Proposed European Institute for Gender Equality: Supplementary Report

Report with Evidence

Ordered to be printed 7 November 2006 and published 30 November 2006

Published by the Authority of the House of Lords

London : The Stationery Office Limited

HL Paper 271
The European Union Committee

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The telephone number for general enquiries is 020 7219 5791.

The Committee’s email address is euclords@parliament.uk
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NOTE: References in the text of the Report are as follows:
(Q) refers to a question in the oral evidence
(p) refers to a page of written evidence
The Committee’s Report—“Proposed European Institute for Gender Equality”—published in February 2006—set out a number of recommendations for issues the Government should pursue before voting for political agreement to the European Commission’s Proposal for the establishment of such an Institute.

This Supplementary Report records the events before and after the European Employment Council meeting of 1 June 2006, at which the UK voted for the Commission’s Gender Equality Institute Proposal. The Report assesses the questions of principle that arise from the Ministerial decision for this UK vote to be made, despite the fact that the Proposal was still under Parliamentary scrutiny with a number of significant issues still outstanding.

The arrangements for Parliamentary “scrutiny reserve” were agreed by the House of Lords in December 1999. These arrangements provide that no Minister of the Crown should give agreement in a European Council meeting to a proposal for legislation that is still subject to the scrutiny of the House’s European Union Committee.

This Report explains that, at the time the Council vote on the Gender Equality Institute Proposal was taken, the scrutiny issues still outstanding were of a significant nature, and could not properly be regarded as “confidential, routine or trivial”. We conclude, therefore, that the overriding of scrutiny reserve in this case had no justification under the terms of the currently agreed arrangements. The Report recommends that, against the background of this case, the Government should take action to remind Ministers and officials of the current arrangements for Parliamentary scrutiny, and of the importance of these.

The Report goes on to reiterate a number of points relating to the issues which were still outstanding at the time that the scrutiny override occurred. Also set out are a number of recommendations for how the Government should pursue these issues.
CHAPTER 1: INTRODUCTION

1. This Report supplements the Committee’s Report on the Proposed European Institute for Gender Equality\(^1\) which was published on 14 February 2006 and debated in the House on 8 June 2006.

2. It summarises subsequent developments outlined in Ministerial correspondence with the Committee and in oral evidence given by the Minister on 13 July 2006.

3. This constitutes a supplementary Inquiry, carried out by Sub-Committee G, which deals with Social Policy and Consumer Affairs\(^2\) and which conducted the original Inquiry.

4. We make this Report for the Information of the House.

Why are we publishing this Supplementary Report?

5. We are publishing this Report because it deals with serious issues relating to the overriding of Parliamentary scrutiny by the Minister and failure by the Minister to inform the Committee promptly and adequately of the action taken.

6. It also considers issues of continuing concern over the Institute Proposal, some of which were raised in the original Report.

7. We believe that these matters should be drawn to wider Parliamentary and public attention.

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\(^2\) Members of the Sub-Committee and their declared interests are listed at Appendix 1
CHAPTER 2: BACKGROUND

8. Our Report on the European Commission’s Proposal to set up a European Institute for Gender Equality made the following Conclusions and Recommendations:

**BOX 1**

Conclusions and Recommendations of original Gender Institute Report

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<td>We conclude that the case for a separate European Institute for Gender Equality has not been demonstrated and we recommend that further consideration should be given to the alternative of incorporating the gender equality work proposed in the activities of the proposed European Fundamental Rights Agency on which a Report will shortly be made.</td>
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<td>If the Gender Institute is to be set up, we recommend that the proposed management structure should be given further consideration. We believe it is essential to develop an efficient, cost-effective structure that is proportionate to the size of the Institute. We also recommend that the Government should question the practice of automatically awarding seats on the Boards of such institutions to every Member State.</td>
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| We recommend that these arrangements should ensure that the Director of the Institute has adequate authority, within the limits of proper accountability, and that proper structured arrangements should be made to ensure that the advice of appropriate equality organisations and NGOs within Member States will contribute to the planning and activities of the Institute. |

| We recommend that, if the Institute is to be set up, it should have an adequate budget to carry out its tasks properly. |

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<td>We recommend that the Government, together with the Member States and the Commission, should develop an understanding of what “incentive measures” means and what kind of proposals should be adopted on the basis of an “incentive measures” legal base. Given the current divide in opinion within the Council, it seems likely that this will not be an easy task.</td>
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| We recommend that the Government should, in principle, adopt a consistent line in dealing with legal bases. We welcome the Government’s clarification of how they intend to approach legal bases for proposals which create agencies and urge them to ensure that all Departments are aware of the agreed approach. |


10. This Report was linked to a separate Inquiry then being conducted by Sub-Committee E (Law and Institutions) into the European Commission Proposal to establish a European Fundamental Rights Agency. Our Report on that Proposal was published on 4 April 2006\(^4\).

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\(^3\) pp 9-10
11. The Fundamental Rights Agency Report contained the following Conclusions and Recommendations about the European Gender Institute Proposal:

**BOX 2**

**Relevant Conclusions and Recommendations of the Fundamental Rights Agency Report**

The European Institute for Gender Equality

We do not agree that gender rights would be “marginalised” were they to be dealt with by a general fundamental rights agency. It would be somewhat inconsistent to absorb the work of the EU Monitoring Centre for Racism and Xenophobia within the Agency and at the same time seek to establish a separate body to look at gender equality. The Agency could effectively carry out the work envisaged for the Institute (paras 108–109).

We see positive advantages in having a single body to cover human rights and all equality strands. This would strengthen the ability to promote a culture that respects the dignity, human rights and worth of everyone and deliver some economies of scale (para 110).

We do not consider the possible future merging of the Institute and the Agency to be an attractive alternative to the establishment of a single body from the outset. If the Council does proceed to establish two separate agencies, we recommend that the Institute be established in Vienna to maximise cooperation and facilitate merging the two bodies at a later date (paras 111–112).

The Agency and the Institute should cooperate closely with one another on a regular basis. The Institute should make full use of its powers to attend the management board meetings of the Agency as an observer. We would be in favour of a more direct consultation between the Agency and the Institute in the preparation of the Agency’s Annual Work Programme and the Institute’s annual programme of activities and suggest that the Directors of the two bodies could play a role in achieving this (para 113).

12. The Fundamental Rights Agency Report was recommended for debate. The debate on both Reports was fixed for 8 June 2006.
CHAPTER 3: CORRESPONDENCE WITH THE MINISTER LEADING UP TO THE DEBATE ON 8 JUNE 2006

13. In acknowledging the Government’s Response to the European Gender Institute Report, the Chairman of the EU Select Committee, Lord Grenfell, (the Chairman) wrote to the Minister (Ms Meg Munn, MP) pointing out that:

- the Fundamental Rights Agency Report had included Recommendations in favour of incorporating the work proposed for the Institute with that of the Agency; and,
- since the Fundamental Rights Agency Report had been recommended for debate in the House, the Committee regarded the Gender Equality Institute Proposal as still being held under scrutiny until that debate took place.

No reply or acknowledgement was received to that letter.


15. The Government’s Explanatory Memorandum (EM) on this Amended Proposal was sent electronically to the Committee on 19 May 2006. As it reported that the Employment Council was expected to reach political agreement on a Common Position on the Amended Proposal on 1 June 2006, Sub-Committee G considered it as a matter of urgency at their last meeting before the House rose for the Whitsun Recess on 25 May 2006.

16. Following that meeting, the Chairman wrote later the same day to remind the Minister that the Commission’s original Proposal on the Gender Institute remained under scrutiny until the debate on the Reports took place on 8 June. The letter added that the Committee would want to take careful account of everything that was said in that debate, including any further information or statements provided by the Government.

17. The Chairman’s letter also noted that:

- the Commission’s new Amended Proposal continued to favour a separate Gender Institute, contrary to the view taken by the two Inquiry Reports, and that the Government continued to support that position; and that,
- in the circumstances, the Committee was unable to lift the scrutiny reserve on the Amended Proposal, pending the outcome of the debate on 8 June.

18. The letter also drew attention to the Gender Institute Report’s Recommendations that:

- further consideration should be given to the proposed management structure if the Gender Institute were to be set up; and that,
- the practice of automatically awarding seats on Management Boards for such institutions to every Member State should be questioned.

5 p 10
6 Commission document 9195/06 COM (2006) 209 final
7 pp 1-3
8 p 11
19. Against that background, the letter asked the Minister to clarify the Government’s attitude to the Management Board issue because:

- the EM reported that the Commission had accepted a European Parliament proposal for a restricted Management Board composed of 13 members;
- it also stated, however, that (directly contrary to the Committee’s view) the Council supported a larger board with one representative from each Member State; and,
- although the EM did not say so, the Austrian Presidency were understood to be circulating a compromise text for consideration at the Council which proposed that every Member State should have a seat on the Board.

20. The letter also asked the Minister to clarify an unexplained statement in the EM that the Government had concerns about the relative voting weights of the Commission and the Council on the proposed Board. This was a new feature of the Amended Proposal.

21. It also referred to the unresolved question of the legal base, to which the Report had drawn attention and which the Government was still reviewing.

22. The letter concluded that, in the circumstances, the Committee would expect the Government to record at Council that the scrutiny reserve must remain on the amended Proposal for the reasons given and that the Committee would expect the Minister to report on the result of the Council meeting in time for the debate on 8 June.

23. In view of the urgency, advance confirmation of the letter’s contents was sent electronically to the Department immediately after the meeting.

24. Yet on the afternoon of 25 May 2006, shortly before Parliament rose for the Whitsun Recess and without prior warning, a letter was received dated 25 May 2006 from the Minister to the Chairman. This letter noted that it had not been possible to obtain scrutiny clearance before the expected Council vote on 1 June. As any decision on the Proposal would be subject to Qualified Majority Voting, and since many other Member States keenly supported a separate Gender Institute, the Government had judged that it would not be in the UK’s best interests to block a Proposal over which it had little control and no veto.

25. The Minister’s letter argued that, by voting in favour of the Proposal, the UK would be in a stronger position to influence discussions on the budget and structure of the Institute, including the composition and voting mechanism of the Management Board. Consequently, the Government felt it was desirable for the Amended Proposal to be adopted and proposed to vote accordingly.

