



European Union Committee

46th Report of Session 2005-06

Annual Report 2006

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The European Union Committee

The European Union Committee is appointed by the House of Lords "to consider European Union documents and other matters relating to the European Union". The Committee has seven Sub-Committees which are:

Economic and Financial Affairs, and International Trade (Sub-Committee A)

Internal Market (Sub-Committee B)

Foreign Affairs, Defence and Development Policy (Sub-Committee C)

Environment and Agriculture (Sub-Committee D)

Law and Institutions (Sub-Committee E)

Home Affairs (Sub-Committee F)

Social and Consumer Affairs (Sub-Committee G)

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Annual Report 2006

CHAPTER 1: BACKGROUND

The work of the Committee

- 1. This is the fourth Annual Report from the European Union Select Committee. When we reviewed our work in 2002¹, we made a commitment to provide an Annual Report to the House, published in time to inform the debate on European Affairs, which this year will be held on 20 November 2006, following the Queen's Speech on 15 November. Our Annual Report for 2005 covered the period December 2004 to January 2006; therefore this Report covers the period February 2006 to October 2006. A list of our previous reports appears in Appendix 1; and our Terms of Reference in Appendix 2. The Government's response to our 2005 Annual Report is printed in Appendix 3 to this report.
- 2. The focus of this Report is the work that we do in scrutinising European Union (EU) matters. A detailed account of how we do this was published in the first Annual Report², and is summarised in Box 1 below. Readers interested in a more substantial explanation of our working methods are invited to refer to the Committee's Review of Scrutiny³, conducted in 2002.
- 3. Our Committee, together with the House of Commons European Scrutiny Committee, is at the heart of Parliament's scrutiny of EU legislation. National parliamentary scrutiny of EU legislation serves an essential constitutional purpose, and must be as effective as possible. To this end, scrutiny should include:
 - The accumulation, presentation and summary of relevant material, including information, statistics, explanation and analysis.
 - The **provision of information** to the House and to the public as a contribution to **transparency**.
 - Drawing the attention of the House, the Government, European institutions and the public to significant matters contained within that information, and in particular making recommendations—focusing the debate.
 - Contributing to the law-making process by detailed **analysis** of draft texts, by exposing difficulties and proposing amendments.
 - An **examination of the Government** and its role in agreeing European legislation, and, as part of that process, compelling the Government not only to think through what it is doing or has done, but sometimes to account for it.
 - An **examination of the Commission** and the policies it formulates.

[&]quot;Review of Scrutiny of European Legislation", 1st Report (2002–3), HL 15, http://www.publications.parliament.uk/pa/ld200203/ldselect/ldeucom/15/15.pdf

² "Annual Report", 44th Report (2002–3), HL 191, http://www.publications.parliament.uk/pa/ld200203/ldselect/ldeucom/191/191.pdf

³ See note 1 above

4. Additionally, it is important that this scrutiny occurs at an early stage in the policy-making process, as Parliament has almost no opportunity to influence the law-making process once the Council of Ministers and the European Parliament have agreed EU Legislation.

BOX 1

How the Committee Conducts Scrutiny

- Each year, the Government **deposits** in both Houses of Parliament about 1200 European policy documents and legislative proposals for scrutiny. Each is accompanied by an explanatory memorandum giving the Government's views on the document.
- The Chairman of the Select Committee conducts a **sift** each sitting week (and as required during recess) and clears some documents from scrutiny, while referring others for further examination.
- Documents not cleared are subject to the House's **Scrutiny Reserve Resolution**, by which Ministers cannot agree them in the Council until the House's scrutiny is complete. Under certain circumstances, however, the Minister can override the scrutiny reserve.
- Documents referred for examination are normally considered by one of our seven **Sub-Committees**, each of which studies particular proposals and policy areas, takes evidence, and produces draft **Reports** which are approved by the Select Committee before publication.
- Sub-Committees also prepare letters for the Chairman of the Select Committee to send to Ministers. This **Correspondence** with Ministers (which we publish, both in hard copy and on the internet) is a significant part of the Committee's scrutiny work, and is designed to influence the detailed formulation of policy.
- The Committee aims to conduct its scrutiny as early in the legislative and policy-making cycle as possible. We consider that it is a strength of the House's scrutiny system that it is **policy- and evidence-based**.
- Some of our Reports are **debated** in the House and the scrutiny reserve is maintained until such a debate has taken place. All Reports receive a written Government **response** within two months of publication.
- The Committee co-operates with the **European Scrutiny Committee** of the House of Commons and, although the material considered by the two Committees is the same, the function and thus the output of the two Committees is different and the work of each House thus complements that of the other.

The structure of this Report

5. Chapter 2 sets out the scrutiny work that the Committee has undertaken during the period covered by this Report. Chapter 3 looks ahead to work already underway and work anticipated for 2007. Chapter 4 reviews some procedural and administrative developments since the publication of the last Annual Report, including in the area of scrutiny overrides.

CHAPTER 2: REVIEW OF SUBSTANTIVE POLICY WORK

Cross-cutting scrutiny (Select Committee)

EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords

- 6. In this inquiry, the Committee considered communication initiatives recently launched in Europe, and examined the ways in which a number of national parliaments deal with European affairs and the communication of European issues to their citizens. The Report⁴ explores the ways in which the Committee might, both inside and outside the House, better communicate the work the Committee undertakes in holding Ministers and the EU to account.
- 7. The Committee recommended that the promotion and dissemination of the Committee's work should be improved. The Report recommendations for the development of our press and publicity strategy, the Committee's scrutiny of the Commission Annual Legislative and Work Programme, and the Committee's website. The Committee also concluded that Reports should be more widely and imaginatively disseminated. It was also noted that a greater public awareness of what is actually happening or proposed within the EU will form a useful contribution to the informing of democratic debate and decision making.
- 8. Evidence was received from 42 witnesses, including members of the Danish and Swedish Parliaments, the Chairman of the Constitutional Affairs Committee of the European Parliament, and the Minister for Europe. The report was debated in the House on 27 October⁵.

