and membership

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

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

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

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

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

Current membership

Michael Connarty MP (*Labour, Linlithgow and East Falkirk*) (Chairman)

Mr Adrian Bailey MP (*Labour/Co-op, West Bromwich West*)

Mr David S. Borrow MP (*Labour, South Ribble*)

Mr William Cash MP (*Conservative, Stone*)

Mr James Clappison MP (*Conservative, Hertsmere*)

Ms Katy Clark MP (*Labour, North Ayrshire and Arran*)

Jim Dobbin MP (*Labour, Heywood and Middleton*)

Mr Greg Hands MP (*Conservative, Hammersmith and Fulham*)

Mr David Heathcoat-Amory MP (*Conservative, Wells*)

Keith Hill MP (*Labour, Streatham*)

Kelvin Hopkins MP (*Labour, Luton North*)

Mr Lindsay Hoyle MP (*Labour, Chorley*)

Mr Bob Laxton MP (*Labour, Derby North*)

Angus Robertson MP (*SNP, Moray*)

Mr Anthony Steen MP (*Conservative, Totnes*)

Richard Younger-Ross MP (*Liberal Democrat, Teignbridge*)

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1 Introduction

Activity

1. This report covers our work for the parliamentary session 2008—09.
2. Our core task was to examine on behalf of the House the EU documents deposited in Parliament, to assess their legal and political importance and to determine which should be debated.¹ During the period covered by this report, 920 documents were examined, 456 were deemed of legal and/or political importance and 72 were recommended for debate. 32 debates took place in European Committees (sometimes covering several documents) and four on the Floor of the House. On 22 occasions we drew documents to the attention of other select committees, to whom we felt their contents were of significance. On one occasion, we used our power to seek an opinion on a document from another select committee.²
3. In addition to the 33 weekly reports to the House on the scrutiny of 920 documents, we also published the Government's response to our previous report on *Subsidiarity, National Parliaments and the Lisbon Treaty*,³ and produced a report on *Free Movement of Workers in the EU*.⁴ This examined the movement to the UK of employment-seekers from across Europe, particularly from those countries which joined the EU in 2004 and 2007. We took evidence from the Secretary of State for Business, Enterprise and Regulatory Reform (Lord Mandelson), and the Minister of State for Borders and Immigration, Home Office (Phil Woolas). The transcripts of these sessions was published as part of the Committee's 14th Report and debated in European Committee on 19 May.⁵
4. As in previous years, we continued to hold oral evidence sessions with Ministers. Our oral evidence sessions are set out in Table 1.

1 For a description of the Committee's method of working, see The European scrutiny system in the House of Commons, which is on the Committee's website and is available from the Committee's staff.

2 Treasury Committee, Sixteenth Report of Session 2008—09, The Committee's Opinion on proposals for European financial supervision, HC 1088, and see paragraph 31 below.

3 First Special Report of Session 2008—09, HC 197.

4 Fourteenth Report of Session 2008—09, HC 324

5 Gen Co Deb, European Committee B, Free Movement of EU Workers (16162/09), 19 May 2009

Table 1 Oral evidence taken by the European Scrutiny Committee in 2008—09

Category	Date	Subject	Main witness
Individual documents/EU policy areas	4 February 2009	Recent scrutiny performance of the Foreign and Commonwealth Office (FCO) and the December European Council in relation to the "Irish Protocol" and the Lisbon Treaty	Caroline Flint, Minister of State, FCO
Individual documents	11 February 2009	Recent scrutiny performance of the Department for the Environment, Food and Rural Affairs (DEFRA)	Huw Irranca-Davies, Parliamentary Under-secretary of State, DEFRA
Individual documents/EU policy areas	9 March 2009	Free Movement of Workers to the UK	Lord Mandelson, Secretary of State, Business, Enterprise and Regulatory Reform (BERR)
Individual documents/EU policy areas	11 March 2009	Free Movement of Workers to the UK	Phil Woolas, Minister of State, Home Office
Individual documents/EU policy areas	3 June 2009	Driving Economic Recovery	Lord Myners, Financial Services Secretary, the Treasury
Individual documents/EU policy areas	1 July 2009	First reading agreements and the ship source pollution Directive	Lord Bach, Parliamentary Under-secretary of State, Ministry of Justice
EU policy areas	2 July 2009	Enlargement in the Western Balkans and Irish guarantees.	David Miliband, Foreign Secretary, FCO
EU policy areas	28 October 2009	Implementation of the Lisbon Treaty – scrutiny issues	Chris Bryant, Parliamentary Under-secretary of State, FCO

5. In May we visited Sweden as part of our regular programme of Pre-Presidency visits to Member States which are due to take over the Presidency of the European Union. We visited Croatia in June to assess that country's readiness for EU membership. A full list of visits is set out in Table 2.⁶

6. The Chairman attended two meetings of the EC-UK Forum comprising the European Scrutiny and European Union Committees of the Westminster Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

⁶ Annex 1 to the report lists the meetings attended during those visits and indicates the subjects discussed.

Members of the Committee attended conferences in a representative capacity and we also hosted several visiting delegations of parliamentarians who wished to learn about our work and discuss issues of mutual interest.

Table 2: Overseas visits by the European Scrutiny Committee in 2008—09

Date	Location	Purpose of visit
9—10 February 2009	Prague	Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) Chairpersons Meeting
16—17 February 2009	Brussels	Joint Parliamentary Meeting on A New Deal For Economic Recovery?
19 March 2009	Brussels	Tripartite meeting of MEPs, the Commons European Scrutiny Committee and the Lords EU Committee
10—12 May 2009	Prague	COSAC XLI
18—20 May 2009	Stockholm	Pre-Presidency visit to Sweden
15—16 June 2009	Zagreb	Pre-accession visit to Croatia
5—6 July 2009	Stockholm	COSAC Chairpersons Meeting
5—6 October 2009	Stockholm	COSAC XLII

European Committees

7. It is now a year since the House made permanent the changes to SO. No. 119 (European Committees), proposed by the Government, but having their origins in the recommendations of the Modernisation Committee's 2005 Report.⁷ Through the 32 debates which have taken place this session we have been able to assess more fully the impact of the changes.

8. The practice of permitting a member of the European Scrutiny Committee to open the sitting with a brief statement, explaining our reasons for referring the document (or documents) for debate, has proved to be a good one, received gratefully by other members of the European Committee and ensuring a link between the work of the European Scrutiny Committee and that of the European Committees. The additional change to a “select committee” style of questioning has led to more effective use being made of the hour for questioning the Minister at the start of the Committees' sittings.

9. The preliminary statement also goes some way to overcome the difficulties caused by lack of permanent membership of the European Committees (and hence the lack of

⁷ Select Committee on Modernisation of the House of Commons, Second report of Session 2004—05, Scrutiny of European Business, HC465

acquired depth of knowledge within them), by setting the context and direction for the debate. Although we respect the efforts made by the (temporarily appointed) members of these Committees adequately to fulfil their responsibility to hold the government to account, we continue to believe that the Committees would be better equipped to do this if endowed with permanent members, who could develop a more profound and detailed appreciation of the types of legal and political issue which occur across the different subject areas.

Issues arising from scrutiny

Annual Policy Strategy (APS)

10. The second of what is intended to be an annual debate in Westminster Hall on the European Commission's Annual Policy Strategy took place in July.⁸ This provided a welcome opportunity for the House to discuss the Commission's legislative work programme and the upcoming priorities for European Commission and European Union action. This year, the debate focused particularly on the response to the financial crisis, the Lisbon agenda, climate change and EU enlargement.