26. The letter was considered at the Sub-Committee’s first meeting after the Whitsun Recess on the morning of 8 June, only a few hours before the debate. As no report had been received from the Minister on the result of the Council meeting on 1 June, a telephone call was made to a Departmental official who confirmed that:

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9 pp 11-12
• the Council had voted in favour of political agreement on the Amended Proposal; and that,

• despite the Commission’s recommendation for a 13 member Management Board, the Council had voted for a Presidency compromise (the text of which had not been submitted to the Committee) in favour of 1 seat on the Board for every Member State.

27. Following consideration by Sub-Committee G on 8 June 2006, the Chairman wrote immediately to the Minister\textsuperscript{10} expressing the Committee’s surprise and disappointment that, without even waiting for the Committee’s response to the EM on the Amended Proposal, the Government had overridden scrutiny and voted in favour of political agreement at the Council on 1 June.

28. The Chairman’s letter stressed that overriding Parliamentary scrutiny was a very serious matter and that the Committee regarded the Government’s action as deeply unsatisfactory and found the explanation given in the Minister’s letter to be wholly inadequate.

29. The letter also observed that:

• The Government had argued that, by voting in favour of the Proposal, the UK would be in a stronger position to influence more detailed discussions about the Institute than if it had adopted a negative stance;

• But that argument had apparently been completely undermined since, according to Government officials, the Government had also decided to vote in favour of a 25 member Management Board, even though that possibility had not been mentioned in the Minister’s letter.

30. In that context, the letter reminded the Minister of the Committee’s strong reservations about the proposed management structure and the practice of automatically awarding seats on the boards of EU agencies to every Member State. It commented that:

“this would have been an ideal opportunity for the Government to take a stand on that practice, instead of which you would appear to have drifted with the tide on the only real issue of remaining significance, apart from the budget and the location of the Institute”.

31. The letter added that these matters should be expected to be raised during the debate that afternoon and noted that the Committee reserved the right to call upon the Minister to appear before the Sub-Committee to give a more satisfactory explanation\textsuperscript{11}. In view of the imminence of the debate, an advance copy of this letter was sent electronically to Departmental officials.

\textsuperscript{10} p 12

\textsuperscript{11} p 12
CHAPTER 4: THE DEBATE ON 8 JUNE 2006 AND SUBSEQUENT CORRESPONDENCE WITH THE MINISTER

The Debate

32. During the debate on 8 June the Government was represented by the Parliamentary Under-Secretary of State at the Department for Constitutional Affairs (Baroness Ashton of Upholland).

33. Baroness Ashton did not refer to the overriding of scrutiny. But she accepted the need to think carefully about the structure of Management Boards, given the increase in the number of EU Member States. She promised to write to the Chairman of Sub-Committee G on “how much further the UK Government can go in pushing to see how we can best work towards moving from 25 or 27 Member States being represented on everything to a more sensible approach”\[^{12}\].

34. While reiterating the Government’s support for the Institute, Baroness Ashton emphasised the need for it to be effective and efficient and avoid duplication. But she added that UK Government policy had moved towards a unified approach in the Commission for Equality and Human Rights and that the Government had also argued for close collaboration and cooperation between the Gender Institute and the Fundamental Rights Agency.

Further Correspondence with the Minister

35. The Minister finally wrote on 19 June 2006 in reply to the Chairman’s letters dated 25 May and 8 June\[^{13}\]. Her letter confirmed that political agreement had been reached, by unanimity, at the Council on 1 June for a draft Regulation to establish the Institute. She added that, although the Commission had favoured a smaller Management Board, the majority of the Council had wanted one representative for each Member State. As the Presidency had been unable to reconcile the division of opinion between the Council and the Commission, the Council had voted in favour of the original text which proposed a larger Board.

36. The letter confirmed that the original text had therefore been adopted as a Common Position and sent to the European Parliament with a view to a Second Reading, although the Commission had made a Declaration to the Minutes that they preferred a smaller Board.

37. The Minister commented: “how unfortunate that (sic) was not possible to obtain scrutiny clearance from your Committee ahead of the June Council and the need for the UK to proceed (sic) this document and override your scrutiny reserve. Although this is not the way we had hoped to proceed, under the circumstances it was judged to be the best way forward for the UK.”

38. The letter added that the Government considered it was important “for the UK to set itself in a good negotiating position” for the next round of negotiations when the voting structure of the Management Board would be discussed.

\[^{12}\] Lords Hansard, 8 June 2006, Col 1493
\[^{13}\] p 13
39. The letter acknowledged the Committee’s concerns over the size of the Management Board. But, since other Member States were not prepared to abandon their strong preference for one representative for each Member State, the Government had felt it necessary to defer to that preference to secure political unanimity. But the Minister added “once the Institute is up and running, there is potentially scope for the position to be reviewed as some Member States may no longer feel the need for all 25 Member States to be on the Board”.

40. The Minister also explained that the Government had not supported the Amended Proposal’s proposition that the Commission should have equal voting rights on the Board with those of Council representatives “which, given that the Council is rarely able to speak with one voice, would effectively give the Commission overall voting control”. The Government adhered to the principle of “one person one vote”, as was the precedent with other agencies. This issue was of wider significance than the European Gender Institute and would be discussed further during the Second Reading stage expected to take place in some six to nine months.

41. The Minister added that the Government was still currently reviewing the legal base issue in the light of a ruling by the European Court of Justice in the European Network and Information Security Agency (ENISA) case.

42. The letter concluded by expressing “how unfortunate it was that we unavoidably had to override your scrutiny reserve in this instance” and assured the Committee that the decision had not been taken lightly.

43. The Chairman replied to the Minister on 23 June 2006 saying that her letter raised important procedural and policy issues with which the Committee wished to discuss with her and invited her to appear before the Sub-Committee before the House rose for the Summer Recess.
CHAPTER 5: ORAL EVIDENCE SESSION, 13 JULY 2006 AND SUBSEQUENT CORRESPONDENCE

44. The Minister and a senior official of the Women and Equality Unit of the Department for Communities and Local Government gave oral evidence to a meeting of Sub-Committee G on 13 July.¹⁵

Scrubtny override

45. In opening the session Baroness Thomas of Walliswood, the Chairman of Sub-Committee G, emphasized that Parliamentary scrutiny should be taken seriously. She pointed out that, in similar cases, other Ministers had abstained from voting at Council where a Proposal was still held under scrutiny. It was put to the Minister that abstention was a neutral action and that the Committee could not understand why British interests might have been better served by voting for the Proposal.¹⁶

46. The Minister did not see fit to apologise for the scrutiny override. She explained that the Government had already abstained on a Council vote on the Proposal in June 2005 because scrutiny had not been cleared. Having pressed for the Proposal during the UK Presidency of the EU, the Government did not consider it would have been in the UK's best interests to abstain again. To have done so might have been interpreted as being less than fully supportive of the Proposal and related gender issues. It might also have weakened the UK’s negotiating position in subsequent discussion of the Proposal where such issues as the voting structure of the Management Board remained to be resolved. The Government also felt that a unanimous Council vote would “strengthen the negotiating position with the European Parliament”.¹⁷

47. Baroness Thomas pointed out that the Government had failed to report back on the outcome of the Council meeting until 19 June. The Minister replied that the Government had made the Committee aware of what they planned to do at the Council and that correspondence between her and Lord Grenfell had crossed. But she appreciated that the Committee would have preferred to have known more quickly what had happened at the Council.¹⁸

Management Structure

48. The Minister was asked why, having claimed that by voting for the Institute the Government would gain greater leverage, she had then immediately voted in favour of a 25 Member Board of Management, contrary to the expressed views of the Committee and to amendments proposed by the European Commission and the European Parliament for a smaller Board.

49. The Minister replied that, while the Government acknowledged that a smaller Board should operate more efficiently, the majority of Member States had wanted one Board representative for each Member State. This was seen as a way of involving all Member States and encouraging the sharing of good practice between them. It was consistent with existing precedents for other

¹⁵ pp 4-8
¹⁶ Q 1, Q 2
¹⁷ Q 1, Q 2
¹⁸ Q 4, Q 7
agencies, where Boards consisted of one representative for each Member State. But in time she hoped that Member States might not feel the need for all of them to be represented on the Management Board.\footnote{Q 8}

50. It was put to the Minister that the time had come for the Government to take a lead in challenging the tradition that each Member State should have a seat on the Boards of every EU agency. It was suggested that other ways could be found to ensure that all Member States were informed and engaged and that smaller Member States might have problems in fielding adequate representation at every agency Board meeting. The Minister agreed to discuss the broader policy issue with her colleagues. She added that the Government would not automatically support each Member State having a seat on the Board of an EU agency, but would consider each case on its merits.\footnote{Q 9}

\textit{Management Board Voting Structure}

51. Asked about the voting structure of the Management Board, the Minister explained that the Commission’s Amended Proposal was that the Commission representative on the Management Board should have a voting weight equivalent to that of the 9 Council representatives. This was contrary to the original Proposal. The Government had not been able to outline their concerns about this until the EM of 10 May, but it had been mentioned in subsequent correspondence with the Committee. All Member States had agreed that the amended Proposal was not acceptable in this respect. The Government would work with fellow Member States to uphold the precedent that each member of the Management Board should only have one vote.\footnote{Q 10-13}

\textit{The Institute Budget}

52. The Minister was reminded of the Committee’s concern over the proposal that the Institute would be budget neutral. That might mean either that it had insufficient funding or alternatively that the funding would be an adverse opportunity cost on other programmes. The Minister replied that the proposed budget remained at €52.5 million at 2004 constant prices for the period 2007–2013. The Committee would be informed if it changed.\footnote{Q 14}

\textit{Collaboration with the Fundamental Rights Agency}

53. The Minister was asked how the Government would ensure that the Institute worked effectively in collaboration with the Fundamental Rights Agency. She replied that the Government had always believed that the two bodies should work closely together, sharing best practice and coordinating as appropriate with all relevant agencies so as to avoid duplication. The Government would press for strong coordination between two bodies. Once the Fundamental Rights Agency had been set up, the Directors of the two agencies should attend one another’s Board meetings.\footnote{Q 15} The Minister accepted the potential value of co-locating the two bodies.\footnote{QQ 16-18}
Legal Base

54. The Minister confirmed that the Government had issued a Minute Statement at the Council objecting to the proposed legal base. The consequences of the European Court of Justice ruling on the ENISA case were still being revised.