Ensuring Effective Regulation in the EU: Follow-up Report

- 9. In September 2005, the Committee published a Report entitled "Ensuring Effective Regulation in the EU". The Government response was received on 28 February 2006; the response agreed with the main conclusions of the Report, and updated the Committee on the main developments on better regulation during the UK Presidency. In April 2006, the Select Committee published a follow-up Report outlining these developments, and looking at the further developments that were expected in the coming year.
- 10. The Report details the Government's actions on impact assessments, consultation, the withdrawal of outdated legislative proposals, and the simplification of existing legislation. It also discusses the commitments made to working on better regulation in the coming years, including the joint discussion paper produced by the UK Presidency, Austria and Finland entitled "Advancing Better Regulation in Europe".

⁴ "EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords", 32nd Report (2005–6), HL 179, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/179/179.pdf

For the record of the debate, please see http://www.publications.parliament.uk/pa/ld199697/ldhansrd/pdvn/lds06/index/061027.html

^{6 &}quot;Ensuring Effective Regulation in the EU", 9th Report (2005–6), HL 33, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/33/33.pdf

⁷ "Ensuring Effective Regulation in the EU: Follow-up Report", 31st Report (2005–6), HL 157, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/157/157.pdf

Evidence from the Austrian and Finnish Presidencies

11. It has been the Select Committee's practice for a number of years to hear from the Ambassador of each incoming Presidency State at the start of their Presidency. In 2006, the Select Committee took evidence from the Austrian Ambassador on 24 January, and from the Finnish Ambassador on 4 July. Full transcripts⁸ of these sessions were published by the Select Committee⁹.

Sub-Committee Activity in 2006

12. The following section provides a breakdown of the main substantive policy work completed by each of the seven Sub-Committees between February and October of 2006.

Economic and Financial Affairs, and International Trade (Sub-Committee A)

The European Strategy for Growth and Jobs

- 13. Sub-Committee A conducted an inquiry into the bold economic reform agenda (the 'Lisbon Agenda') which was agreed by European Union leaders in 2000, and which was relaunched—following a disappointing lack of progress—in 2005. All Member States are now required to produce an annual National Action Plan highlighting the policies they are pursuing to improve economic growth and increase employment.
- 14. The Action Plans of the Member States are reviewed by the Commission in time for the Spring Council. We published our Report¹⁰ in advance of the 2006 Spring Council, in order to make a number of recommendations both to advance the priorities of growth and jobs and to strengthen the Agenda itself.
- 15. The Committee concluded that the Commission had an important role in driving forward the completion of the internal market, making a crucial contribution to greater growth and employment. However, we concluded that the system of peer pressure needed to be strengthened, and made recommendations designed to improve the sharing of best practice, including promoting the use of standardised statistics and targets.
- 16. We also concluded that a template for National Action Plans ought to be agreed; and that the low public profile of the Lisbon Agenda was an obstacle to its success, and that there was an important role for Parliament to play in improving its publicisation.
- 17. Evidence was taken from a number of ministers, Commissioners, MEPs, academics and stakeholders, and from Lord George.

^{8 &}quot;The Brussels European Union Council and the Priorities of the Finnish Presidency", 44th Report (2005–6) HL 229, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/229/229.pdf. The transcript of the session with the Austrian Ambassador was published in our 2005 Annual Report: "Annual Report 2005", 25th Report (2005-6), HL 123 http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/123/12302.htm

⁹ A further memorandum by the Austrian Ambassador was submitted after publication of the report referred to in note 8 above and is printed for convenience in Appendix 4 to this report.

¹⁰ "A European Strategy for Jobs and Growth", 28th Report (2005–6), HL 137, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/137/137.pdf

The 2007 European Community Budget

- 18. For the fourth consecutive year, Sub-Committee A scrutinised the European Community (EC) Budget by producing, before the First Reading of the Budget in the Council, a short Report¹¹ based on the Government's Explanatory Memorandum and oral evidence from the Government. The inquiry was aimed at informing the House of issues relating to the Budget, and scrutinising the Government's position before the Commission's Preliminary Draft Budget was considered at the Budget Council.
- 19. In the Report, the Committee fully supported the proposed comprehensive review of the budget to be held in 2008–9, and considered it vital that the review should fully assess every aspect of European revenue and expenditure, including the Common Agricultural Policy and the UK's abatement. The Committee continued to support the principle of increasing the receipts accruing to the poorest Member States, subject to realistic assessments of the scope for effective implementation in these States.
- 20. The Committee expressed concern about the complexity of the agreements underpinning the structural funds of the budget, and we are considering this issue in a current inquiry into European fund management. We also urged the Council to consider the budgetary implications of its commitments at the time that they are made.

Other significant items of scrutiny

- 21. Other main issues considered by Sub-Committee A within the period covered by this report include:
 - An Inter Institutional Agreement on the new Financial Perspective;
 - A new Own Resources System for the new Financial Perspective;
 - A proposal for a Common Consolidated Corporate Tax Base;
 - A Commission Strategy for Simplification of EU Regulations; and
 - An Excessive Deficit Procedure against the UK.