11. To further enhance the ability of the House to begin its scrutiny at the earliest stages of policy development by the EU institutions, we drew the Annual Policy Strategy for 2010 to the attention of the Departmental Select Committees to alert them to the policy priorities the Commission has in mind for 2010, and the initiatives designed to realise them.

Subsidiarity

12. In January we received the Government response to our report, *Subsidiarity, National Parliaments and the Lisbon Treaty*, which we had published in the previous session.⁹ The main focus of the report had been the role of national parliaments in considering whether proposals for EU legislation comply with the principle of subsidiarity under the new Protocol on the Application of the Principles of Subsidiarity and Proportionality. The Lisbon Treaty sets out the principle, which was given general application to EU legislation by the Maastricht Treaty as, "...in areas which do not fall within its exclusive competence, the Union [EU] shall act only if and insofar 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". The reference to "either at central level or at regional and local level" is new.

Our main conclusions were that:

- the substance of the subsidiarity Article in the Lisbon Treaty is the same in its effect as the existing Article in the EC Treaty;

8 HC Deb, 2 July 2009, col 141WH

9 First Special Report of Session 2008—09, HC 197; 33rd Report of Session 2007—08, HC 563.

- examination of EU proposals for compliance with the principle of subsidiarity is a long-established and fundamental part of the scrutiny process in the House of Commons;
- whether a proposal does or does not comply is a matter of political judgement and is unlikely to be capable of an entirely objective assessment.;
- where we have concerns about a proposal's compatibility with the principle, we draw them to the attention of the Government and, where it shares our assessment, Ministers take up the concerns with the Commission and other Member States.

We doubted, therefore, whether the Lisbon Treaty's provisions on subsidiarity would make much practical difference to the influence presently enjoyed by the UK Parliament; and we also noted that, under the Lisbon Treaty's yellow and orange card procedures, the legislative decision on subsidiarity would continue to rest with the EU institutions.

13. In response the Government stated its commitment to ensuring that the new provisions for national parliaments in the Lisbon Treaty operate effectively. It noted our endorsement of the Modernisation Committee's proposals as the basis for how the House should give effect to the provisions on subsidiarity. With the coming into force of the Lisbon Treaty now imminent, we are engaged in discussion with the Government on the detail of how the provisions will work in practice.

Changes to the scrutiny mandate in light of the Lisbon Treaty

14. The entry into force of the Lisbon Treaty necessitates changes to the terminology used in both Standing Order No.143 and in the scrutiny reserve resolution. We have recognised this as an opportunity to propose to the Government further revisions which make the Standing Order and the scrutiny reserve resolution clearer, simpler and more thorough. Another important proposal is the request that draft European Council and Council conclusions be included in the categories of document which the Government is required to deposit in parliament for scrutiny. The replacement Standing Order No.143 and the scrutiny reserve and opt-in resolutions we have proposed can be found in Annex 2 to this report.

15. But the changes brought in by the Lisbon Treaty are more than just terminological. EU activity will be divided into legislative acts, which are defined, and non-legislative acts, which are not. It is the second category which poses the problems for scrutiny. Many binding "Union acts", issuing particularly from the Council or European Council will fall under the second category. It is for this reason that we have requested that the revised Standing Order refers to "non-legislative acts" as well as "legislative acts". Indeed, were it not to make this reference, we would be in a position where our scrutiny mandate under the Lisbon Treaty would be narrower than it is today. It should also be noted that the Lisbon Treaty's yellow and orange card procedures for monitoring subsidy only apply to legislative acts.

16. The Conclusions of the European Council have a powerful influence on the policies of the EU and its priorities. They are frequently cited by the Commission as the authority for a proposal. Yet the draft of the Conclusions is not deposited for scrutiny by Parliament. Nor are the draft Conclusions of the Council of Ministers, even though the Conclusions

are politically binding on Member States. National parliaments of other EU Member States, notably Denmark, Sweden and Finland receive draft Conclusions. We are convinced that the Government must change its position if it is serious in supporting the scrutiny process.

17. Changes to the deposit arrangements and the scrutiny reserve resolution need to apply to both Houses. The Lords EU Committee has therefore been engaged in similar work.

18. Under the Lisbon Treaty, the national veto over EU proposals in police and criminal justice matters is abolished, while the UK is not bound by such laws unless it decides to 'opt in' to them. Such an opt in arrangement existed prior to the Lisbon Treaty in relation to EU laws concerning asylum, immigration and judicial co-operation in civil matters, and continues to apply in this field under the Lisbon Treaty.

19. On the scrutiny of opt-in decisions, we asked that the undertaking by the Government to provide us with an eight-week period of scrutiny before opting into legislation when the Lisbon Treaty came into force should also apply to existing opt-in decisions in the areas of asylum and immigration and judicial cooperation in civil matters under the EC Treaty. The Government accepted this recommendation.

First reading agreements

20. There has been a large increase in the volume of legislation which is agreed by the European Parliament and the Council of Ministers through "first reading deals". The balance to be struck throughout the co-decision procedure, but especially in a negotiated first reading agreement, is between transparency, accountability and efficiency. Shortening the number of readings to which a proposal is subjected inevitably reduces the number of opportunities for parliamentary scrutiny; and in our view it can also accelerate the legislative process at the expense of effective scrutiny, as happened during this Session.¹⁰

21. We were particularly concerned about the use of "informal trilogues", a forum for confidential and binding negotiations, as part of the first reading agreement process. Informal trilogues consist of a representative of the relevant European Parliament committee (usually the rapporteur), the Commission, and the Presidency. No other Member State is present, so it is difficult for governments to follow the course of trilogue negotiations and to feed in their views, but it is well nigh impossible for national parliaments to do so at any appropriate point. Once a compromise text has been agreed in an informal trilogue, the chair of COREPER writes to the chair of the European Parliament committee informing them of the agreed compromise. Neither the Council nor the European Parliament may change a text agreed in an informal trilogue. In practice, we ourselves are not told of trilogue changes until too late – once the negotiation is concluded.

22. In effect, first reading deals confine our scrutiny to the Commission's original proposals and deny us the opportunity to scrutinise the amendments negotiated in trilogues. This is unsatisfactory. We shall, therefore, be inviting the Government's views on ways to ensure that the opportunity is provided. One possibility, for example, might be to introduce a new requirement for the Council to refrain from adopting a proposal until

¹⁰ See paragraph 30 below.

after the elapse of a set period (say, four weeks) from the day when the first reading deal was agreed so that Member States could deposit the amended proposal in their national parliaments for scrutiny and consideration of their governments' views on the amendments.

23. The problem posed by first reading agreements for parliamentary scrutiny is unlikely to go away. The EU's *Joint Declaration on Practical Arrangements for the Co-decision Procedure* places an emphasis on first reading agreements: "The institutions shall cooperate in good faith with a view to reconciling their positions as far as possible so that, wherever possible, acts can be adopted at first reading".¹¹ This is of great concern to us.

Enlargement

24. In a number of reports we have outlined our continuing concern over the pre- and post- accession process regarding Bulgaria and Romania, both of whom continue to exhibit the same governance problems in respect of corruption and criminality that were evident before accession. Our main interest in the past year has been with regard to the consequences for the integrity of the EU's enlargement process, with particular reference to Croatia.