Subsequent Correspondence

55. When the Minister for Europe (the Rt. Hon Geoff Hoon, MP) gave oral evidence to the Select Committee on 13 July 2006 on the outcome of the June European Council a question was tabled drawing his attention to the Committee’s exchanges with the Deputy Minister for Women and Equality over the size of the Management Board. He was asked whether the convention that every Member State had an automatic right to a seat on the Board of every EU agency should be challenged. It was pointed out that some EU agencies, such as CEDEFOP\(^{25}\), had even more elaborate arrangements.

56. The question was not reached at the oral evidence session, but Mr Hoon Minister wrote subsequently to the Chairman\(^{26}\) that there was no convention for each Member State to have a seat on the Board of every EU agency. The Government’s policy was that each case should be decided on its merits.

\(^{25}\) CEDEFOP is the French acronym for the European Centre for the Development of Vocational Training based at the Thessaloniki in Greece It has a Management Board of 78: three representatives for the “social partners” of each Member State, plus three for the Commission.

\(^{26}\) pp 14-17
CHAPTER 6: CONCLUSIONS AND RECOMMENDATIONS

The Scrutiny Reserve

57. The terms of the scrutiny reserve for European Union legislation are set out in a Resolution agreed to by the House on 6 December 1999. The full text is reproduced at Appendix 2.

58. The Resolution stipulates that no Minister of the Crown should give agreement in Council to any Proposal for European Community legislation which is still subject to scrutiny or still awaiting debate in the House, except where the Minister considers that it is confidential, routine or trivial or substantially the same as a Proposal where scrutiny has been completed.

59. If the Minister decides that for special reasons agreement should be given, the Resolution states that the Minister should explain the reasons to the European Union Committee at the first opportunity.

60. We have consistently stated and firmly believe that the Parliamentary scrutiny of proposed European Union legislation is a vital part of the constitutional process which must be upheld and respected by Government and Parliament alike. We have repeatedly expressed our views on this to the Minister in correspondence and at the oral evidence session. We have made clear that we saw no good reason for the Government to override the scrutiny reserve to vote in favour of this Proposal.

61. At the time of the Council meeting on 1 June the Minister was fully aware that the Commission’s original Proposal was still held under scrutiny pending the outcome of the debate in the House on 8 June. She was also aware that the Commission’s Amended Proposal had only been submitted for consideration (under an EM dated simply May 2006) shortly before the meeting of Sub-Committee G on 25 May and had not been cleared by the Committee.

62. Although the main issues in the Amended Proposal were similar to those that were to be considered by the debate on 8 June, the proposal on the voting weights for the Management Board was new and was not fully explained in the Government’s EM.

63. Nor was it clear at that stage whether the Government supported the Commission Proposal for a smaller Management Board or the Council majority’s preference for one representative for each Member State.

64. It should have been obvious to the Minister and her officials that her letter dated 25 May would arrive too late to be considered by Sub-Committee G that day. Since the House did not return from the Whitsun Recess until 5 June, it should have been equally obvious that it would not be considered in time for the Council meeting on 1 June. Moreover, that letter was sent without waiting for the Committee’s response to the EM on the Amended Proposal.

65. We are also disappointed that the Minister failed to inform the Committee of the results of the Council until her letter dated 19 June. It should not have

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27 Lords Hansard 6 December 1999, col.1019-1020
been left to our officials to find out from Departmental officials when Parliament resumed after the Whitsun Recess what had happened.

66. By now the Minister should be well aware of our views on the overriding of scrutiny and on the standards of courtesy and efficiency which the Committee should be entitled to expect. But we see a more general need for Ministers and officials to be reminded of the importance of Parliamentary scrutiny and the need to respect the scrutiny reserve.

67. **We recommend that the Government should take action to remind all Ministers and officials of the constitutional importance of Parliamentary scrutiny of EU legislation.** It should be made clear that overriding the scrutiny reserve is a serious matter which should only be contemplated in exceptional circumstances. Ministers should understand that if they choose to override scrutiny they will be held to account by the Committee which will expect a full explanation to be made without delay in writing or, where appropriate, in a debate on the floor of the House.

The Substance of the Proposal

68. On the substance of the Proposal, we regret that the Government failed to use the leverage which it claimed to have gained through voting for the overall Proposal by voting, almost immediately afterwards, for one seat for each Member State on the Management Board of the Institute, contrary to the expressed views of the Committee and to proposals by the European Commission and the European Parliament for a smaller Board.

69. **Not for the first time** we strongly recommend that the Government should actively question the practice of awarding one seat on the Management Board of each EU agency to every Member State (let alone the practice of awarding seats to each of the three “social partners” of every Member State, as in the case of CEDEFOP) and that the Government should call for urgent consideration of possible alternative structures proportional to the size of the agency concerned and aimed at securing more efficient management.

Voting structure

70. We regret that the Commission’s Amended Proposal, apparently implying that the Commission might have disproportionate voting weight on the Management Board in comparison with that of Member States, was not adequately explained in the Department’s EM and was submitted for with inadequate time for consideration by the Committee before it was due to be discussed by the Council on 1 June.

71. **We recommend that the implications of the Commission’s Proposal implying undue voting weight for the Commission on the Management Board should be strongly resisted by the Government.**

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30 See footnote 21
We further recommend that the Government should urgently examine whether precedents exist for such an arrangement in the Management Boards of other EU agencies. If they do not, the Commission should be required to justify why they propose to deviate from the practice of equal voting weights for all Board members in this case.

Links with the Fundamental Rights Agency

Despite our continuing doubts about the desirability of having a separate Gender Institute as well as the proposed Fundamental Rights Agency, we are bound to accept that the setting up of the Gender Institute is now a fait accompli. Nevertheless, we continue to believe that the two agencies should work in close cooperation and ideally be co-located.

If the proposed European Fundamental Rights Agency is set up, we recommend that the Government should ensure that the European Gender Institute will work with it in the closest possible collaboration and should press for the two agencies to be co-located.

We further recommend that the Government should keep the possibility of the eventual merger of the two agencies under active review.

We also reiterate the Recommendations in our original Report on the Proposed Institute for European Gender Equality.  

31 24th Report of Session 2005–06
APPENDIX 1: SUB-COMMITTEE G (SOCIAL POLICY AND CONSUMER AFFAIRS)

The Members of the Sub-Committee which conducted this Inquiry were:

- Lord Colwyn
- Earl of Dundee
- Baroness Gale
- Baroness Greengross
- Lord Harrison
- Baroness Howarth of Breckland
- Baroness Morgan of Huyton
- Lord Moser
- Baroness Neuberger
- Baroness Thomas of Walliswood (Chairman)
- Lord Trefgarne

Declarations of Interest

A full list of Members’ interests can be found in the Register of Lords Interests:

http://www.publications.parliament.uk/pa/ld/ldreg.htm
20. European Union Proposals: Scrutiny Reserve—It was moved by the Baroness Jay of Paddington to resolve that:

(1) No Minister of the Crown should give agreement in the 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 Union Committee has not completed its scrutiny); and

(b) on which the European Union Committee has made a report to the House for debate, but on which the debate has not yet taken place.

(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 establishing the European Community (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 establishing the European Community (co-operation), agreement to a common position.

(3) The Minister concerned may, however, give agreement to a proposal which is still subject to scrutiny or which is awaiting debate in the House—

(a) 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) if the European Union Committee has indicated that agreement need not be withheld pending completion of scrutiny or the holding of the debate.

(4) The Minister concerned may also give agreement to a proposal which is still subject to scrutiny or awaiting debate in 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 Union Committee at the first opportunity after reaching his decision; and

(b) in the case of a proposal awaiting debate in the House, to the House at the opening of the debate on the Committee’s Report.

(5) In relation to any proposal which requires adoption by unanimity, abstention shall, for the purposes of paragraph (4), be treated as giving agreement; the motion was agreed to.
APPENDIX 3: RECENT REPORTS

Recent Reports from the Select Committee

Session 2005–06


Ensuring Effective Regulation in the EU (9th Report, Session 2005–06, HL Paper 33)

Evidence from the Minister for Europe—the European Council and the UK Presidency (10th Report, Session 2005–06, HL Paper 34)

Reports prepared by Sub-Committee G (Social Policy and Consumer Affairs)

Session 2005–06


Minutes of Evidence

TAKEN BEFORE THE SELECT COMMITTEE ON THE EUROPEAN UNION
(SUB-COMMITTEE G)

THURSDAY 13 JULY 2006

Present
Colwyn, L
Dundee, E
Gale, B
Greengross, B
Harrison, L

Morgan of Huyton, B
Neuberger, B
Thomas of Walliswood, B (Chairman)
Trefgarne, L

9195/06  Com (2006) 209 Final Soc 225 Code 463

Amended proposal for a Regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality

Submitted by the Department for Communities and Local Government
May 2006

SUBJECT MATTER

1. This Explanatory Memorandum (EM) is in response to the Commission’s amended Proposal for a regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality and Commission Staff working document. The amended proposal contains minor amendments that do not result in any overall change to the aim and role of the Institute.

2. The overall objective of the Institute continues to be to assist in the fight against discrimination based on sex and the promotion of gender equality and to raise the profile of such issues among EU citizens.

3. The specific tasks set out in the amended proposal to meet these objectives broadly remain the same as those outlined in EM 7244/05. Minor amendments were made to strengthen/clarify the tasks, such as the dissemination of example of “best practice”, as well as the following:
   — disseminate and promote the use of methodological tools;
   — methodological tools to support not only Community policies but also the resulting national policies; and
   — support gender mainstreaming in all Community institutions and bodies.

The amended proposal also contains an additional task, that the Institute should draw attention to sectors where more research is needed and suggest initiatives for filling the gaps.

4. The areas of activity and working methods also remain broadly the same in the amended proposal. There is an emphasis on the focus of ensuring the best possible use of resources to avoid duplication and the working methods therefore include specific mechanisms to deal with this. The Commission has highlighted the need for an instrument at Community level (ie making comparable and reliable data available at Community level).

5. The amended proposal points out that the Institute must be operational as soon as possible within the stipulated twelve-month period.