Internal Market (Sub-Committee B)

Including the Aviation Sector in the European Union Emissions Trading Scheme

- 22. In February 2006, Sub-Committee B prepared an interim Report¹² into the issue of aviation emissions; the Sub-Committee will return to this topic once the Commission has published its draft legislative proposals. The Committee agreed with the December 2005 European Environment Council that the inclusion of the aviation sector in the European Union Emissions Trading Scheme seemed like the best way forward on aviation emissions, but saw substantial problems ahead.
- 23. The Committee concluded that any legislative proposals must be well thought through and sustainable in the longer term, both on environmental

[&]quot;The 2007 EC Budget", 39th Report (2005–6), HL 218, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/218/218.pdf

¹² "Including the Aviation Sector in the European Union Emissions Trading Scheme", 21st Report (2005–6), HL 107, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/107/10702.htm

- and economic grounds. A lack of clarity was identified with regards to the compatibility of EU and UK policies on aviation emissions and aviation growth. The Committee also saw doubt as to whether the EU could unilaterally impose an emissions trading scheme on non-EU airlines.
- 24. The Report expresses severe doubt that the impact upon carbon prices, airfares and air travel would be modest, except in the short term, and warns of potentially substantial increases in airfares and air freight charges, coinciding with and contributing to sharp rises in the price of energy and in the price of the outputs of carbon intensive industries. Other industries and their customers would feel the impact of including aviation within the trading scheme. We recommended that the Commission and the Government should conduct a rigorous assessment of all relevant issues before further policy commitments are made.
- 25. Evidence was taken from the Minister for Climate Change and Environment; British Airways; the European Low Fares Airlines Association; the Tyndall Centre for Climate Change Research; the British Air Transport Association; the Aviation Environment Federation; and the European Commission.

The Seventh Framework Programme for Research

- 26. Sub-Committee B also conducted a short inquiry into the Commission's proposals for the Seventh Framework Programme for Research (FP7), which will replace the current Programme (FP6) and run from 2007 to 2011. The Report¹³ welcomed the approximately 60% increase in funding over the existing programme. The Committee further welcomed the proposed establishment of European Technology Platforms, and the intention to implement the programme through Joint Technology Initiatives, which should help to ensure that projects are sufficiently industry-driven.
- 27. The Committee also welcomed the establishment of a European Research Council, but had misgivings about the proposed European Institute of Technology. Sub-Committee C contributed a chapter to the Report on the implications of FP7 for defence research, which argues that FP7 should have an exclusive focus on civil research.
- 28. Evidence was received from the European Commission, the Confederation for British Industry, and Research Councils UK, and oral evidence was taken from the Minister for Science and Innovation.

The Services Directive Revisited

- 29. In 2005, Sub-Committee B conducted an inquiry into the Commission's draft Services Directive. After substantial amendments following First Reading in the European Parliament, the Committee decided to conduct a short follow-up inquiry into the Commission's revised draft to assess the nature of the changes made.
- 30. The Report¹⁴ expresses the Committee's view that the revised text was a backward step from the original draft, particularly in the removal of the controversial Country of Origin principle. However, the Committee

¹³ "The Seventh Programme Framework for Research", 33rd Report (2005–6), HL 182, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/182/18202.htm

¹⁴ "The Services Directive Revisited", 38th Report (2005–6), HL 215, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/215/215.pdf

recognised that the alternative to the revised draft Directive would have been no agreement on a way forward, and continued barriers to cross-border trade in services within the EU. The Committee also felt that the draft Directive was not the end of the process of liberalising the services market within the EU, but was nevertheless welcome as a step forward.

31. Key witnesses to the inquiry included the Minister for Trade and Investment; Members of the European Parliament (MEPs) Malcolm Harbour and Arlene McCarthy from the European Parliament Internal Market and Consumer Affairs Committee; the Confederation of British Industry; the Trades Union Congress; and Clifford Chance LLP.

The Commission's Green Paper, "A European Strategy for Sustainable, Competitive and Secure Energy"

- 32. Sub-Committee B also conducted an inquiry into the Commission's Green Paper on energy, aiming to assess whether the Commission had correctly identified the priority areas for action for energy policy in Europe, and whether these policies were more appropriate for action at Community or Member State level. The Report¹⁵ concluded that it was important that the energy debate was widened beyond the limited scope of security of supply. The Committee felt strongly that the Commission had an important role to play in achieving this expansion, and in developing a Europe-wide approach to issues such as energy efficiency, dialogue between countries supplying oil and gas to Europe, and combating climate change.
- 33. The Committee called for the Commission to articulate more clearly those areas in which it believes that a more co-ordinated approach to energy is required, and why it believes that the actions of Member States alone are not sufficient. The Committee argued that the Commission should make it clear that markets, rather than governments, are best placed to deliver energy objectives efficiently and effectively, and recommended that political action should be cautious, infrequent and long-lasting.
- 34. Evidence was received from the Minister for Energy; from Sir John Mogg of the Office of Gas and Electricity Markets (Ofgem); and from representatives of the Energy Intensive Users Group, E.ON UK and Centrica (energy companies), and the Association of Electricity Producers, among others.

Other significant items of scrutiny

35. Of particular significance for Sub-Committee B's work during the period February-October 2006 were the proposed Air Transport Agreement between the European Community and its Member States and the United States of America; the Commission's proposals on Mobile Roaming; and the Commission's Maritime Green Paper. The Committee also scrutinised on a number of occasions, or corresponded significantly upon: the Third Railway Package; the Marco Polo II Programme; Market Access to Port Services; Euratom (the European Atomic Energy Community) Safety and Security; the establishment of SESAR, a new generation air traffic management system; the White Paper on Financial Services Policy; and the TV Without Frontiers Directive.

[&]quot;The Commission's Green Paper: "A European Strategy for Sustainable, Competitive and Secure Energy", 41st Report (2005–6), HL 224, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/224/224.pdf

Scrutiny of comitology decisions

36. The Sub-Committee considered a draft Comitology Regulation to amend Regulation 622/2003 on Aviation Security, following the alleged terrorist plots in August 2006.