25. Our view is that what the Commission continues to seek from Bulgaria and Romania in this area needs to be demonstrably in place in Croatia (and all other candidate countries) before accession — i.e., not only must the appropriate government machinery and legislation be in place, but there must also be a track record of successful implementation. We have taken evidence from the Foreign Secretary (The Rt. Hon David Miliband) and two of this year's three Ministers for Europe (the Rt. Hon Caroline Flint and Chris Bryant) about the Government's approach to the timing of and preconditions for Croatian accession. We also visited Croatia, in order to reach our own assessment of the extent of its progress towards accession benchmarks. We remain concerned about the uncertainty of the Government's position, which has latterly varied between unequivocal agreement with this viewpoint given by the Minister for Europe (Chris Bryant) in his oral evidence to us, and the equivocation in his subsequent Explanatory Memorandum on the Commission's annual Communication on enlargement strategy, in which he says only that "conditionality is an important part" of the accession process.¹²

The scrutiny process

Departmental performance

26. The scrutiny reserve resolution is fundamental to the House's scrutiny process. It imposes a general discipline on Ministers and departments to provide Explanatory Memoranda on documents submitted for scrutiny, to respond to our requests for information and to arrange debates in advance of consideration of EU proposals by the Council. We monitor the operation of the resolution and call Ministers to give oral evidence if we believe they have overridden the resolution without good cause.

11 OJ C 145 30.6.2007, page 5.

12 Ev to be published as HC 1076; Thirty third Report of Session 2008—09, HC 19-xxxi.

27. The Government provides us with six-monthly breakdowns of departmental overrides of documents which are still under scrutiny. The period from July to December 2008 saw 23 overrides — a deterioration from the 12 recorded during the corresponding period of the previous year. We are glad to note that this appears to have represented an intermission, rather than a conclusion, to the two years of improvement we had seen up till this point, as the recently provided statistics for January to June 2009 show the number of overrides in single figures. Tables of these overrides, showing the Department responsible and a brief description of the document concerned, can be found in Appendix 1 to this report. We take breaches of the House's scrutiny reserve resolution very seriously. We will continue to monitor the incidence of overrides and will invite Ministers to oral evidence sessions to explain the reasons for overrides in those cases where we do not consider that a sufficient justification has been provided.

28. We reported last year on problems with the Department for Environment, Food and Rural Affairs in relation to fisheries documents. We continued to suffer this session from scrutiny overrides, and from inadequacy and late submission of Explanatory Memoranda, and in February 2009 the Minister of State (Huw Irranca-Davies) appeared before us to answer questions on DEFRA's shortcomings in this area. He responded to our concerns, assured us of his aspiration that the Department's performance should improve and informed us of measures being put in place to achieve this. Despite this, problems continue to arise over the quality and timeliness of the material sent to us by the Department, and our Chairman has therefore pursued this further with the Secretary of State (Hilary Benn).

29. A high proportion of overrides from the Foreign and Commonwealth Office related to genuine operational need to override scrutiny in response to pressing political crises during periods when the House was adjourned. However, there have been occasions that have demonstrated a difference of view between the Committee and the FCO about the sort of proposals that require depositing for scrutiny and about the place in the scrutiny process of draft Council Conclusions. Those differences of view have yet to be resolved.

30. In June 2009, the particular circumstances of a scrutiny breach by the Ministry of Justice caused us to turn our attention to the balance between the place for parliamentary scrutiny and the views of national parliaments in the case of first reading agreements. We held an oral evidence session with Lord Bach, Parliamentary Under Secretary of State for Justice to discuss this, in which the effect of informal trilogue negotiations and rushed timetabling in Brussels on our ability to scrutinise the government's actions were fully aired. The Minister acknowledged that a contested amendment proposed by the European Parliament should have been communicated to the Committee much sooner than it had been. He confirmed that he had now instructed officials to be more alert in future to the possibility of first reading deals taking place, so that some scrutiny could take place at an earlier stage in the policy development. He also indicated that the Department would embark on an additional programme of training for all those concerned with European business to help them understand better the parliamentary scrutiny process.

31. We continued our practice of meeting during the summer recess in order to consider documents in advance of Council meetings and to enable Ministers to agree measures at Council without incurring overrides.

Co-operation with Departmental Select Committees

32. Departmental Select Committees (DSCs) determine their own agendas. Standing Order No. 143, however, gives the European Scrutiny Committee the power to seek an Opinion from a DSC. We use this formal power sparingly and during the last session on one occasion, when the Treasury Committee produced a Report on the European Commission's proposals for financial regulation and supervision in response to our concern over them.¹³ We would like to express our thanks to the Chair of the Treasury Committee for accepting the referral, and for the action taken.

33. We also draw our weekly report chapters to the attention of the relevant DSC when the subject matter is relevant to that Committee's current work. This took place on 22 occasions this session, with over half of these being to the International Development Committee.

34. The National Parliament Office (NPO)¹⁴ in Brussels produces Commons European Business, a weekly guide to EU-related business in the House of Commons. It is clear that the House as a whole continues to benefit from the inquiries of DSCs into European Union matters. Examples this session have included the Justice Committee's examination of *Justice Issues in Europe*, the Scottish Affairs Committee's look at *Scotland and the European Union* and the continuation of the Foreign Affairs Committee's long standing inquiry into *Developments in the EU*. In some cases, Committees have included the EU dimension in an inquiry whose primary focus is elsewhere, such as with the Treasury Committee's report on the financial crisis and the Defence Committee's report on *NATO and European Security*.

Parliamentary networking

COSAC

35. COSAC is the body which brings together members of the European affairs committees of national parliaments. It meets twice a year in plenary and also holds twice yearly meetings of COSAC chairmen. The principal business on each agenda is derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny.

36. Examining whether EU proposals comply with the principle of subsidiarity has been part of the UK scrutiny process ever since the principle was introduced in 1993. During 2009, national parliaments in COSAC agreed once again to conduct checks of two legislative proposals for compliance with the principles of subsidiarity and proportionality. These checks have been carried out on a voluntary basis under the auspices of COSAC and the provisions of the existing Treaties. The Lisbon Treaty gives national parliaments a formal role in examining legislative proposals for their compliance with the principle of subsidiarity, and in registering objections if appropriate. COSAC's own checks will then cease and national parliaments will submit their reasoned opinions on subsidiarity to the Commission in accordance with the provisions of Article 6 of Protocol 2 to the Lisbon

13 Treasury Committee, Sixteenth Report of Session 2008—09, The Committee's Opinion on proposals for European financial supervision, HC 1088.

14 See paragraph 38 below.

Treaty. So far this year one subsidiarity check has been completed, that on the Commission proposal for a Council Framework Decision on the rights to interpretation and to translation in criminal proceedings (document no. 11917/09; COM(2009) 338). We concluded that the draft Framework Decision complies with the principle of subsidiarity. A second subsidiarity check, on the proposal for a Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession (COM(2009) 154/4), is currently underway.