6. The most significant changes in the amended proposal relate to the composition of the Management Board.

7. In the Commission’s amended proposal they have accepted the European Parliament’s option for a restricted Management Board but without Council/Commission parity, composed of 13 members. This will be made up of nine representatives of the Council, one representative of the Commission, and three stakeholder representatives without voting rights. The balance between the two institutions, Council and Commission, must be preserved in cases where the Commission assumes responsibility (in particular, when the work programme and the budget are adopted).
8. To ensure the necessary geographical balance between the Member States, the representatives of the Council shall be appointed for each rotating term of office in accordance with the order of the Presidencies of the Council. In their amended proposal, the Commission proposes that the term of office of the members of the Management Board be reduced from five to three years so that the rotation of the Member States representatives can take place within a reasonable period of time. The term of office will be three years and is non-renewable.

9. In terms of the Management Board tenure, the Commission have proposed a period of two and a half years instead of one for the tenure of the Chairperson and Vice-Chairperson.

10. The amended proposal limits the Forum participants to Member State representatives only, thus removing the three representatives of NGOs and the social partners at European level, since they are members of the Management Board without voting rights. A further amendment indicates that the Forum should additionally support the Director in preparing the Institute’s annual and medium-term programmes of activities. It is considered important to strengthen the role of the Advisory Forum, which is composed of representatives of all the Member States.

SCRUTINY HISTORY

11. DTI submitted EM 7244/05 on 31 March 2005. ESC considered it politically important and not cleared (Report 12, Session 05/06) and then cleared by Report on 10 May 2006. EUC sifted it to Sub-Committee G (Progress of Scrutiny 13 February 2006, Session 05/06). The Deputy Minister for Women and Equality, Meg Munn, attended an oral evidence session to give her views. EUC have attached EM 7244/05 to a wider short inquiry and debate on The Fundamental Rights Agency Report and have not cleared it.

MINISTERIAL RESPONSIBILITY

12. The Deputy Minister for Women and Equality has the main responsibility for policy questions arising from this document together with the Secretary of State for Communities and Local Government, Minister for Women and Equality. The Minister for the Cabinet Office and Secretary of State for Foreign and Commonwealth Affairs also have an interest. Although equal opportunities is a reserved matter, Secretaries of the National Assembly for Wales and Scottish Executive Ministers will also have an interest as the Scottish Parliament is empowered to promote equal opportunities and Scottish Ministers are empowered to impose duties on devolved public bodies. The First Minister and Deputy First Minister for Northern Ireland also have an interest, as equal opportunities is a transferred matter in Northern Ireland.

LEGAL AND PROCEDURAL ISSUES

Legal basis

13. The legal base proposed is a combination of Articles 13(2) EC and 141(3) of the EC Treaty. Article 13(2) EC permits the adoption of Community incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objective of combating discrimination based on sex. Article 141(3) permits the adoption of measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

Further time is needed to consider whether the scope of these two Articles is appropriate and sufficient to cover the proposed objectives of the Institute. In the first Council Working Group meeting of 15 March 2005, the UK placed a scrutiny reserve on the legal base to enable further investigations to be undertaken.

Legislative Parliament procedure

14. Both Articles above fall under the co-decision procedure.

Voting procedure

15. This proposal is under the Qualified Majority Vote procedure.
Impact on United Kingdom Law

16. There is no anticipated impact under UK law.

Application to the European Economic Area and Gibraltar

17. The report covers the EU and applicant countries.

Subsidiarity

18. The report is published in accordance with the principle of subsidiarity.

Policy Implications

19. As the proposal stands, there are no major policy implications for Member States with the Commission’s amended proposal except for disagreement over the membership of the Management Board. The Council supports a large board with one representative per Member State whilst the Commission sides with the European Parliament in favour of a small board. The UK supports the principle of setting up a European Gender Institute, as it would raise the profile of gender equality across Europe and provide a more coherent approach to gathering research and information at EU level.

20. At the Employment Social Policy, Health and Consumer Affairs Council of Ministers on 1–2 June 2004 Ministers were supportive of the creation of such a body, but stressed the importance of a structure, which would bring added-value and would not duplicate existing activities, as well as it being budget neutral. The UK supports this view.

21. In order for the Institute to avoid duplicating the data collection of other agencies it will be necessary that there is close coordination between such organisations (eg with the Fundamental Human Rights Agency, once it has been set up).

22. The UK is keen to minimise any additional burdens the Institute may impose on Member States’ administrations and equality bodies, especially financial burdens.

23. In relation to the structure of the Management Board, the UK has some concerns about the relative voting weights attributed to the Commission and Council.

Regulatory Impact Assessment

24. As the proposal is currently drafted, a Regulatory Impact Assessment is not required as the Institute will not lead to legislation nor will it result in cost burdens on businesses.

Financial Implications

25. The annual budget remains unchanged and are the same as in the original CION proposal.

Consultation

26. See section 12 on Ministerial Responsibility.

Timetable

Examination of Witnesses

Witnesses: Meg Munn, a Member of the House of Commons, Deputy Minister for Women and Equality, Department for Communities and Local Government, and Mrs Cathleen Phillips, Assistant Director, Women and Equality Unit, Department for Communities and Local Government, examined.

Q1 Chairman: Let me welcome you again to our Sub-Committee, and also Mrs Phillips. We are grateful to you for sparing the time to come and have a quick chat. There are a couple of matters we want to clear the air on, some general matters and some more precise matters concerned with the Gender Institute. You will remember that the session is open to the public and will be recorded for possible transmission or webcasting. There will be a verbatim transcript taken of the evidence, and this will be published on the Parliamentary website. You do have a chance to look at that in case you feel that what has been recorded does not quite get the flavour of what you wanted to say. If that is the case and you want to make any changes, please could you do that as soon as possible. If there are any subjects left where either us or you feel that there is something more that you need to do or you want to say, you can write to us after this session. We would be very happy to receive a letter from you under those circumstances. I think you have had a note of Members’ interests, and I think you probably recognise the people sitting around the table. The first matter, which is really a constitutional question in terms of the relationship between the Scrutiny Committee and the European Union, which is a matter of concern to us, is that although we had not lifted scrutiny in the June Council you actually voted in favour of the proposals. That meant, in effect, that suggestions made by the Commission, by the European Parliament and by ourselves, did not receive any support from HMG, not only that but you voted in the other way. It is usual for Ministers in Council, when one of the Select Committees or its Sub-Committees have not released scrutiny, to abstain from voting. In fact, some of your colleagues, Shaun Woodward and Bill Rammell did so at a period not very long separated from your own vote in June. I wonder if you would like to tell us a bit about that so we can understand why that happened. I do this because it is not just this Committee but the Select Committee itself which regards its role as a scrutiny organisation very seriously indeed. Right across the European Union the parliaments of the Member States are trying to take this responsibility very seriously. When a Minister, in our case, does not respect the traditions that have grown up of abstention, then it is something which causes us concern. I leave it open to you to tell us about it from your point of view.

Meg Munn: Firstly, it is important to say this is an issue which is obviously not done lightly, and it is important that Government does take scrutiny seriously. It is important that Parliament does have the opportunity to scrutinise and to make their views known. I want to be clear on that at the outset. If I can look at what the options were for us in relation to this, because, as you are aware, this is an issue that has been ongoing for some considerable time. It predates by own appointment as a Minister in May of last year, and therefore this has been going on for some time. We could have upheld the scrutiny reserve, which is the question that you are putting to me. That would have meant either voting against the proposal or, as you have outlined, abstaining. If we had voted against the proposal, that could have blocked the proposal and, therefore, given that the UK drove the Gender Institute proposal during our presidency, it would have been difficult for us to vote against that and potentially damaging for the UK’s reputation on gender equality. It could have been seen by other Member States as a signal that we were less inclined to promote and further gender equality on a European level. Abstention, which is the issue you have put to me, would have had similar consequences. We were also particularly concerned that we would have been risking the negotiating power during the next stages of the discussion, and given, as the Committee is well aware, there are still unresolved issues which are important to the UK, voting structure within the Management Board and the possible risk of setting an unwanted precedent, this would, in my view, not have been a desirable option and, therefore, not considered in the UK’s best interests. Overriding the scrutiny reserve, which was the option which we took and voting in favour, put the UK in a stronger negotiating position for the next round of discussions. It is important, as I said, because we have strong views on voting structure and we want to be in a good position; the logic being that if the UK is deemed a constructive voice rather than adopting a negative position on principle, we would have more influence on the details outlined, the details that were to be considered subsequently. We also felt that a united Council would strengthen the negotiating position with the European Parliament, again helping to influence later discussions. We know that in terms of the timing, and it was on the agenda for political agreement at the June Council, it was not ideal, but in considering the options we took the judgment that overriding scrutiny was the best form of action and in the UK’s best interests.

Chairman: We are all interested in what you have just said, but I am a little puzzled by the idea of the gaining of the benefit. I think we have given away several of the items where we were concerned already, because they are already in the structure of the proposal, and I am not sure what benefit you think
we are going to get from further consideration because we have not put up a marker by abstaining when we were able to do. I do not think anybody would have wished you to vote against it but, as I say, the use of an abstention is simply to say, and you can say this because scrutiny has not been withdrawn, that is what is done. That could not have been regarded as an anti-voice; it is a neutral action.

Q2 Baroness Neuberger: I was rather puzzled by you saying that an abstention would have been seen as negative. I think the tradition, and certainly from other experiences we have on this Sub-Committee where some of your colleagues have abstained for precisely this reason, is that it is neither seen as a positive nor a negative; it is simply seen as neutral. It is an abstention because scrutiny has not been cleared. What I do not understand, and we would be grateful if you could explain it a bit more, is why you think the UK’s interests would be better served by an abstention because scrutiny has not been cleared. What I do not understand, and we would be grateful if you could explain it a bit more, is why you think the UK’s interests would be better served by not saying that we were waiting for scrutiny to be cleared in order to say that there was, in the end, serious backing for the proposal.