Foreign Affairs and Development Aid (Sub-Committee C)

Review of Scrutiny: Common Foreign and Security Policy

- 37. The effective scrutiny of the European Union's Common Foreign and Security Policy (CFSP) has proved to be a challenge to Sub-Committee C, due to the sometimes urgent and sensitive nature of foreign policy, and to the often unique procedures for the adoption of texts. In this Review of Scrutiny, the Committee considered how improvements might be made to enable better scrutiny of the CFSP.
- 38. The Report¹⁶ welcomes the increased commitment to the scrutiny process shown by the Foreign and Commonwealth Office over the previous two years, and expresses the hope that this culture of scrutiny will continue in the future and be fully adopted by the Ministry of Defence. The importance of receiving a signed Explanatory Memorandum for the final version of a document to be considered by the Sub-Committee was reiterated.
- 39. The deposit of documents in sufficient time for their consideration by the Committee was particularly emphasised, and explanation requested in cases for which this was impossible. The Committee underlined the great importance of the Government keeping the Committee informed of potential European Security and Defence Policy (ESDP) missions at an early stage. It was stressed that the Government should provide outlines of proposals that cannot be deposited in full due to their sensitivity.
- 40. The Committee also highlighted that it is necessary, in order for effective scrutiny to be conducted, for the Government to start systematically depositing a number of non-legislative Council documents, and references to transparency were made. It was important that the Committee should be able to request further information from the Government on items that appeared to be of a substantial nature, and requested reassurance that oral and written evidence will continue to be provided by the Minister for Europe and by a Minister from the Ministry of Defence.
- 41. Evidence was heard from the Foreign and Commonwealth Office and the Ministry of Defence. Jimmy Hood MP, then Chairman of the Scrutiny Committee in the House of Commons, also helpfully contributed his views.

Current Developments in European Foreign Policy

42. Sub-Committee C took evidence from the then Minister for Europe, Douglas Alexander MP, on 2 February 2006, and from the Minister's successor, Geoff Hoon MP, on 13 July 2006. This evidence was published in the form of two short Reports¹⁷ to the House.

^{16 &}quot;Review of Scrutiny: Common Foreign and Security Policy", 19th Report (2005–6), HL 100, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/100/100.pdf

[&]quot;Current Developments in European Foreign Policy", 26th Report (2005–6), HL 124, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/124/124.pdf; "Current Developments in European Foreign Policy", 43rd Report (2005–6), HL 228, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/228/228.pdf

Current Developments in European Defence Policy

43. The Minister for Defence Procurement gave evidence to Sub-Committee C on 19 January 2006. On 15 June 2006, the Committee took evidence from Dr Sarah Beaver, Mr Andrew Mathewson, and Mr Bob Regan, all of the Ministry of Defence. This evidence was provided to the House in two short Reports¹⁸.

The EU and Africa: Towards A Strategic Partnership

- 44. Sub-Committee C conducted an inquiry to consider how best the EU can work towards the implementation of its Strategy for Africa entitled "The EU and Africa: A Strategic Partnership". The Report¹⁹ is focussed on what needs to be done in order to implement the Strategy and to ensure that the EU's policies towards Africa are coherent and co-ordinated.
- 45. The Committee highlighted problems of co-ordination between different institutions within the EU and with the Member States, of uncertainty as to sources of funding, and of differing policies for different regions of Africa. The EU's first priority must be to help build Africans' capacity to deal with their own affairs, for example by the promotion of good governance through the African Peer Review Mechanism, and of peacekeeping missions led by the African Union (AU).
- 46. The Committee expressed the belief that a genuinely joint strategy between the EU and the AU is possible, but only if certain conditions are met: these include the holding of a second EU-Africa summit, rationalisation of European and African institutions, and the active striving of the EU towards fulfilment of the commitments made in its Strategy.
- 47. Key witnesses included Javier Solana (EU High Representative), the Secretary of State for International Development, the Parliamentary Under-Secretary of State for the Foreign and Commonwealth Office, the UK Permanent Representative to the African Union, the Chairman of the European Parliament Committee on Foreign Affairs, representatives of the Belgian government, and representatives from other institutions and groups.

Other significant items of scrutiny

- 48. Sub-Committee C also gave significant consideration to the following documents:
 - Commission Communication "Global Monitoring for Security and Environment (GMES): from Concept to Reality". This was held under scrutiny by the Sub-Committee because of its implications for Commission involvement in defence matters. It was later cleared following satisfactory reassurances from the Government.
 - Commission Communication on EU relations with Latin America.

[&]quot;Current Developments in European Defence Policy", 27th Report (2005–6), HL 125, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/125/125.pdf; "Current Developments in European Defence Policy", 35th Report (2005–6), HL 209, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/209/209.pdf

¹⁹ "The EU and Africa: Towards A Strategic Partnership", 24th Report (2005–6), HL 206-I, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/206/206i.pdf

- Commission Communication on the Western Balkans and their progress towards accession.
- Commission Communication on EU relations with the Caribbean.
- Commission package of proposals on the delivery of EU aid; this document was cleared from scrutiny and discussed as part of the Sub-Committee's Report on Africa.
- Proposals for extensions and amendments to the EU's European Security and Defence Policy (ESDP) missions for civilian, military and security sector reform in the Democratic Republic of Congo; this document was cleared from scrutiny and discussed as part of the Sub-Committee's Report on Africa.
- Proposal for a new ESDP planning mission in Kosovo.
- Proposal for an extension and amendment to the EU's support for the African Union's mission in Sudan; this document was cleared from scrutiny and discussed as part of the Sub-Committee's Report on Africa.