37. The Chairman and Committee members have played an active part in COSAC debates and in the formulation of COSAC Conclusions and the Contribution, which is addressed to all EU institutions. At the Stockholm COSAC meeting the European Scrutiny Committee and the Lords European Union Committee drew attention to the possibility that the Presidency of the Council might, after preparatory talks with Member States before the Treaty comes into effect, table proposals for implementing legislation for adoption very speedily after the Lisbon Treaty comes into force. However, Article 4 of Lisbon Treaty's Protocol on the role of national parliaments requires a gap of eight weeks between the date when the text of draft of legislation is made available to national parliaments and the date when it is placed on a provisional agenda for adoption by the Council. It would be unfortunate to say the least if the first actions under the Lisbon Treaty involved riding roughshod over the rights of national parliaments on the timetable for scrutiny. We ensured that this concern was reflected in the COSAC Contribution, which was amended to emphasise the need to adhere to the time period set out in the Treaty for full and effective scrutiny by national parliaments.

National Parliament Office

38. The NPO in Brussels monitors the activities of the EU institutions which are relevant to the House's scrutiny of EU business. Its staff attend committee meetings and plenary sessions of European Parliament, and monitor key events relating to EU matters (such as weekly Commission meetings and the Council of Ministers) and regularly meet staff of the Institutions. It reports on relevant outcomes of such meetings to the European Scrutiny Committee and to departmental select committees. Over 25 briefing papers have been provided for the European Scrutiny Committee during the 2008—09 session. The NPO also produces a regular information sheet detailing European business in the House of Commons for MEPs and interested parties in Brussels (the Commons European Business).

39. The NPO acts as a resource to provide information and intelligence on emerging EU issues in Brussels on demand to Members and staff of the European Scrutiny Committee and other select committees. NPO staff have responded to requests for information from committees including the Environment, Food and Rural Affairs; Foreign Affairs; Home Affairs; Energy and Climate Change; Treasury; Justice; Transport; and Environmental Audit Committees. The NPO has also provided support for Members visiting Brussels and for joint parliamentary or joint committee meetings, organised by the European Parliament. Staff of the NPO represented the House of Commons on the COSAC working group on the implementation of Protocol 2 of the Lisbon Treaty on subsidiarity and proportionality.

40. The European Parliament elections were held on 4–6 June 2009. During the dissolution period, staff of the NPO were reallocated to Westminster to work with the Business and Enterprise Committee and with the Foreign Affairs Committee, whilst still monitoring events in Brussels.

Joint Parliamentary Meeting

41. Joint parliamentary meetings (JPMs) and joint committee meetings are convened by the parliament of the Presidency country and the European Parliament. Although the number of meetings this year has been low because of the European Parliament elections, we attended a JPM on “A New Deal for European Economic Recovery?” The House of Commons has also been represented at a number of other such meetings by representatives from Departmental Select Committees.

Tripartite Meetings

42. We continue to hold regular meetings with the House of Lords European Union Committee and with UK MEPs. The subjects discussed at these meetings have included Europe's response to the financial/economic/employment crisis, the Lisbon Treaty and the potential institutional implications of the Irish “deal” and the Czech Council Presidency/Commission 2009 work programme. The meetings provide a valuable forum for exchanging information and views, as well as enabling MEPs to provide the Commons and Lords committees with early notice of initiatives which are likely to be forthcoming.

Devolved Administrations

43. The Chairman attends the meetings of the UK European Committee Chairs which include representatives of the House of Commons, House of Lords, National Assembly for Wales, Scottish Parliament and the Northern Ireland Assembly. The group met in Cardiff in June and discussed the report on subsidiarity produced by the European and External Affairs Committee of the National Assembly for Wales as well as the arrangements for cooperation and coordination between the devolved legislatures and the Westminster Parliament on EU scrutiny. The Chairs also compared approaches to dealing with the European Economic Recovery Plan.

44. The Chairman has given evidence to the Northern Irish Committee Office of the First Minister and Deputy First Minister (COFMDFM) at Stormont. COFMDFM was interested in the function and the functioning of the European Scrutiny Committee and hoped to learn from the Committee's experience how it could improve its scrutiny of European policy and enhance its engagement with European issues.

Inter-institutional learning

45. The Chairman has given evidence to the Oireachtas' Joint Committee on European Affairs, Sub-Committee on Ireland's future in the European Union. Part of the sub-committee's remit was to make recommendations to enhance the role of the Houses of the Oireachtas in EU affairs. The report of the sub-committee concluded that: “A formal

scrutiny reserve mechanism, in line with the model used in the UK Parliament should be introduced.”¹⁵

Conclusion

46. The entry into force of the Lisbon Treaty brings with it new provisions for national parliaments. There is, in our view, less to the provisions on subsidiarity than meets the eye. In our experience it has been rare for the entirety of a proposal for legislation to be inconsistent with the principle of subsidiarity. We do not therefore expect frequent use to be made of the yellow and orange cards. Indeed it would be surprising if the mere existence of such provisions gave rise to a growth in the number of well-founded subsidiarity cases; it might even give the impression of a lack of focus on subsidiarity concerns in the past.

47. The changes to definitions contained in the Lisbon Treaty necessitate the redrafting of the Committee’s Standing Order and the House’s scrutiny reserve resolution. We will pursue with the Government the need for the redraft to make the texts clearer, simpler and tougher. In particular, we are looking to see draft European Council and Council conclusions, European Council and Council decisions under the Common Foreign and Security Policy, and both legislative and non-legislative acts included in the categories of document deposited for scrutiny.

48. We will maintain a close watch on the use of first reading agreements under the co-decision procedure and seek to ensure that the Government does not take part in an acceleration of the legislative process at the expense of effective scrutiny. The informal trilogue negotiations which accompany first reading deals lack transparency and make it difficult for governments to be able to communicate the views of their national parliaments at the appropriate point.

49. The Committee’s work each year is largely determined by the documents deposited for scrutiny. In the normal course of events we would by now have seen the Commission’s Legislative and Work Programme for 2010. However, with a new Commission yet to be set up, this document will not be available until February at the earliest. In its absence, key themes for the year ahead have been indicated by the Commission’s Annual Policy Strategy 2010, which suggests that economic and social recovery; climate change and sustainability; the EU on the global stage; freedom, security and justice; and better regulation and transparency will hold centre stage.

¹⁵ Report of the Houses of the Oireachtas, Sub-Committee on Ireland’s future in the European Union: Challenges, Issues and Options (November 2008), paragraph 30.

Annex 1

Meetings and subjects discussed during the Committee's overseas visits

Pre-presidency visit to Sweden, 18—20 May 2009

18 May

Anna Stelling, Director, SIEPS and Göran von Sydow, Senior Researcher (research project on EU Presidencies): views of non-governmental experts on the forthcoming Presidency

Deputy Migration Minister Minna Ljunggren, Ministry of Justice: the Swedish Presidency agenda

The Parliamentary Standing Committee on EU Affairs: the views of Swedish MPs on all the key Presidency issues

EU Minister Cecilia Malmström, Prime Minister's Office: the Government's Presidency plans, particularly on Jobs and Growth, the Lisbon Agenda and the Lisbon Treaty

Ingrid Hjelt af Trolle, Director General European Affairs, Prime Minister's Office: further discussion on Swedish Presidency plans

Deputy Minister Per Jansson, Economic issues, Ministry of Finance: Swedish plans for handling the economic crisis, including the Growth and Stability Pact, the EU economic recovery plan, and the follow up to the de Larosière report

Deputy Minister of Justice, Magnus Graner, Ministry of Justice: the Stockholm Programme
HMA Andrew Mitchell

19 May

Deputy Environment Minister Åsa-Britt Karlsson, Environment and Climate issues, Ministry of Environment: climate change agenda and preparations for COP 15.