Meg Munn: I think two reasons: firstly, in the June Council last year we did abstain, so this would have been two years running. It has been a long period of time, and in that context a second abstention would be viewed differently from a first abstention a year on where we had not been able to progress that. I think the other issue that does play into this is the fact that we did have the Presidency of the EU, we were driving this issue forward, and in the context of that, still a year on to be in the situation of having the scrutiny reserve in place and therefore to be possibly interpreted as being less than full-hearted behind it, we did not consider this was in the UK’s best interests. That sits alongside our view that if we were seen less than full-hearted in support of issues around gender—and I fully acknowledge the concerns that the Committee has had and which have been shared, to an extent, by Government about the particular benefits in having a separate Gender Institute from something else other than the Fundamental Rights Agency, for example—we did not really want to be in that position. We are concerned about the voting structures and we want to be in a strong position to be a full voice taking that issue forward and arguing for the continuation of the importance of Member States and their views in this matter.

Q3 Lord Colwyn: Was your decision to vote the way you did something that you made on the spur of the moment, or was it decided by your advisers that this was something you were going to do? Do you know that in advance?

Meg Munn: It is important to look at the process of issues, and it seems complex because it has been going on for some time. There has been a considerable amount of correspondence between myself and Lord Grenfell on this. In May there was a new proposal in terms of the voting structure which gave us greater concerns and, therefore, we felt it was more important that the Council was unified. It was not on the spur of the moment, it was as changes were added in the proposals that went forward it really meant we felt we had come to the point where our position needed to move on as well.

Q4 Chairman: We will come back to some of the governance issues in a moment but I want to make one other point about what happened in the aftermath of the Council. We were left, in effect, in the dark as to what had happened at that Council meeting. We had no official communication from your Department until a letter which was dated, if I remember correctly, 19 June, which is more than two weeks after the Council meeting; in fact, there had been some informal contacts between the departments and we got the drift of it through those. When these things happen, it is desirable that the Committee is informed as soon as possible of what the situation is. The letter itself tries to explain in an understanding way why it is that a Minister has done what he or she has done, and what the causes and effects of that action are going to be. We were not very happy with the tone of the letter, and we were certainly not at all happy with the fact that it took more than two weeks before a letter was even written let alone received by this Committee.

Meg Munn: I know at one point there were letters that crossed.

Q5 Chairman: That was in May.

Meg Munn: An Explanatory Memorandum was submitted on the 19 May ahead of the Committee, and I wrote to Lord Grenfell on the 25 May, again ahead of the Committee.

Q6 Chairman: I am talking about what happened after the Council meeting in June.

Meg Munn: In terms of what the Government was proposing to do.

Q7 Chairman: Just an ordinary letter but written to Lord Grenfell saying that the Council had taken place on such-and-such a day and a decision had been taken to vote with the proposals, despite the fact that that was overriding scrutiny and whatever the results it might be of that. It is normal for a Committee to receive that letter pretty soon after a Council meeting. As I say, that particular letter was not written until the 19 June, the Council having taken place on the 1 June. We were a little bit concerned by that, and also a bit concerned about the tone of the letter itself, but I do not want to go into that as that is too detailed. I am concerned that having overridden
scrutiny and acted in the way you did the Committee was not informed promptly about what had happened.

**Meg Munn:** What I was trying to explain, and perhaps I did not do that very well, was that we alerted the Committee that that is what we were going to do ahead of the Council meeting taking place. Subsequently in terms of responding, we were, as I understand it, and I can clarify this because I do not have all the information in front of me about the timing of that, waiting for the meeting minutes. There was a crossing of correspondence between Lord Grenfell and myself and we wanted to respond to all the points. I accept what you are saying. We will take that on board in future. Having provided the information ahead of the Council, we took the view that we had provided information that the Committee needed to know in terms of what we intended to do. I take your point that you would have preferred it more quickly that that is actually what had happened, that we had gone ahead with the proposals that we had set out in my letter of 25 May.

**Q8 Chairman:** We have gone as far as we can down that road. I will now turn to the list of questions of which you have probably had a copy. The letter you did send us was to the effect that the UK, by going along with the other Member States and voting for the proposal, could gain greater leverage in further discussions about the Institute. Then it seems that, in fact, we have now already yielded the 25 member Management Board, which was something we felt was quite disproportionate in an Institute which was going to have such a small budget and such a relatively small number of people working for it even when it was working at full strength. The Commission’s amended proposal, the European Parliament’s amendments, and this Committee, all agreed on that matter, so it seems rather a pity that we were not able to get something and capitalise on your support to make the management of the new body more effective or proportionate in relation to its size.

**Meg Munn:** I know this was an issue we discussed when I came before your Committee last year, and it has been discussed at depth during the negotiation of the issue on the management board. Whilst I acknowledge that a smaller board should operate more efficiently, one of the issues was that there was a preference among Member States for a larger board. It is positive that a majority of the Member States are in favour of the European Gender Institute in terms of taking on board the issues in relation to promoting gender equality, and they are, therefore, very keen to take an active role in the Institute. Having on the Management Board one representative per Member State is seen as a way for Member States to be involved and for all Member States to be able to engage in what is going on. During early negotiations the Council felt that if one of the main objectives of the Institute was to share good practice, it would be more effective if all Member States were able to be present, and it is particularly important given that each Member State has made progress at different rates in relation to the issues of equality and, therefore, has different perspectives to share. Indeed, it may be possible that once up and running for a period of time Member States may not feel the need for all Member States to be represented on the board, therefore I think there may well be potential in the future for the scope to be reviewed. The structure of the Management Board is also consistent with existing precedents for other agencies which consist of one representative per Member State. Although the European Commission was strongly in favour of a smaller board, and this was reflected in their proposal, the Presidency were unable to bridge the divide between the Commission and the Council and, as such, they reverted back to the general approach text which favoured a larger board, which is what was agreed in June of last year.

**Q9 Lord Harrison:** Although this may not fall under your immediate purview, it is a more general question which perhaps the Government needs to think about much more imaginatively with its European colleagues. There is this vexed question that we now have 25 Member States, soon to be 27, and perhaps we expand even beyond that, and every time an agency is set up everyone wants to be represented on these management boards. We understand that, but maybe there are other ways we can make sure people get equal and fair shares, perhaps by having smaller management boards for different agencies so it still works out fairly equally, perhaps added to that a system where some of the larger Member States, as is the case now on occasion, help out smaller Member States. For example, we have historic ties with Malta. The smaller States are increasingly going to find it difficult to accomplish what is asked of them by attendance at every single agency and management board. The net result would be to have much more efficient management boards which do the job whilst having concern for everyone. I know that is not your immediate Ministerial responsibility but the Committee would be very grateful if you could think about that and perhaps have further discussions with your colleagues and Ministers. I do say this is an area which, in time, would be of enormous benefit to the workings of the European Union if we could get it right, not just for the European Union but for the individual Member States. All we are asking is if you would take that away with you, think hard about it and perhaps push it further up the line.
Meg Munn: I am sure you are right and that is something I am very happy to do. The Government’s position at the moment is not to always go for 25 Member management boards but to look at each case on its own merits in each case of each institution. As you rightly recognise, as the enlarged European Union becomes more mature and countries get used to working with each other, there may be other ways this can be taken forward. I am happy to pass that on. Clearly at the moment our position is we will look at each agency on a case-by-case basis and make decisions on each case as it comes forward.

Lord Harrison: The word “mature” is the appropriate word there. I am sure your approach now is right looking at it on a case-by-case basis, but in time someone needs to put it on the agenda for more general consideration about a wise way forward for the European Union and the way it runs itself.

Q10 Baroness Greengross: The voting structure on the Management Board, it seems that came up at the last minute before the Council meeting. We did not know anything about that. We were not told about this and it was not mentioned during our Inquiry. I wonder why we did not hear about it. Have you had any success in getting support from other Member States over voting structure?

Meg Munn: The issue of the voting structure and the Management Board was in the Explanatory Memorandum which I sent on the Commission’s Amended Proposal, that is the 10 May. I identified in paragraph 23 that in relation to the Management Board the UK has some concerns about the relative voting weights attributed to the Commission and Council. This was because the Commission was suggesting, in the Amended Proposal of the 10 May, that the voting weight of the Commission is one representative on the Management Board is equal to that of the nine Council representatives. It was after this in the run-up to the June Council that I continued to correspond with the Committee about this issue because this is an issue which is important to the UK. Before that, the voting structure had not been a concern, which was why it had not previously been raised. Therefore, if you look back to the original Proposal, paragraph 4 of article 10, each member of the Management Board will have one vote is what was stated then. We did not outline the concerns before that point, it was once the Amended Proposal came forward. As you know, there will be future discussion on the Management Board voting structure which had been postponed to the Second Reading.

Q11 Baroness Morgan of Huyton: Where do you think we are in terms of allies on that?

Meg Munn: I do not know specifically.

Mrs Phillips: The precedent at the moment on the Management Board is basically one member one vote. That is the precedent at the moment and that is the precedent the UK are very keen to keep. Although for a Gender Institute which is mainly collecting data and analysing data it might not be so critical, but for other agencies afterwards it could set a precedent and that is why we are concerned about it.

Q12 Chairman: Are there precedents for the other negotiations with ongoing concerns about weighting? Do you happen to know if this is a discussion we have entered into before with other bodies?

Mrs Phillips: The precedent at the moment on the Management Board is basically one member one vote. That is the precedent at the moment and that is the precedent the UK are very keen to keep. Although for a Gender Institute which is mainly collecting data and analysing data it might not be so critical, but for other agencies afterwards it could set a precedent and that is why we are concerned about it.

Q13 Chairman: The voting structure is a question of a balancing of one vote against the other, the weighting of different votes.

Mrs Phillips: Yes. The weighting and in turn the representation proportion of members are important. The two are linked but it is the voting structure with which we are particularly concerned.

Q14 Baroness Neuberger: In various bits of correspondence that we have seen we gather the Institute is going to be budget neutral. I think what we were very concerned about is how is this going to work, since if it has no revenue raising-powers presumably the cost of running the Institute is going to have an effect on other programmes. We wondered, given that it could go either way, either that it has not enough money to do anything sensible or it has a disproportionately large amount of money, and that means other things are underfunded, have you seen any sign of any consensus emerging between the European Parliament and the Council on how to handle this given we are taking it forward?

Meg Munn: There are no current changes to the budget that are proposed for it as it stands. The proposed amount was 52.5 million EUR for the period of 2007 to 2013, with 2004 constant prices being how that was taken. Obviously if there is any
change to that, or any other proposals, then I will update the Committee as it progresses.