Agriculture and Environment (Sub-Committee D)

Managing Nuclear Safety and Waste: The Role of the EU

- 49. Sub-Committee D conducted an inquiry into the Commission's 'nuclear package', two proposals for the safe management of spent nuclear fuel and radioactive waste and for the laying down of basic obligations and general principles on the safety of nuclear installations. The Report²⁰ analyses how the tension between pro- and anti-nuclear views shaped the development of the nuclear package, and considers what possible added value Community involvement in the areas of nuclear safety and waste management could provide to EU citizens.
- 50. The Committee concluded that it was not desirable that the nuclear package as drafted should be adopted. The Committee recommended that the Council of Ministers should adopt a thematic strategy on the management of nuclear safety and waste, focusing on achieving globally approved, transparent approaches to nuclear safety, and requiring Member States to set out their policies regarding nuclear waste.
- 51. The Committee expressed grave concern at the loss of confidence in national governments as a reliable information source on nuclear issues. The EU needs to take a lead in educating citizens about issues relating to nuclear power, safety and waste.
- 52. Key witnesses to the inquiry included the Energy Commissioner; the Energy Minister; the Environment Minister; and evidence from the governments of Lithuania, the Czech Republic, France, Ireland, Poland, Romania, Norway and Sweden. The Sub-Committee also launched a webforum to receive the public's views on nuclear safety and waste—the first time such a tool has been used by a Sub-Committee.

²⁰ "Managing Nuclear Safety and Waste: The Role of the EU", 37th Report (2005–6), HL 211-I, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/211/211i.pdf

Ministerial Evidence on GMOs

53. The Sub-Committee took evidence from the Secretary of State at the Department for Environment, Food and Rural Affairs on 19 April 2006. The subject was the procedures through which genetically-modified organisms (GMOs) are placed on the EU market. The transcript of the evidence session and the supplementary evidence received from the Department for Environment, Food and Rural Affairs are available on the Sub-Committee's website²¹.

Ministerial Evidence on Waste

54. A Minister at the Department for Environment, Food and Rural Affairs gave evidence to the Sub-Committee on 26 April 2006 regarding the European Commission's thematic waste strategy. This strategy is aimed at reducing the production of waste, and at increasing both the amount and quality of recycling. Member States would be obliged to develop national waste prevention programmes, and to set high environmental standards for the recycling, re-use and recovery of waste products. The transcript of the evidence session is available on the Sub-Committee's website²².

Other significant items of scrutiny

55. Items which Sub-Committee D scrutinised on a number of occasions, or corresponded upon significantly, included matters of flood management, the protection of chickens, humane trapping standards, and a series of thematic strategies on environmental issues.

Scrutiny of comitology decisions

- 56. Sub-Committee D considered a succession of genetic modification proposals which originated through the comitology procedure. The proposals have generally aimed to lift bans, imposed by certain Member States, on the marketing and use of genetically-modified products.
- 57. The Sub-Committee has corresponded in detail with the Government to inquire into whether it is appropriate for proposals dealing with such a politically sensitive issue to progress through the often opaque comitology process. The Government has responded by saying that it will endeavour to deposit more papers associated with such proposals at an earlier stage in order to aid the Sub-Committee's scrutiny procedure.

Law and Institutions (Sub-Committee E)

The Criminal Law Competence of the European Community

58. Sub-Committee E produced a Report²³ describing two significant developments relating to the respective competences of the Member States and the European Community in relation to criminal law. To this end,

²¹ Transcript of evidence on GM Approval Procedures taken on Wednesday 19 April 2006, http://www.publications.parliament.uk/pa/ld/lduncorr/eud190406.pdf

²² Transcript of evidence on the European Commission's Thematic Strategy on Waste taken on Wednesday 26 April 2006, http://www.publications.parliament.uk/pa/ld/lduncorr/eud2604.pdf

²³ "The Criminal Law Competence of the European Community", 42nd Report (2005–6), HL 227, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/227/227.pdf

evidence was taken from Mr Richard Plender QC; the Parliamentary Under-Secretary of State at the Home Office; Professor Steve Peers from the Department of Law, University of Essex; the Chief Adviser on EU Law and Constitutional Law and the Deputy Head of the EU Legal Department at the Danish Ministry of Foreign Affairs; the Minister for Justice, Equality and Law Reform in the Irish Government; and the Law Societies of Scotland and of England and Wales, among others.

- 59. The Sub-Committee scrutinised the implications of Case C-176/03 Commission v Council, investigating how far the European Court of Justice has gone in attributing competence in criminal law to the Community. That the Community has competence, albeit possibly quite limited, to require Member States to impose criminal sanctions came as a surprise to many. The reach of the Court's judgment is controversial and the Sub-Committee concluded that clarification is needed.
- 60. The Sub-Committee also looked at the Commission's suggestion of May 2006 that the 'passerelle' ('bridge') provision contained in Article 42 of the Treaty on European Union be used to enable police and judicial cooperation in criminal matters to be dealt with under the EC Treaty, with consequentially increased roles for the Commission, the European Parliament and the Court of Justice. At stake are national vetoes over criminal matters. The suggestion to use the passerelle has given rise to complaints of 'cherry picking' from the Constitutional Treaty while its future is uncertain.
- 61. The Committee's Report was aimed at drawing the attention of the House to these two developments, both of which have constitutional significance for Member States and for the Union, and to identify the possible consequences for future domestic and Union law-making. The Sub-Committee concluded that the *passerelle* raises serious questions whose answers have long-term implications not least for the security and sovereignty of Member States, and urged Ministers to engage themselves in a detailed examination of the issues which use of the *passerelle* raises for the Union and the UK.