Björn Lyrvall, Political Director MFA, Enlargement issues: EU enlargement, and institutional issues related to the Lisbon Treaty, such as the External Action Service.

Pre-accession visit to Croatia, 15—16 June 2009

15 June

Stjepan Mesic, President of the Republic of Croatia: Croatia's readiness for accession

Round table with civil society groups: Croatia's readiness for accession

Dinner with members of the European Integration Committee: Croatia's readiness for accession

16 June

Neven Mimica, Chairman of the European Integration Committee and with members of the Committee: parliamentary views on and involvement in the accession process

Tomislav Karamarko, Minister of Interior: Croatia's readiness for accession in the field of Home Affairs

Prof. Dr. Sc. Ivan Simonovic, Minister of Justice: Croatia's readiness for accession with regard to the judiciary

Lunch with the Croatian-British Friendship Group in the Croatian Parliament

Gordan Bozinovic, State Sec/Foreign Affairs and European Integration: Croatia's readiness for accession

Dinko Cvitan, Director of USKOK (Office for the Prevention of Corruption and Organized Crime): judicial reform, corruption and organised crime

Tamara Obradovic Mazar, State Secretary at the Ministry of Economy: progress of accession process

Annex 2

Committee's proposed redraft of Standing Order No.143 (paragraph 1)

Changes Marked in Italics

European Scrutiny Committee

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 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 Order No. 16 (Proceedings under an Act or on European Union documents), No. 89 (Procedure in general committees) and No. 119 (European Committees) includes in particular —

- i. a document published by the Commission;*
- ii. a document submitted by an institution of the European Union to another Union institution;*
- iii. a draft legislative act, a draft non-legislative act, or a proposal for an amendment of such acts;*
- iv. draft general guidelines and decisions relating to the Common Foreign and Security Policy;
- v. draft conclusions of the European Council and the Council.

The Committee may waive the requirement to deposit a document, or class of documents, by agreement with the Select Committee on the European Union of the House of Lords.

Committee's proposed new Scrutiny Reserve Resolution

Resolved, That—

(1) Subject to paragraph (5) below, no Minister of the Crown should give agreement in the Council or in the European Council in relation to any document subject to the scrutiny of the European Scrutiny Committee in accordance with its Standing Order, while the document remains subject to scrutiny.

(2) A document remains subject to scrutiny if –

(a) it is awaiting consideration by the House (that is, it is a document which has been recommended by the European Scrutiny Committee for consideration pursuant to Standing Order No. 119 (European Committees) but in respect of which the House has not come to a Resolution); or

(b) in any case, the Committee has not indicated that it has completed its scrutiny.

(3) In this Resolution, agreement in relation to a document means agreement however described and whether or not a formal vote is taken, and includes in particular—

(a) political agreement;

(b) agreement to a general approach;

(c) agreement establishing the position of the Council at any stage in legislative procedure; and

(d) agreement to Council and European Council conclusions.

(4) Where the Council acts by unanimity, abstention shall be treated as giving agreement.

(5) The Minister concerned may, however, give agreement in relation to a document which remains subject to scrutiny—

(a) if the European Scrutiny Committee has indicated that agreement need not be withheld pending completion of scrutiny; or

(b) if the Minister decides that exceptionally and for special reasons agreement should be given; but he must explain his reasons in writing—

(i) in every such case, to the European Scrutiny Committee at the first opportunity after reaching his decision; and

(ii) in the case of a proposal awaiting consideration by the House, to the House at the first opportunity after reaching his decision.

Committee's proposed Draft Resolution on Opt-In Scrutiny

- 1) This Resolution applies in relation to a notification to the President of the Council of the European Union or to the Council and the Commission of the wish of the United Kingdom to take part in the adoption and application of a proposed measure or acceptance of an adopted measure following from a proposal or initiative presented to the Council pursuant to Title V of the Treaty on the Functioning of the European Union.
- 2) No Minister of the Crown may authorise such notification until eight weeks have elapsed since the proposal or initiative was published, nor if it is awaiting consideration by the House (that is, it is a document which has been recommended by the European Scrutiny Committee for consideration pursuant to Standing Order No. 119 (European Committees) but in respect of which the House has not come to a Resolution).
- 3) Where, after the adoption of a measure by the Council, a Minister of the Crown wishes to accept that measure, he shall inform the European Scrutiny Committee by letter. The Minister concerned may not authorise such notification until eight weeks have elapsed since the date on which the letter was sent to the Committee, nor if the measure is awaiting consideration by the House (that is, it is a document which has been recommended by the European Scrutiny Committee for consideration pursuant to Standing Order No. 119 (European Committees) but in respect of which the House has not come to a Resolution).
- 4) The Minister concerned may, however, authorise notification sooner than provided for in paragraphs (2) and (3) —
 - if the European Scrutiny Committee has indicated that notification need not be withheld pending completion of scrutiny; or
 - if the Minister considers that for special reasons notification should be given; but he must explain his reasons—
 - vi. in every such case, to the European Scrutiny Committee at the first opportunity after reaching his decision; and
 - vii. in the case of a proposal awaiting consideration by the House, to the House at the first opportunity after authorising notification.

Appendix

Scrutiny Overrides: January - June 2009¹

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of override	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
1	1627/08	Council decision concerning the placing on the market, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a carnation (<i>Dianthus caryophyllus</i> L., lin 123.8.12) genetically modified for flower colour	24.11.08	28.11.08	17.12.08	19.1.09 Ag & Fish Council	DEFRA	20.1.09: Cleared without reference to Sub-Committee	No override 14.1.09: Cleared as politically important (Report 3, 08-09)
2	5223/09	Council Decision granting mutual assistance for Latvia	12.1.09	13.1.09	15.1.09	20.1.09 Ecofin	HMT	15.1.09: Ian Pearson to Lord Roper 27.1.09: Sifted to Sub-Committee A 20.3.09: Cleared	15.1.09: Ian Pearson to Michael Connarty 21.1.09: Cleared as politically important (Report 5, 08-09)
3	5223/09	Council decision providing EU medium-term financial assistance for Latvia	12.1.09	13.1.09	15.1.09	20.1.09 Ecofin	HMT	15.1.09: Ian Pearson to Lord Roper 27.1.09: Sifted to Sub-Committee A 20.3.09: Cleared	15.1.09: Ian Pearson to Michael Connarty 21.1.09: Cleared as politically important (Report 5, 08-09)

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of override	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
4	5981/09	Council Recommendation on the 2009 up-date of the broad guidelines for the economic policies of the Member States and the Community and the implementation of Member States' employment policies	2.2.09	5.2.09	16.2.09	9.3.09 ESPHCA	HMT	24.2.09: Sifted to Sub-Committee A 6.3.09: Angela Eagle to Lord Roper 18.3.09: Cleared	No override 25.2.09: Cleared as politically important (Report 9, 08-09)
5	Unnumbered EM	Council Joint Action appointing the European Union's Special Representative in Bosnia and Herzegovina.			12.3.09	11.3.09	FCO	17.3.09: Sifted to Sub-Committee B 19.3.09: Caroline Flint to Lord Roper 24.3.09: Lord Roper to Caroline Flint	No override 2.3.09: Debated in European Committee and also cleared in correspondence before the Council
6	5972/09	Regulation of the EP and of the Council establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy	30.1.09	4.2.09	12.2.09	20.3.09 GAERC	BIS	24.2.09: Sifted to Sub-Committee B 3.3.09 & 23.3.09 : Lord Roper to Mike O'Brien 13.3.09, 25.3.09 and 7.4.09: Mike O'Brien to Lord Roper 25.3.09: Cleared	No Override 18.3.09: Cleared as politically important (Report 12, 08-09)
7	7481/09	Council Decision on the establishment of the Community position to be adopted in the Indian Ocean Tuna Commission	8.3.09	17.3.09	19.3.09	23.3.09 Ag & Fish Council	DEFRA	26.3.09: Huw Irranca-Davies to Michael Connarty 24.3.09: Cleared	26.3.09: Huw Irranca-Davies to Lord Roper 25.3.09: Cleared as not important (Report 13, 08-09)