Q15 Baroness Gale: Now that there has been a decision taken to have a separate Gender Institute, what will the Government do to ensure that it works effectively and in collaboration with the Fundamental Rights Agency? Do you see any prospects in the future of the two bodies working together? There will be, I would imagine, very similar problems and issues they will be looking at that could be overlapping and there could be a possibility at some time they might recognise it would be useful to work together.

Meg Munn: Certainly at the outset the work to be done by the Fundamental Rights Agency and the Gender Institute will have different aims, but the UK government has always had the view that the two bodies should be closely connected and share best practice with one another, and this has been reflected during our negotiations. This reflects a view that it makes clear that the Institute shall ensure that it has appropriate co-ordination with all relevant agencies so there is not any duplication. This is something we would be very keen on to guarantee the best possible use of resources. We are going to be pushing for strong co-ordination between the two bodies to be as efficient and effective as possible. Although, as you are aware, the European Gender Institute is likely to be up and running some considerable time before the Fundamental Rights Agency, once they are both up and running the Director of the Institute for Gender Equality will attend the meetings of the Fundamental Rights Agency’s Management Board as an observer. The Director of the Fundamental Rights Agency will also be invited to attend meetings of the Gender Institute Management Board so that they can coordinate their respective working programmes particularly around the issue of gender mainstreaming. I have a great deal of sympathy with the Committee’s views on that one.

Q16 Chairman: Is there any suggestion that they might at least be physically fairly close to each other? Meg Munn: It is obviously one of the issues which is important and could create greater possibilities of that, but there has not been any decision on location. The Government does take the view that either co-locating or being close together would be something that could assist with that and should be given serious consideration.

Q17 Earl of Dundee: Would the Government veto any proposal to locate the Gender Institute in a far distant unsuitable centre?

Meg Munn: I do not want to go down that road at the moment because there are not any proposals. In terms of looking seriously at what comes forward, we certainly see the benefits of them either being co-located or close together and would be arguing for that.

Q18 Lord Harrison: Co-location is really quite important. In one sense it is not very material if it is 50 km separate or 500 km, but co-location would spur people to work together, and if ever there were envisaged a merger matters would be easier than otherwise.

Meg Munn: I am sure you are right.

Q19 Chairman: We all know these apparently chance physical locations can sometimes have the right effect. The last thing is a question on the legal base. Are we now satisfied that we have the right legal base and it is being used correctly?

Meg Munn: As you know, we have expressed concern over the Commission’s proposed legal base of article 13(2) and article 141(3) as it was not considered that an incentive measures legal base was appropriate for the establishment of an agency. We did raise our concerns during Working Groups but we did not have support from other Member States, and the voting procedure on this issue is qualified majority voting. Given that there are respectable arguments to the contrary, we considered that no further objection was warranted other than the inclusion of an appropriate minute statement. We issued a minute statement at the June Council to record our objections to the legal base, and we are still reviewing the legal base issue in the light of the ENISA judgment and we will report the conclusions to you soon. Once conclusions have been drawn, we will be issuing revised guidance to all the Departments.

Chairman: We are going to bring ourselves up to speed on this by getting advice from our Legal Adviser who is coming to brief us at one of our meetings, in the autumn. He will be making sure we are up to speed on these rather complicated issues. If you are not an expert on the Treaty these questions can seem a little obscure, but they are important in terms of all the doubts we have about competence creep and all that kind of thing. We have to keep it all in order. Thank you for coming before us today. I hope that we will continue to have a fruitful relationship and we look forward to seeing you, if an appropriate moment arises, on some other inquiry at a later date.
Written Evidence

Letter dated 6 April from the Deputy Minister for Women & Equality to Lord Grenfell

Thank you for your report of 14 February 2006 on the proposed Institute for Gender Equality, which my officials and I found most interesting.

Throughout the course of the past year we have exchanged views and positions on this issue several times (notably my letters to you of 17/7/05 and 12/10/05, with your replies on 21/7/05 and 31/10/05), including my appearance before your Committee on 24/11/05 and the subsequent written report of that meeting.

Recently negotiations have moved on, albeit slowly, at European level and we are now in the final phase of the decision making process. The European Parliament deliberated a Report by the European Parliament Women’s Rights and Gender Equality Committee (by MEPs Lissy Groner and Amalia Sartori), during their session from 13–16 March 2006. The European Parliament adopted 53 of the 55 recommendations contained in the report. The Council of Ministers Social Questions Working Group began consideration of the European Parliament amendments on Tuesday 28 March 2006. Further Council Working Groups are scheduled to discuss this dossier on 11 April and 3 May, with a view to reaching agreement at a meeting of the EU Committee of Permanent Representatives (COREPER I) on 17 May, in order to approve a Common Position at the European Employment and Social Affairs Council on 1 June 2006.

Below, I have addressed each of the recommendations that you note in Chapter 5 (page 22) of your Report, I hope that this is helpful:

1. **Recommendation 100 (the need for the Institute)**
   
   The Government takes the view that gender equality would be best served by a separate body able to address issues specific to gender equality in the European Union, such as employment discrimination and child care. The Government also considers that merging the proposal for a European Gender Institute with the proposal for a European Fundamental Rights Agency would result in a loss of focus in these areas. You will recall that the Equal Opportunities Commission (EOC) stated, in their evidence to you last year, that I commented to your Committee that the UK began by creating separate non-discrimination agencies and is only now beginning the process of integrating them together under the planned UK Commission for Equality and Human Rights.

2. **Recommendation 101 (administrative question—management board)**
   
   The structure and composition of the management structure of the Institute is one of the key issues that is still under discussion between the European Parliament, European Commission and the Council of Ministers. The Government understands that each of the Member States of the European Union will wish to be involved in such institutions as the European Gender Institute, both for pragmatic reasons (to ensure that funds are spent efficiently and effectively) and for policy reasons (to ensure that their national ideas, innovations and experiences contribute to the European debate). It may be that each Member State ultimately has a place on the Board, or may be represented via other fora, such as an Advisory Forum. The Government will examine management structure proposals on their merit, with the core criteria being that structures should be efficient, cost effective and proportionate to the size of the Institute. We will continue to push for this to be the case in Council Working Groups in April and May.

3. **Recommendation 102 (administrative question—Director/equality organisations/NGOs)**
   
   The Government agrees with the Committee that the Director should have adequate authority, with proper accountability and that equality organisations and NGOs will be key stakeholders for the Institute.

4. **Recommendation 103 (budget)**
   
   An overall agreement on the EC budget for the period 2007–13 was reached at the European Council in December 2005. This now needs to be agreed with the European Parliament as part of the negotiations on the Inter Institutional Agreement. The Budgetary Authority will then have to decide the scope and level of funding.
available for the European Gender Institute. The UK continues to believe that the institute should have no additional impact on the existing EU budget and that the level of funding for, and scope of, the institute will have to be consistent with this.

5. Recommendation 104 (legal base— incentive measures)

The Government hopes that the judgment in the ENISA case (which is now expected to be delivered on 2 May 2006) will provide a clearer understanding of the legal position in respect of what constitutes an “incentive measure”.

6. Recommendation 105 (legal base—general approach)

The Government agrees that it is important for departments to take a consistent approach towards legal bases for proposals which create agencies. Our current position, as stated in previous correspondence, is that we take the view that generally agencies should not be set up using incentive measures legal bases, though we recognise that there are respectable arguments to the contrary. We shall however review these arguments in light of the judgement in the ENISA case once it is delivered in early May 2006. We can also confirm that steps are being taken to provide guidance to departments in order to ensure that there is a consistent approach across the board in respect of these proposals.

I note that your Committee has also taken an interest in the proposals for a new European Fundamental Rights Agency, which is a dossier led by the Department for Constitutional Affairs (DCA). DCA officials reported to Department of Trade and Industry (DTI) officials on my colleague, Cathy Ashton’s Committee appearance on 1 March, to discuss this matter. I understand that there was some discussion on the relationship between the two new European Agencies under discussion. I believe that my reply to your recommendation number 100 deals with the issue of the merits of two bodies, rather than a single entity; and that my reply to your recommendation 101 deals with the structure of the management board. We agree that there should be good linkages between the two bodies. As for the location of the European Gender Institute, this issue has not yet arisen for formal discussion, although several EU Member States have begun campaigning to host the Institute.

I do hope that we will be able to resolve our differences on the proposal for a European Gender Institute, upon your return from the Easter Recess (I believe that the next scheduled meeting of your Committee is on 27 April) and that your Committee will be able to lift Scrutiny. If the final phases of negotiations develop well in April and May, then the UK will wish to expedite agreement at COREPER on 17 May, in readiness for the Employment Council on 1 June.

Letter dated 27 April from Lord Grenfell to the Deputy Minister for Women & Equality

Thank you for your letter dated 6 April, constituting the Government’s Response to the above Report, which was considered by Sub-Committee G on 27 April.

We are sorry that the Government continues to favour the establishment of a separate European Gender Institute and do not see how we can “resolve our differences” on that point and lift scrutiny, as you ask, at this stage.

As you know, the Gender Institute Inquiry Report concluded that the case for a separate Institute had not been demonstrated. It recommended that further consideration should be given to the alternative of incorporating the gender equality work with the activities of the proposed European Fundamental Rights Agency, on which the Committee was already carrying out an Inquiry.

The Fundamental Rights Agency Inquiry Report, which was published on 4 April (HL Paper 155) included recommendations in favour of incorporating the work proposed for the Institute with that of the Agency. That remains our position. Moreover, since that Report has been recommended for Debate in the House, we regard the Gender Equality Institute Proposal as still being held under scrutiny by the Committee until the Debate takes place.

We also note your comments on other aspects of the Gender Institute Report which may also be addressed in the Fundamental Rights Agency Debate.
Letter dated 25 May from Lord Grenfell to the Deputy Minister for Women & Equality

Your Explanatory Memorandum (EM) dated May 2006 was considered by Sub-Committee G on 25 May.

We note that the Commission’s new Proposal is due to be considered by the Employment, Social Policy, Health and Consumer Affairs Council on 1 June when political agreement is expected to be reached on a Common Position.

As I explained in my letter to you dated 27 April, the Commission’s original Proposal on the Gender Institute is held under scrutiny by the Committee until the debate in the House on the Inquiry Report on that Proposal, and on the related Report on the European Fundamental Rights Agency, takes place. As I believe you know, that debate has now been fixed for the afternoon of Thursday 8 June.