Human Rights Protection in Europe: the Fundamental Rights Agency

- 62. Sub-Committee E scrutinised the Commission's proposal for establishing an EU Fundamental Rights Agency in a Report²⁴ of April 2006. This agency would provide assistance and expertise to EU institutions and Member States in implementing Community and 'third pillar' (Police and Judicial Cooperation in Criminal Matters) legislation.
- 63. While the foundation of such an Agency has been broadly welcomed by Member States, national human rights institutes and non-governmental organisations, there are concerns that the Agency's activities might overlap with those of other bodies in the field, and, more particularly, with the work of the Council of Europe. The Committee's inquiry sought to establish whether, and how, the Agency might add value to existing protection mechanisms; a strong case would have to be made to justify the need for a new body in this field.

²⁴ "Human Rights Protection in Europe: the Fundamental Rights Agency", 29th Report (2005–6), HL 155, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/155/155.pdf

- 64. The Sub-Committee investigated questions of overlap and efficient use of resources, of the Agency's management structure, and of its guarantees of independence from the Commission and the Council. The Report calls for the establishment of the Agency to be conditional on the conclusion of a Memorandum of Understanding setting out the respective responsibilities of the Agency and the Council.
- 65. Key witnesses included the Parliamentary Under-Secretary of State at the Department for Constitutional Affairs; Mr Alvaro Gil-Robles, Commissioner for Human Rights at the Council of Europe; Mr Fonseca Morillo, Director for Civil Justice, Fundamental Rights and Citizenship at the European Commission; and Mrs Pavan-Woolfe, Director for Equal Opportunities at the European Commission.

European Small Claims Procedure

- 66. The Commission recently adopted a proposal for a Regulation creating a European Small Claims Procedure (ESCP), aimed at securing customers' access to justice and the settlement of disputes in the single market. Sub-Committee E scrutinised this Regulation in an inquiry leading to a Report²⁵ in February 2006.
- 67. Member States agreed to limit the ESCP to cross-border disputes only, in an amendment of the Commission's draft; this limitation removed a major obstacle to agreement of the Regulation and resolved one of the principal concerns raised when the Sub-Committee first considered the proposal. The Report welcomes the ESCP as an important proposal which could bring practical and immediate benefits to the citizen.
- 68. The Committee concluded, however, that three main difficulties remain:
 - There are substantial points of difference between the Commission and the Member States, and within the Member States. The most important are the rules as to costs which, the Report concludes, could be a serious deterrent to use of the procedure.
 - Greater attention may need to be paid to the practical aspects of the ESCP, especially with regards to language and information technology.
 - There are several places where the text of the Regulation needs clarification to ensure its uniform application.
- 69. Key witnesses to the inquiry included the Parliamentary Under-Secretary of State at the Department for Constitutional Affairs; Dr Georg Haibach from the Directorate-General for Justice, Freedom and Security, at the European Commission; and representatives for the National Consumer Council, Which?, the Confederation of British Industry, and the Law Society of England and Wales, among others.

European Arrest Warrant—Recent Developments

70. The European Arrest Warrant (EAW) is now widely used to secure the arrest and surrender of suspected criminals across the Union. Sub-Committee E

²⁵ "European Small Claims Procedure", 23rd Report (2005–6), HL 118, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/118/118.pdf

prepared a Report²⁶ aimed at drawing the attention of the House to two recent developments relating to the EAW:

- The Commission's recent report on the implementation of the EAW, criticising Member States for inadequate or faulty implementation; and
- The reactions of certain Member States' constitutional courts to the EAW, finding incompatibility with safeguards provided for their nationals.
- 71. The Sub-Committee examined these problems with the implementation of the EAW, and investigated the use that the UK has made of the EAW. The Committee noted that some legal uncertainty now surrounds the EAW, and until this uncertainty is resolved the EAW may not be fully effective between Member States, and the adoption of other measures (such as the European Evidence Warrant) may be delayed.
- 72. Written and oral evidence was provided by Mr Andy Burnham MP, Parliamentary Under-Secretary of State in the Home Office.

Other significant items of scrutiny

- 73. Sub-Committee E has also devoted significant time to consideration of a Proposal for a Regulation on the law applicable to contractual obligations ('ROME I'); of a Proposed Regulation on the law applicable to non-contractual obligations ('ROME II'); and of a Proposal for a Council Framework Decision on the European Evidence Warrant for obtaining objects, documents or data for use in criminal proceedings.
- 74. Other items on which scrutiny is ongoing include a Green Paper on conflicts of jurisdiction and the principle of *Ne bis in idem* in criminal proceedings; a Proposal for a Council Framework Decision on the taking into account, in the course of criminal proceedings, convictions in other EU Member States; and a Draft Council Framework Decision on the European enforcement order and the transfer of sentenced persons between Member States of the EU.

Scrutiny of comitology decisions

75. Sub-Committee E is continuing to scrutinise a Proposed Council Decision²⁷ laying down the procedures for the exercise of implementing powers conferred on the Commission.