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of override	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
8	7616/08	Directive of the European Parliament and of the Council amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements	13.3.08	19.3.08	30.4.08	29.4.08 Coreper First reading agreement	MOJ	13.5.08: Sifted to Sub-Committee E 5.6.09: Lord Roper to Lord Bach No override	10.6.09: Cleared as legally and politically important (Report 21, 08-09) 1.7.09: Lord Bach gave evidence to the Committee about agreement before completion of scrutiny
9	8642/09	Council Regulation amending Regulation (EC) No 332/2002, establishing a facility providing medium-term financial assistance for Member States' balances of payments	14.4.09	15.4.09	24.4.08	5.5.09 Ecofin	HMT	12.5.09: Sifted to Sub-Committee A 5.7.09: Ian Pearson to Lord Roper 15.7.09: Lord Roper to Ian Pearson	6.5.09: Cleared as politically important (Report 18, 08-09)
10	9052/09	Recommendation for a Council Decision Granting mutual assistance for Romania	24.4.09	6.5.09	28.4.09	5.5.09 Ecofin	HMT	28.4.09: Ian Pearson to Lord Roper 12.5.09: Sifted to Sub-Committee A	28.4.09: Ian Pearson to Michael Connarty 6.5.09: Cleared as politically important (Report 9, 08-09)
11	9052/09	Proposal for a Council Decision Providing EU medium-term financial assistance for Romania	24.4.09	6.5.09	28.4.09	5.5.09 Ecofin	HMT	28.4.09: Ian Pearson to Lord Roper 12.5.09: Sifted to Sub-Committee A	28.4.09: Ian Pearson to Michael Connarty 6.5.09: Cleared as politically important (Report 9, 08-09)

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of override	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
12	12259/08	Council Regulation on the Community legal framework for a European Research Infrastructure (ERI)	29.7.08	7.8.08	30.9.08	28.5.09 Comp Council (Political Agreement)	DIUS	21.10.08: Sifted to Sub-Committee B 28.10.08: Lord Grenfell to Lord Drayson 30.11.08, 11.12.08, 19.5.09: Lord Drayson to Lord Roper 8.12.08 & 3.6.09: Lord Roper to Lord Drayson	17.12.08: Not cleared, politically important (Report 2, 08-09)
13	9537/09	Proposal from the Commission for a Council Decision on the establishment of the Community North Atlantic Salmon Conservation Organisation (NASCO)	6.5.09	8.5.09	27.5.09	28.5.09 Ag & Fish Council	DEFRA	2.6.09: Sifted to Sub-Committee D 11.6.09: Lord Roper to Huw Irranca-Davies –Cleared Recess	3.6.09: Cleared as not important (Report 20, 08-09) Recess
14	10261/09	Council Decision concerning the non-inclusion of Paraffin oils CAS 64742-46-7, CAS 72623-86-0 and CAS 97862-82-3 in Annex 1 to council directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing those substances	27.5.09	1.6.09	18.6.09	25.6.09 Environment Council	DEFRA	28.06.09: Dan Norris to Lord Roper 30.6.09: Sifted to Sub-Committee D 8.7.09: Lord Roper to Dan Norris	No override 24.6.09: Cleared as not important (Report 23, 08-09)

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EIM	Date of override	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
15	10263/09	Proposal for a Council Decision concerning the non-inclusion of Paraffin oils CAS 8042-47-5 in Annex 1 to council directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substances	27.5.09	1.6.09	18.6.09	25.6.09 Environment Council	DEFRA	28.06.09: Dan Norris to Lord Roper 30.6.09: Sifted to Sub-Committee D 8.7.09: Lord Roper to Dan Norris	No override 24.6.09: Cleared as not important (Report 23, 08-09)

1. Source: Cabinet Office

Scrutiny Overrides: July - December 2008¹

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
1	No Document	Council decision on signing of EU/Australia Passenger Name Record (PNR) Agreement		Doc not deposited		30.6.08	HO	26.10.08: Lord Grenfell to Meg Hillier 26.11.08: Lord Grenfell to Meg Hillier 9.12.08: Meg Hillier to Lord Roper	
2	11369/08	Council Regulation instituting a temporary specific action aiming to promote the restructuring of the EU fishing fleets affected by the economic crisis	8.7.08	11.7.08	10.7.08	15.7.08 Ag & Fish Council	DEFRA	No override 10.7.08: Jonathan Shaw to Lord Grenfell 11.7.08: Lord Grenfell to Jonathan Shaw 15.7.08: Sifted to Subcommittee D 10.10.08: Cleared	10.7.08 & 29.7.08: Jonathan Shaw to Michael Connarty 31.10.08: Huw Irranca-Davies to Michael Coonarty 16.7.08 & 10.9.08: Michael Connarty to Jonathan Shaw 12.11.08: Michael Connarty to Huw Irranca-Davies 12.11.08: Cleared: politically important (Report 39, 07-08)
3	12669/08	Communication from the Commission to the Council on the opening of consultations with Mauritania under Article 96 of the Cotonou Agreement	4.9.08	10.9.08	12.9.08	15.9.08 GAERC	FCO	12.9.08: Jim Murphy to Lord Grenfell 14.10.08: Lord Grenfell to Caroline Flint Recess	12.9.08: Jim Murphy to Michael Connarty 8.10.08: Cleared: politically important (Report 33, 07-08) Recess

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
4	Unnumbered EM	Council Joint Action on the EU Monitoring Mission in Georgia (EUMM Georgia)			15.9.08	15.9.08 GAERC	FCO	12.8.08 & 24.9.08: Jim Murphy to Lord Grenfell 30.9.08: Sifted to Subcommittee C 9.10.08: Cleared Recess	12.8.08 & 24.9.08: Jim Murphy to Lord Grenfell 8.10.08: Cleared: politically important (Report 33, 07-08) Recess
5	Unnumbered EM	Decision concerning the conclusion of the Agreement between the EU and the Republic of Croatia on the participation of the Republic of Croatia in the EU military operation in the Republic of Chad and the Central African Republic (Operation EUFOR Tchad/RCA)			16.9.08	15.9.08 GAERC	FCO	30.9.08: Sifted to Subcommittee C 9.10.08: Cleared Recess	8.10.08: Cleared: not important (Report 33, 07-08) Recess
6	Unnumbered EM	Joint Action amending Joint Action 2008/736/CFSP concerning the EU monitoring mission in Georgia, EUMM Georgia			24.9.08	25.9.08 Written Procedure	FCO	24.9.08: Jim Murphy to Lord Grenfell 30.9.08: Sifted to Subcommittee C 9.10.09: Cleared Recess	24.9.08: Jim Murphy to Michael Connarty 8.10.08: Cleared: not important (Report 33, 07-08) Recess
7	Unnumbered EM	Joint Action appointing the EU Special Representative for the crisis in Georgia			24.9.08	25.9.08 Written Procedure	FCO	24.9.08: Jim Murphy to Lord Grenfell 7.10.08: Sifted to Subcommittee C 9.10.08: Cleared Recess	24.9.08: Jim Murphy to Michael Connarty 8.10.08: Cleared: not important (Report 33, 07-08) Recess