We note that the Commission’s new amended Proposal continues to favour a separate Gender Institute and that the Government continue to support that proposition, which is contrary to the view taken in our Inquiry Reports mentioned above. In these circumstances, we are unable to lift the scrutiny reserve on the amended Proposal pending the outcome of the debate on 8 June. We will want to take careful account of everything that is said in that debate, including any further information or statements provided by the Government during the debate or in preparation for it.

Moreover, you will recall that our Inquiry Report on the Gender Institute Proposal called for further consideration of the proposed management structure if the Gender Institute were to be set up. The Report also recommended that the practice of automatically awarding seats on the Boards of such Institutions to every Member State should be questioned.

It is not clear to us from your EM how this aspect of the amended Proposal now stands. Your EM records that the Commission has accepted the Parliament’s proposal for a restricted Management Board composed of 13 members. On the other hand, it also reports that the Council supports a larger Board, with one representative for each Member State, which is directly contrary to the view taken by the Committee.

To add to the confusion, although your EM does not say so, we understand that the Austrian Presidency may be circulating a compromise text which includes support for every Member State to have a seat on the Board. Your EM does not say what attitude the Government intends to take if size of the Management Board is discussed at Council. But we are very disappointed to learn from your officials that Government would probably go along with a consensus in favour of seats for each Member State.

Your EM also mentions that the Government has “some concerns about the relative voting weights attributed to the Commission and the Council” on the proposed Board, although it does not explain what those concerns are or how they might be resolved.

We also note from your EM that the question of the legal base remains unresolved and that the Government has placed a scrutiny reserve on that aspect to enable further investigations to be undertaken. Your letter to me dated 6 April recorded that the Government would review the legal base question in the light of the ECJ ruling expected in the ENISA case, but we have heard no more about that from you.

In the circumstances, we shall expect you to record at the Council that the scrutiny reserve must remain on the amended Proposal so far as we are concerned, for the reasons given above. We will expect you to report on the result of the Council meeting in time for the debate on 8 June.

It would also be helpful if you could explain in time for the debate on 8 June precisely what is happening about the Management Board proposal and the Government’s attitude to it, as well as reporting if there have been any further developments in the Government’s position on the legal base question.

Letter dated 25 May from Deputy Minister for Women & Equality to Lord Grenfell

I am writing with regard to an amended proposal for a Regulation establishing a European Gender Institute, which is scheduled to come before the 1 June 2006 Employment and Social Policy Council for political agreement.

The amended proposal is for a Regulation to establish a European Gender Institute with the overall objective of the Institute being to assist in the fight against discrimination based on sex and the promotion of gender equality and to raise the profile of such issues across the EU, and in doing so to share best practice across Member States.

An Explanatory Memorandum was prepared and submitted on 19 May 2006 on the amended proposal. We have also exchanged various correspondences on this issue relating the original proposal EM 7244/05, prior to 19 May 2006. However, it has not been possible to obtain scrutiny clearance from neither the Lords nor Commons Scrutiny Committees ahead of the vote in Council on 1 June.
The Government’s position on the European Gender Institute has always been that it should be budget neutral, add value and not duplicate work of existing agencies. The decision on this proposal is subject to qualified majority voting, and the position set out by many other Member States is one of keen support for the establishment of a European Gender Institute. It has been judged that it would therefore not be in the UK’s best interest to block a proposal that, in effect, it has little control and no veto over. The UK’s position has therefore been to try and ensure that the Institute will be as effective and efficient as possible, as well as budget-neutral. By voting in favour of this proposal, the UK will be in a stronger position to influence the more detailed budgetary and other discussions on the structure of the Institute—such as the composition and voting mechanism of the Management Board, which will be discussed at the Second Reading. The logic being that if the UK is deemed a constructive voice, rather than adopt a negative stance on principle, it will have more influence on the details as they are agreed.

It is unfortunate that scrutiny could not be completed in time for Council, and as the Government feels that it is desirable for the Commission’s amended proposal to be adopted, rather than for the UK to block it, I wish to inform your Committee of the Government’s decision to proceed.

**Letter dated 8 June from Lord Grenfell to the Deputy Minister for Women & Equality**

Your letter dated 25 May crossed with my own letter of the same date. It was considered by Sub-Committee G at their first meeting after the Whitsun Recess today.

As you well know, our Reports on the European Gender Institute and the Fundamental Rights Agency are due to be debated in the House this afternoon. My letter to you dated 25 May pointed out that, as the scrutiny reserve on the original Proposal was already retained pending the outcome of that debate, the scrutiny reserve on the amended Proposal could not be lifted in the meantime. In those circumstances, I said that we would expect you to record at the Council that the scrutiny reserve must remain on the amended proposal.

We are therefore very surprised and disappointed to learn from your letter that, without even waiting for my response to your Explanatory Memorandum on the amended proposal, the Government had decided to override scrutiny and vote in favour of political agreement on the amended Proposal at the Council on 1 June. Although you have not so far reported on the outcome of the Council meeting, we understand from your officials that this is what happened.

Overriding Parliamentary scrutiny is a very serious matter indeed. It should only be contemplated where urgent decisions are needed on questions of considerable national importance. That clearly does not apply in this case and we see no good reason for the Government’s action.

Your letter claims that by voting in favour of the Proposal the UK would be in a stronger position to influence more detailed discussions about the Institute than if it had adopted a negative stance on the principle. But that argument is completely undermined since, as we understand it from your officials, the Government also decided at Council to vote in favour of a 25-member Management Board for the Institute. That possibility was not even mentioned in your letter.

You know perfectly well from our previous correspondence that, as well as having doubts about the merits of setting up a separate Institute, we had strong reservations about the proposed management structure. My letter to you dated 25 May drew attention to the Committee’s recommendation that the practice of automatically awarding seats on the boards of EU agencies to every Member State should be questioned. This would have been an ideal opportunity for the Government to have taken a stand on that practice, instead of which you appear to have drifted with the tide on the only real issue of remaining significance apart from the budget and the location of the Institute.

We regard this as deeply unsatisfactory and the explanation given in your letter as wholly inadequate. No doubt this will be raised during this afternoon’s debate. But the Committee reserves the right to call upon you to appear before the Sub-Committee at a future date if the explanation given during the debate is not satisfactory.

**Letter dated 19 June from the Deputy Minister for Women & Equality to Lord Grenfell**

Thank you for your letter of 25 May which incidentally crossed paths with my letter to you also dated 25 May, regarding the Explanatory Memorandum on the Amended Proposal for the Establishment of a European Institute for Gender Equality, and also for your subsequent letter of 8 June.

I think it would be useful if I first outline the current position on the Amended Proposal. As I mentioned in the EM, the Amended Proposal contains only minor amendments to the original proposal that do not result in any overall change to the aim and role of the Institute. Although the Commission favoured a smaller management board, this was not a view that was supported by the majority of the Council, who wanted one
representative per Member State. However, the Presidency was not able to bridge the divide between Council and Commission at working level and have reverted back to the General Approach text, which favoured a larger board.

As you are aware, this dossier was on the agenda at the June Council and my officials have already provided a verbal update to the clerk of your Committee on the events of the June Council. I can inform you that political agreement was reached, by unanimity, on a draft regulation establishing a European Institute for Gender Equality. However, the Commission did not support the representative Management Board adopted by the Council, and so made a declaration to the minutes saying it would have preferred a smaller administrative board. Following on from the June Council, the text, as agreed will be adopted as a common position at a forthcoming Council session and sent to the European Parliament with a view to the second reading.

I would like to once again stress how unfortunate that was not possible to obtain scrutiny clearance from your Committee ahead of the June Council and the need for the UK to proceed this document and override your scrutiny reserve. Although this is not the way we had hoped to proceed, under the circumstances this was judged to be the best way forward for the UK, as my letter of 25 May explains, the Institute will go ahead and it is important for the UK to set itself in a good negotiating position as this will prove valuable in the next round of negotiations where the contentious issue of the voting structure within the management board will be discussed.

I understand your disappointment and concerns with our decision to favour the Council for a larger management board (one representative per Member State), and I acknowledge that a smaller board should operate more effectively. However, during negotiations it was clear from other Member States that they had a strong preference for one representative per Member State and were not prepared to deviate from this. We therefore felt it necessary to agree with the Council in having a larger board, as whilst this proposal is subject to Qualified Majority Voting, different voting mechanisms apply in different circumstances during the passage of co-decision dossiers. Therefore, to achieve political agreement in the face of Commission opposition, unanimity was required.

As Baroness Ashton highlighted on 8 June, Member States are extremely supportive of the Institute and very keen to play an active role, hence their desire to be represented on the management board. Once the institute is up and running, there is potentially scope for this position to be reviewed as some Member States may no longer feel the need for all 25 Member States to be on the board.

With regards to the UK’s position on the voting structure, we would not want a situation where the Commission has equal voting rights vis à vis the Council representatives, which, given that the Council is rarely able to speak with one voice, would effectively give the Commission overall voting control. To avoid such a situation arising, during discussions at working group level the UK have cited other agencies, which uphold the principle of “one person one vote” as a precedent for a similar approach to be adopted here. As you will appreciate, the issue of the voting rights goes wider than the European Gender Institute. This contentious issue will be discussed further at a later stage—second reading stage anticipated to take place in six to nine months.

On the matter concerning the legal base question, the UK Minutes Statement remains in place. The Government is still currently reviewing the legal base issue in light of the ENISA case and I hope to be able to report the conclusions to you soon.

Once again, I would like to express how unfortunate it was that we unavoidably had to override your scrutiny reserve in this instance, and I assure you that it is a decision I did not take lightly. I shall continue to provide you with updates on the dossier as necessary.

Letter dated 23 June from Lord Grenfell to the Deputy Minister for Women & Equality

Your letter dated 19 June reached us on the afternoon of 21 June and was considered by a meeting of Sub-Committee G on the morning of 22 June.

Your letter raises important procedural and policy issues which the Committee wishes to discuss with you without delay. We envisage a short public meeting with Sub-Committee G, of which an official verbatim record would be taken and published in due course as a supplement to our Inquiry Report.