Home Affairs (Sub-Committee F)

Illegal Migrants: Proposals for a Common EU Returns Policy

76. Sub-Committee F scrutinised the Commission's proposal to establish common rules across Member States for the return of illegally staying third country nationals. The proposal includes rules on removal, the use of coercive measures, pre-removal detention, and appeal procedures, and an EU-wide re-entry ban. The Committee's Report²⁸ expresses sympathy for the

^{26 &}quot;European Arrest Warrant—Recent Developments", 30th Report (2005–6), HL 156, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/156/156.pdf

^{27 9087/04}

^{28 &}quot;Illegal Migrants: Proposals for a Common EU Returns Policy", 32nd Report (2005–6), HL 166, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/166/166.pdf

- principle of a common EU policy on returns, but questions whether the EU should proceed with this before a common policy governing admissions is in place.
- 77. The proposed Directive could have been an opportunity for raising standards on the treatment of migrants to the highest currently in force in the EU, but the Committee concluded that this opportunity has not been taken. The Committee expressed concern that the resulting compromise will not raise the standards of the worst Member States, but will allow the best to lower their standards. The Committee found the proposals for judicial supervision of detention and removal a welcome exception.
- 78. The Committee continued to hold the view that the UK should in general participate fully in immigration measures under Title IV of the Treaty, but concluded that the Government was right not to opt in to the proposed Directive. We also urged the Government to strive to raise UK standards to the high levels the Report recommends, and to use such influence as it has in the negotiations on the draft to improve the standards the draft sets to seek.
- 79. Key witnesses included the United Nations High Commissioner for Refugees, HM Chief Inspector of Prisons, the Children's Commissioner, and representatives from the European Commission, the European Parliament LIBE (Civil Liberties, Justice and Home Affairs) Committee, and the Home Office.

Behind Closed Doors: The Meeting of the G6 Interior Ministers at Heiligendamm

- 80. At the meeting of Home Office Ministers with interior ministers of France, Germany, Italy, Spain and Poland in Heiligendamm in March 2006, the 'G6' ministers discussed their joint response to terrorism, illegal immigration and organised crime. Decisions were reached at that meeting which, if taken forward, would involve important changes to current EU thinking and to declared Government policy. Sub-Committee F conducted an inquiry into the Heiligendamm meeting, and produced a Report²⁹ in July 2006.
- 81. The Committee concluded that the results of subsequent G6 meetings should be fully publicised by the Home Office, including through a written statement to Parliament and the deposit of papers to the EU Select Committee, and to the Commons European Scrutiny Committee and Home Affairs Committee.
- 82. At Heiligendamm, the ministers reconsidered the constraints which data protection rules place on the sharing of data between law enforcement agencies, in the light of the threat posed by terrorism. The Committee felt unable to understand why the former Home Secretary should have apparently agreed with other G6 ministers to press forward with the 'availability' principle and disregard data protection issues. We found this decision to be contrary to the decision of the Member States in the Hague Programme, contrary to the advice of independent data protection authorities, inconsistent with what the Home Office Ministers had told the Sub-Committee, and against the views of the Finnish Presidency.
- 83. The Committee expressed concern about the legality of certain proposals, especially regarding data protection rules. We urged the Government not to

²⁹ "Behind Closed Doors: The Meeting of the G6 Interior Ministers at Heiligendamm", 40th Report (2005–6), HL 221, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/221/221.pdf

take forward the principle of availability without ensuring adequate data protection safeguards. Evidence was taken from Mr Peter Hustinx, European Data Protection Supervisor; and from the Department for Constitutional Affairs, the Home Office, Statewatch and JUSTICE.

Other significant items of scrutiny

- 84. Sub-Committee F has given considerable consideration to various drafts of a Council Framework Decision on data protection in criminal matters; and to a Council Decision on access to the Visa Information System by authorities of Member States and by Europol (the European Law Enforcement Organisation), for the prevention, detection and investigation of terrorist offences and other serious criminal offences.
- 85. The Sub-Committee has also examined a Council Note on the termination of the agreement between the EU and the United States of America on the transfer of passenger name record data by air carriers to the US Bureau of Customs and Border Protection.
- 86. The issuing of this Council Note followed the annulment of the Council Decision by the European Court on 30 September 2006. Negotiations with the US on a new agreement were concluded on 6 October 2006, but the agreement is not yet (at time of publishing) in force. Since the annulment, air carriers have had the choice of (a) being in breach of EU data protection law, (b) being in breach of US law, or (c) ceasing to carry passengers to the US. All EU air carriers have chosen option (a).

Social Policy and Consumer Affairs (Sub-Committee G)

Proposed European Institute for Gender Equality

- 87. The Commission has proposed the establishment of a European Institute for Gender Equality to collect and analyse data, carry out research, raise awareness and promote exchanges of information and good practice about gender issues in the EU. Sub-Committee G conducted an inquiry into the need for such an Institute, whether another EU agency was the best way to meet such a need, and whether the objectives could be better achieved in some other way, as well as the practicality of the arrangements proposed.
- 88. Our Report³⁰ expressed the view that a separate EU body was not justified, and recommended that more consideration should be given to the case for incorporating gender equality work in the proposed European Fundamental Rights Agency. The report also recommended that, should the Institute be set up:
 - The proposed management structure should be reconsidered;
 - The practice of automatically awarding seats on management boards of EU agencies to every Member State should be questioned;
 - The budget would need to be adequate, without diverting funds from other programmes; and
 - The legal base proposed should be questioned.

³⁰ "Proposed European Institute for Gender Equality", 24th Report (2005–6), HL 119, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/119/119.pdf

89. Written and oral evidence was provided by the Department of Trade and Industry and the Equal Opportunities Commission.

Consumer Credit in the European Union: Harmonisation and Consumer Protection

- 90. The European Commission plans to replace the 1987 EU Directive on Consumer Credit, which lays down minimum standards of consumer protection. Member States are free to improve upon these standards, as the UK has done. The Commission has a stated objective of promoting an internal market in cross-border consumer credit, by enabling lenders in one country to offer credit to consumers in another. To develop this market, Member States would not be allowed to have national laws that give consumers either less or more protection that was set out by the new Directive.
- 91. Sub-Committee G prepared a Report³¹ investigating the feasibility, desirability and projected consequences of the draft Directive. The Committee concluded that although the scheme would increase consumer choice, and offer profit-making opportunities to British companies, the focus on cross-border credit is misconceived, because consumer credit suppliers cannot penetrate a market in a foreign country without acquiring an establishment in that State.
- 92. The Committee criticised the lack of a study to verify the Commission's basic assumption, and considered that not enough work had been done to assess the effects of the proposal. Through the Commission's proposal, UK consumers would suffer and the flexibility to change UK laws rapidly through domestic regulation when needed would be lost. The Committee concluded that the drawbacks of the Commission's present approach seem to outweigh any advantages, so far as the UK is concerned.
- 93. Witnesses to the inquiry included officials from the Department of Trade and Industry, and representatives of leading UK credit suppliers and consumers' organisations.