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
8	Unnumbered EM	Decision concerning the conclusion of an Agreement between the EU and the Republic of Croatia on the participation of the Republic of Croatia in the EU Rule of Law Mission in Kosovo (EULEX KOSOVO)			2.10.08	25.9.08 JHA	FCO	30.9.08: Jim Murphy to Lord Grenfell 7.10.08: Sifted to Sub-Committee C 9.10.08: Cleared Recess	30.9.08: Jim Murphy to Michael Connarty 8.10.08: Michael Connarty to Caroline Flint 8.10.08: Cleared as not important Recess
9	14486/07	Directive of the EP and of the Council on the civil liability and financial guarantees of shipowners	29.10.07	15.11.07	22.11.07	9.10.08 TTE Council	DFT	27.11.07: Sifted to Sub-Committee E 28.10.08: Jim Fitzpatrick to Lord Grenfell 24.11.08: Lord Grenfell to Jim Fitzpatrick 21.1.09: Jim Fitzpatrick to Lord Roper 12.2.09: Lord Roper-Jim Fitzpatrick clearing proposal Recess	No override 8.10.08: politically important and not cleared but Committee happy for Government to support proposal in Council without this being a breach of the reserve resolution (Report 34, 07-08)
10	Unnumbered EM	Council Decision concerning the conclusion of the Agreement between the EU and the Russian Federation on the participation of the Russian Federation in the EU military operation in the Republic of Chad and the Central African Republic (EUFOR)			8.10.08	13.10.08 GAERC	FCO	07.10.08: Caroline Flint to Lord Grenfell 14.10.08: Sifted to Sub-Committee C 16.10.08: Cleared by Sub-Committee C Recess	No Override 8.10.08 Cleared: not legally or politically important (Report 33, 07-08)

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
11	12720/08	Council Regulation fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2009	9.9.08	16.9.08	21.10.08	27.10.08 Ag & Fish Council	DEFRA	28.10.08: Cleared at sift	No Override 22.10.08: Cleared: not important (Report 36, 07-08)
12	13533/08	Council Regulation fixing for 2009 and 2010 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks	2.10.08	7.10.08	20.10.08	28.10.08 Ag & Fish Council Political agreement	DEFRA	21.10.08: Sifted to Sub-Committee D 23.10.08: Lord Grenfell to Huw Irranca-davies 26.10.08: Huw Irranca-Davies to Lord Grenfell 5.11.08: Cleared	No override 22.10.08: Cleared: not important (Report 36, 07-08)
13	6615/08	Council Directive concerning the general arrangements for excise duty	19.2.08	21.2.08	1.3.08	4.11.08 Ecofin General approach	HMT	11.3.08: Sifted to Sub-Committee A 4.4.08: Lord Grenfell to Jane Kennedy 30.10.08: Stephen Timms to Lord Grenfell 11.11.08: Lord Grenfell to Stephen Timms 26.1.09: Stephen Timms to Lord Roper 10.2.09: Cleared	12.3.08: politically important and not cleared (Report 17, 07-08) 30.11.08: Stephen Timms to Michael Connarty 5.1.1.08: Cleared (Report 38, 07-08)

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
14	14949/08	Council Decision Granting mutual assistance for Hungary Proposal for a Council Decision Providing EU medium-term financial assistance for Hungary	31.10.08	5.11.08	3.11.08	4.11.08 Ecofin	HMT	3.11.08, 14.11.08 & 12.12.08: Ian Pearson to Lord Grenfell 11.11.08: Sifted to Sub-Committee A 27.11.08: Lord Grenfell to Ian Pearson	3.11.08: Ian Pearson to Michael Connarty 5.11.08: Michael Connarty to Ian Pearson 5.11.08: Cleared: politically important (Report 38, 07-08)
15	Unnumbered EM	Common Position amending and extending Common Position 2007/734/CFSP concerning restrictive measures against Uzbekistan			23.10.08	10.11.08 GAERC	FCO	No override 28.10.08: Sifted to sub-Committee C 30.10.08: Cleared	29.10.08: politically important and not cleared 4.11.08: Caroline Flint to Michael Connarty 4.2.09: Oral evidence from Caroline Flint
16	Unnumbered EM	Common Position amending and extending Common Position 2006/276/CFSP concerning restrictive measures against certain officials of Belarus			28.10.08	10.11.08 GAERC	FCO	No override 4.11.08: Sifted to Sub-Committee C 8.11.08: Cleared	29.10.08: politically important and not cleared 4.11.08: Caroline Flint to Michael Connarty 4.2.09: Oral evidence from Caroline Flint
17	7676/08	Council Regulation amending Regulation (EC) No.423/2004 as regards the recovery of cod stocks and amending Regulation (EEC) No.2847/93	2.4.08	4.4.08	25.4.08	20.11.08 Ag & Fish Council	DEFRA	No override 13.5.08: Sifted to Sub-Committee D 13.11.08: Cleared	10.11.08 & 22.11.08: Huw Irranca-Davies to Michael Connarty 26.11.08: Michael Connarty to Huw Irranca-Davies 26.1.09: Cleared by debate in Standing Committee

Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
18	Unnumbered EM Council Decision on the independent enquiry into the conflict in Georgia			15.12.08	2.12.08 Ecofin	FCO	1.12.08: Caroline Flint to Lord Grenfell 13.1.09: Sifted to Sub-Committee C 15.1.09: Cleared	1.12.08: Caroline Flint to Michael Connarty 14.1.09: Cleared: politically important (Report 3, 08-09)
19	16507/08 Council Regulation amending Regulation (EC) No 1579/2007 fixing the fishing opportunities and the conditions relating thereto for certain fish stocks and groups of fish stocks applicable in the Black Sea for 2008	1.12.08	3.12.08	5.12.08	4.12.08 Environment Council	DEFRA	5.12.08: Huw Irranca-Davies to Lord Roper 16.12.08: Sifted to Sub-Committee D 17.12.08: Cleared	5.12.08: : Huw Irranca-Davies to Michael Connarty 17.12.08:Cleared: not important (Report 2, 08-09)
20	16794/08 Recommendation from the Commission to the Council authorising the Commission to open negotiations on behalf of the Community with a view to concluding a Fisheries Partnership Agreement with the Republic of Guinea	3.12.08	4.12.08	5.12.08	8.12.08 GAERC	DEFRA	5.12.08: Huw Irranca-Davies to Lord Roper 16.12.08: Sifted to Sub-Committee D 17.12.08: Cleared	5.12.08: : Huw Irranca-Davies to Michael Connarty 17.12.08:Cleared: not important (Report 2, 08-09)
21	16028/08 Council regulation fixing for the 2009 fishing year the guide prices and Community producer prices for certain fishery products pursuant to Regulation (EC) No 104/2000	25.11.08	1.12.08	5.12.08	8.12.08 GAERC	DEFRA	05.12.08: Huw Irranca-Davies to Lord Roper 16.12.08: Sifted to Sub-Committee D 17.12.08: Cleared	05.12.08: : Huw Irranca-Davies to Michael Connarty 17.12.08:Cleared: not important (Report 2, 08-09)