The Clerk to the Sub-Committee will be in touch with your officials to arrange a convenient date before the House rises for the Summer Recess.
Letter dated 20 July to Lord Grenfell from the Minister for Europe

Following my Evidence Session before the Committee on 13 July, I promised to respond in writing on the following questions.

**QUESTION 8: THE CHALLENGES FACING EUROPE**

The Conclusions (paragraph 16) note that the Council “took stock of progress in several of the areas discussed at Hampton Court and at the last Spring European Council, aimed at promoting the European way of life in the face of globalisation and demographic trends”. How important are the challenges of globalisation and demography to the future prosperity of Europe? What approach is being taken to face up to them? What progress has been made and is Europe’s response too sluggish?

At the Hampton Court summit, EU leaders collectively agreed that globalisation presented Europe with its biggest challenge of the first half of this century. The Hampton Court agenda is a major part of Europe’s response to that challenge. There has been, and continues to be, good progress made on the priority areas for action agreed at Hampton Court. On innovation, research and universities, the EU has agreed to establish a European Research Council, an independent body which will be run by scientists, aiming to channel additional funding to the best research teams in Europe. More resources will also be available for R&D; the December EU budget deal committed to increase EU funding for research by around 75 per cent in real terms by 2013. These agreements will be delivered through the EU budget’s Framework Programme 7, which we hope to see agreed by January 2007. The Commission have also been tasked to produce further ideas on the proposed “European Institute for Technology”.

On energy, the Spring European Council reaffirmed 2007 as the target date for the liberalisation of EU energy markets. The Commission has identified “serious distortions in the market” and so is carrying out an inquiry into competition within the EU energy sector which will report early in 2007. The Commission are currently preparing an external energy strategy to use the EU’s leverage with third countries to enhance energy security of supply; this will be discussed at the Lahti summit on 20 October, where President Putin will join EU Heads. The Commission will publish later this year its detailed analysis and ideas on how best to respond to the demographic challenge.

**QUESTION 10: INTERNAL MARKET**

Paragraph 21 of the Conclusions underlines the importance of the Single Market and the Commission’s review thereof “to be followed by concrete proposals for completing the internal market and ensuring its effective functioning”. What are the priority areas HMG would wish to see covered as part of the Commission’s review of the single market?

The removal of barriers to trade and competition through the Single Market has had a huge impact in driving prosperity and job creation in the EU: it has boosted EU GDP by £875 billion over 10 years, generating 2.5 million jobs. We agree with the five themes that the Commission has identified as priorities for their review, and the Government set out its initial thinking on the review at the end of June in our response to the Commission consultation (currently being laid before Parliament). We feel that further work to remove remaining barriers should concentrate on energy, financial and other services, domestic rail services, and mobility of labour. We would also like the Commission to consider a number of other areas to improve the effectiveness of the Single Market, in particular:

— how implementation and enforcement of the Single Market rules can be improved so that people can exercise their Single Market rights effectively;

— embedding the better regulation agenda in Single Market proposals;

— enhanced dialogue with countries outside the EU on removing trade barriers, with the full involvement of Member States; and

— enhancing the conditions for innovation and competition to flourish. Key policy areas that can support innovation are delivering on better regulation, improving access to venture capital and proper protection of intellectual property rights.

We will be developing our detailed ideas on all of these objectives as the review progresses.
QUESTION 11: MIGRATION

The Council calls for discussions to take forward the Policy Plan on Legal Migration. This proposes giving rights to legal migrants not yet entitled to long-term resident status. How is the Government going to participate in the Policy Plan on Legal Migration, given that it has so far refused to extend the protection of the Long-Term Residents Directive to those who are already entitled to that status?

We have consistently not opted into legal migration measures such as the Long Term Residents Directive because we wish to retain our frontier controls and maintain domestic control over who is admitted to the UK, as provided for by our protocol on Title IV of the Amsterdam Treaty.

We will assess any legislative measures on the admission of labour migrants when we see the detail. Key to our position will be that any, such measures are flexible enough to take account of our labour market needs and the points-based system we are developing for routes to work, train or study in the UK. Meanwhile, we welcome the recognition that decisions on the number of economic migrants admitted are the responsibility of Member States.

We are not convinced on the need for a common framework of rights for third country nationals. Taking the view that these are matters for Member States. We welcome the emphasis on effective integration of legal migrants. Exchanging information on good practice should be facilitated.

UK policy is to opt in to Title IV measures where, we can, provided they are consistent with our policy of retaining frontier controls. In remaining outside of these Directives it is not the Government’s intention that the UK should be seriously out of line with our European partners, and we will continue to monitor the UK’s position in relation to that of other Member States.

QUESTION 13: ENERGY

Paragraph 22 of the Conclusions refers to an Energy policy for Europe and a set of actions. What are the priority areas HMG would wish to see covered as part of the development of energy policy?

There are three priority areas for action. Firstly, although EU energy structures are increasingly integrated, electricity and gas supplies have not been liberalised. The EU lacks flexibility to move surplus capacity to areas where it is urgently needed. And the EU consumer is paying too much for gas and electricity.

Secondly, we need a more coherent EU external energy policy. The EU is increasingly dependent on imported energy, especially gas. The UK Government has for some time advocated a co-ordinated policy to assure energy security through diversity of supply. We now seem to be winning that argument, but there is much more to do. We give our full support to the action plan on external energy relations produced last month by the European Commission and High Representative Javier Solana.

Lastly, we need to ensure that our energy policy is compatible with, and reinforces, our climate change objectives. As our recent Energy Review has made clear, this Government attaches huge importance to tackling climate change nationally and internationally. Energy policy and climate security policy are inextricably linked. The promotion of energy efficiency and the development of renewable energies, to name but two examples, are common to both and are important priorities.

QUESTION 14: EU AGENCIES

We have recently had some exchanges with your colleague Meg Munn over the Management Board of the European Gender Institute. The Government supported a unanimous vote for a 25-member board, even though the Commission, European Parliament and the Select Committee had argued for a smaller one. We note that the agencies like CEDEFOP have three seats for the Commission, making 78 in all. Now that we have 25 Member States, soon to be 27, is it not time to challenge the convention that every Member State has an automatic right to a seat on the board of every EU agency? Does the Government have a policy on this?

There is no one Member, one seat convention. The Government’s policy has been that each case should be decided on its merits. The Government has consistently maintained that the number of seats on the boards of EU agencies and their composition should be decided on a case by case basis.
QUESTION 15: FUNDAMENTAL RIGHTS

We note the commitment in the Preliminary Agenda for Finland’s Presidency (dated 24 May) to “mainstream human rights policy, incorporating it into all EU policy areas” and to increase its coherence. Is securing agreement on the Fundamental Rights Agency proposal a priority for the Government? Will the UK be prepared to block the adoption of this proposal if other Member States agree on a Third Pillar remit?

We welcome the Commission proposal to establish a European Fundamental Rights Agency (FRA). There are, at present, no EU bodies to assist Community institutions on fundamental rights issues. The FRA will fill this gap. In order to add real value, the Agency should be a fact-finding and opinion-giving body, assisting Community Institutions on fundamental rights issues. It should avoid duplicating the work already done by the Council of Europe and other human rights institutions.

Negotiations on the FRA are still ongoing in Brussels at working group level. The Finnish Presidency hopes to reach agreement on the Agency by October 2006, so that it can start work in January 2007.

It is unlikely, at this stage, that the question of the UK blocking the adoption of the proposal on account of the Third Pillar remit will arise. A number of Member States share our view that there is no adequate legal base in the current treaties that allows the Council to extend the Agency’s remit to Third Pillar matters (police and judicial co-operation). We will continue our efforts to remove the Third Pillar remit from the proposal.

QUESTION 16: EUROPEAN INSTITUTE OF TECHNOLOGY

The Conclusions of the European Council (paragraph 21) reaffirm that the European Institute for Technology “will be an important step to fill the existing gap between higher education, research and innovation”. How did the European Council come to support the European Institute of Technology in the absence of the specific proposals the Commission is (in the same paragraph) asked to bring forward? And how does this conclusion square with HMG’s own stated opposition to the EIT in principle?

The Government is strongly of the view that there is a need to encourage greater business and industrial investment in research and development and closer collaboration between universities and business in exploiting research and knowledge transfer. The Government has therefore welcomed the Commission’s two communications as important contributions to the debate and has noted that a well-designed and well-focused EIT could be a useful tool in meeting the challenges in this area. The Government has not opposed the EIT in principle but has raised questions about the model that the Commission has presented so far. The Government welcomes the fact that the Commission’s latest Communication (which was presented to the European Council in June) has rightly acknowledged the complexity of the issues concerned and has recognised that it will need to continue consulting widely with Member States and stakeholders. It reaffirmed that the EIT will be an important step to fill the existing gap between higher education, research and innovation. The Government will continue to work with other Member States with a view to influencing the shape of the Commission’s formal proposal which is expected in the autumn. The proposal will be accompanied by a full impact assessment. This will be the first opportunity for a discussion of the concept in a formal Council forum.

QUESTION 17: UK ABATEMENT

Recent press reports have indicated that the Chancellor is raising questions over whether the UK should be required to contribute to the reductions in GNI and VAT resources to the Budget agreed by the December council meeting under the UK Presidency.

(i) What is the definitive Government position on whether the UK should be required to help finance these reductions in the contributions granted to other Member States?

(ii) Can you give us figures which will enable us to compare the expected contributions from the UK, France and Italy to the EU over the period of the next Financial Perspective?

(i) Discussions on the Own Resources Directive are on track. We are looking at the draft text carefully to make sure it properly reflects the December deal. We are confident that an agreement will be reached in good time to come into force in January 2009.

The December deal specifically states that “the UK abatement shall remain”. The only areas where the abatement is “disapplied” is in expenditure on economic development in the new Member States. The UK has always been a strong supporter of enlargement and accepts the additional financial burden that this places on the more wealthy Member States.
(ii) UK contributions will be published in the budget in the usual way. The Government does not generally
publish forecasts of other Member States’ contributions, which are a matter for the Member States in
question. But we (and the Commission) expect that, expressed as a proportion of Gross National Income, the
total net contributions over the period 2007–13 of the UK, France and Italy will be closely similar. In contrast,
on the same basis over the period 1984–2004, the UK has paid on average nearly two and a half times as much
as France and three and a half times as much as Italy.