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
22	Unnumbered EM	Council Joint Action 2008/851/CFSP on a EU military operation to contribute to the deterrence prevention and repression of acts of piracy and armed robbery off the Somali coast				8.12.08 GAERC	FCO	18.12.08: Caroline Flint to Lord Roper 20.1.09: Sifted to Sub-Committee C 29.1.09: Cleared	18.12.08: Caroline Flint to Michael Connarty 14.1.09: Michael Connarty to Caroline Flint 21.1.09: Cleared: politically important (Report 5, 08-09)
23	15105/1/08	Council Regulation amending Regulation (EC) No 332/2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments	5.11.08	7.11.08	14.11.08	2.12.08 Ecofin	HMT	25.11.08: Sifted to Sub-Committee A 10.12.08: Lord Roper to Ian Pearson 19.12.08: Ian Pearson to Lord Roper	No override 26.11.08: Cleared: politically important to a debate on the response to the financial crisis which was debated on the floor of the House on 20 January 2009 (Report 40, 07-08)
24	11107/08	Council Regulation amending Regulation (EC) No 2015/2006 and (EC) No 40/2008, as regards fishing opportunities and associated conditions for certain fish stocks	24.6.08	1.7.08	7.7.08	18.12.08 Ag & Fish Council	DEFRA	No override 8.7.08: Cleared	10.7.08: Jonathan Shaw to Michael Connarty 16.7.08: Michael Connarty-Jonathan Shaw 16.7.08: Cleared as not important (Report 30, 07-08)

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
25	9342/08	Council Regulation establishing a multi-annual plan for the stock of herring distributed to the West of Scotland and the fisheries exploiting that stock	14.5.08	20.5.08	2.6.08	18.12.08 Ag & Fish Council	DEFRA	<p>No override</p> <p>10.6.08: Sifted to Subcommittee D</p> <p>10.12.08: Oral evidence from Huw Irranca-davies</p> <p>10.12.08: Cleared</p>	<p>10.12.08: politically important and not cleared (Report 1, 08-09)</p> <p>11.1.09: Huw Irranca-Davies to Michael Connarty</p> <p>21.1.08: Michael Connarty to Huw Irranca-Davies</p> <p>21.1.09: Cleared as politically important and relevant to the fisheries debate on 26 January 2009 (Report 5, 08-09)</p>
26	15578/08	Council Regulation fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters, and, for Community vessels, in waters where catch limitations are required	12.11.08	17.11.08	28.11.08 4.12.08 Supp EM	18.12.08 Ag & Fish Council	DEFRA	<p>No override</p> <p>9.12.08: Sifted to Subcommittee D</p> <p>10.12.08: Oral evidence from Huw Irranca-davies</p> <p>10.12.08: Cleared</p>	<p>10.12.08: Recommended for debate (Report 1, 08-09)</p> <p>11.1.09: Huw Irranca-Davies to Michael Connarty</p> <p>21.1.08: Michael Connarty to Huw Irranca-Davies</p> <p>26.1.09: Debated in European Committee</p>

	Doc Ref	Title	Date of Doc	Date of Deposit	Date of EM	Date of over-ride	Lead Dept	Lords: Reports and correspondence	Commons: Reports and correspondence
27	Unnumbered EM	Council Decision concerning the conclusion of the Agreement between the EU and the Somali Republic on the status of the EU led naval force in the Somali Republic in the framework of the EU military operation Atalanta				22.12.08 Written Procedure	FCO	18.12.08: Caroline Flint to Lord Roper 20.1.09: Sifted to Sub-Committee C 29.1.09: Cleared	18.12.08: Caroline Flint to Michael Connarty 14.1.09: Michael Connarty to Caroline Flint 21.1.09: Cleared: politically important (Report 5, 08-09)
28	Unnumbered EM	Council Decision concerning the conclusion of the Agreement between the EU and the Republic of the Djibouti on the status of the EU led forces in the Republic of the Djibouti in the framework of the EU military operation Atalanta				22.12.08 Written Procedure	FCO	18.12.08: Caroline Flint to Lord Roper 20.1.09: Sifted to Sub-Committee C 29.1.09: Cleared	18.12.08: Caroline Flint to Michael Connarty 14.1.09: Michael Connarty to Caroline Flint 21.1.09: Cleared: politically important (Report 5, 08-09)

1. Source: Cabinet Office

Formal Minutes

Wednesday 6 January 2010

Members present:

Michael Connarty, in the Chair

Mr Adrian Bailey
Mr David S. Borrow
Mr William Cash
Jim Dobbin

Mr Greg Hands
Keith Hill
Kelvin Hopkins
Angus Robertson

Draft report on the Work of the Committee 2009

Draft Report (*Work of the Committee 2009*), proposed by the Chairman, brought up and read.

Ordered, that the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 6 read and agreed to.

Paragraph 7 read, amended and agreed to.

Paragraphs 8 to 11 read and agreed to.

Paragraph 12 read, amended and agreed to.

Paragraph 13 read and agreed to.

Paragraphs 14 to 17 read, amended and agreed to.

A paragraph— (*Greg Hands*) – brought up, read the first and second time and inserted.

Paragraphs 18 to 25 (now paragraphs 19 to 26) read and agreed to.

Paragraph 26 (now paragraph 27) read as follows:

“The Government provides us with six-monthly breakdowns of departmental overrides of documents which are still under scrutiny. The period from July to December 2008 saw 23 overrides — a deterioration from the 12 recorded during the corresponding period of the previous year. We are glad to note that this appears to have represented an intermission, rather than a conclusion, to the two years of improvement we had seen up till this point, as the recently provided statistics for January to June 2009 show the number of overrides in single figures. Tables of these overrides, showing the Department responsible and a brief description of the document concerned, can be found in Appendix 1 to this report. The Committee takes breaches of the House’s scrutiny reserve resolution very seriously. We will continue to monitor the incidence of overrides and will invite Ministers to oral evidence sessions to explain the reasons for overrides in those cases where we do not consider that a sufficient justification has been provided.”

Amendment proposed in line 2, to leave out from “scrutiny” to second “to” in line 11 and insert: “The period from July to December 2008 saw 23 overrides — a deterioration from the 12 recorded during the corresponding period of the previous year. We are glad to note that this appears to have represented an intermission, rather than a conclusion, to the two years of improvement we had seen up till this point, as the recently published statistics for January to June 2009 show the number of overrides in single figures. Tables of these overrides, showing the department responsible and a brief description of the document concerned, can be found in the Appendix to this report. We take breaches of the House’s scrutiny reserve resolution very seriously. We will continue to monitor the incidence of overrides and will invite Ministers to oral evidence sessions”. – (*The Chairman.*)

Question put, that the Amendment be made.

The Committee divided:

Ayes, 6

Mr Adrian Bailey
Mr David S. Borrow
Jim Dobbin
Keith Hill
Kelvin Hopkins
Angus Robertson

Noes, 1

Mr Greg Hands

Paragraph, as amended, agreed to.

Paragraphs 27 to 48 (now paragraphs 28 to 49) read and agreed to.

Annexes agreed to.

A Paper was appended to the report as Appendix 1.

Resolved, That the Report, as amended, be the Sixth Report of the Committee to the House.

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

[Adjourned till Wednesday 13 January at 2.30 pm.]