³¹ "Consumer Credit in the European Union", 36th Report (2005–6), HL 210-I, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/210/210i.pdf

CHAPTER 3: POLICY MATTERS—LOOK AHEAD TO 2007

Cross-cutting scrutiny (Select Committee)

The Further Enlargement of the EU

- 94. The Select Committee is conducting an inquiry into EU enlargement, particularly exploring the economic and political impact of enlargement to date, public opinion on enlargement of the EU, and the possible future of EU enlargement. Issues addressed in the Call for Evidence included the lessons to be learned from previous enlargement, the relationship of any public resentment to enlargement to a changing perception of EU integration, and the 'absorption capacity' and potential borders of the EU.
- 95. Evidence has been heard from Lord Ashdown of Norton-sub-Hamdon, from the Croatian and Turkish Ambassadors to the UK, and from Olli Rehn, among others. The Committee intends to publish this Report in November 2006.

Better Regulation

96. Following our previous reports (see paragraphs nine to ten above) the Committee intends to scrutinise closely any further proposals concerning better regulation, as well as progress on initiatives already underway. We note the Government's statement that: "We estimate that around half of all UK legislation with an impact on business, charities and the voluntary sector stems from legislation agreed by Ministers in Brussels." 32

Public Awareness

97. The Committee will, in the light of the debate on our report on public awareness (see paragraphs six to eight above) be considering specific actions over the year ahead, as well as monitoring closely any new proposals from the Commission concerning its own proposals to communicate more effectively with the citizen.

Subsidiarity

98. All our Sub-Committees will continue to examine subsidiarity questions as part of the regular scrutiny of EU documents. The Committee has agreed to co-operate in the monitoring of subsidiarity matters as agreed by COSAC (the Conference of European Affairs Committees of national parliaments of EU Member States and of Accession/Candidate States, and of the European Parliament—see paragraphs 134 to 148 below). Under this scheme, national parliaments will exchange with each other information about subsidiarity and proportionality issues arising from particular legislative proposals and will proactively where appropriate seek to raise concerns (about subsidiarity, proportionality or other matters) direct with the Commission which has indicated that it will consider and respond to them³³.

³² HL Deb 29 June 2006, Col WA 184 http://www.publications.parliament.uk/pa/ld199697/ldhansrd/pdvn/lds06/text/60629w02.htm#60629w02 sbhd6

Please see the Vice-President of the Commission's speech to the COSAC Chairpersons on 11 September 2006 at http://www.cosac.eu/upload/application/pdf/96a95f75/cosacwallstrom.pdf

99. No changes to the existing treaties of the EU is needed for these exchanges to take place. These developments will build on the existing work of the Committee which already draws some matters to the attention of the Commission as well as of the Government.

Proposed Sub-Committee Activity in 2007

Economic and Financial Affairs, and International Trade (Sub-Committee A)

Inquiry into the Management and Audit of EC Expenditure and Accounts

- 100. Sub-Committee A is undertaking an inquiry into the mechanisms to manage and audit the revenue and expenditure of the European Community. The Sub-Committee is investigating the fundamental problems which have led to 12 successive years in which the European Court of Auditors has not issued a positive statement of assurance on the accounts.
- 101. The Report will include a full review of the systems governing financial transactions in the Commission, and of those areas where management is shared with the Member States. The Sub-Committee is reviewing the extent of fraud and the reasons for fraud in the Community. The Report is likely to make recommendations for improving the financial systems, and to urge governments to give a high priority to these improvements.
- 102. The Call for Evidence was issued in February of this year, and the Report is likely to be published in November 2006.

Inquiry into VAT and Carousel Fraud in the EU

- 103. Committee A is also, in the light of the Commission's Communication concerning the need to develop a co-ordinated strategy to improve the fight against fiscal fraud, conducting an inquiry into the issues surrounding VAT carousel fraud. It is hoped that the Report will be published early in the new year. The Call for Evidence, which was issued in July 2006, posed the following key questions:
 - What is the exact nature of VAT carousel fraud?
 - Are there gaps in legislation which allow this form of fraud?
 - What impact does this fraud have on the internal market?
 - What are the measures currently applied to combat this fraud and what are their weaknesses?
 - Are the mechanisms suggested by the Commission to fight this fraud adequate?
 - Are Member States, within the context of the internal market and the globalised economy, capable of fighting individually against this fraud or is it right for the Commission to bring forward proposals on their behalf?
 - Does the adoption of measures to fight VAT fraud at the Community level undermine Member States' control over the functioning of national fiscal systems?

Inquiry into the Own Resources of the EU

- 104. Committee A is undertaking an inquiry into the four main sources of money for the EU's budget, known as 'Own Resources'. This inquiry will review the principles underpinning the European budget's revenue and will make recommendations on whether the system should be reformed, together with the specifics of any reform proposed.
- 105. The Sub-Committee also intends to investigate whether the present system of Own Resources is fair and/or sustainable, whether the European Union should be given a tax of its own, whether the system of Own Resources is the best way for the EU to raise its money, and the effect of enlargement on the Own Resources system.
- 106. The deadline for evidence submission passed in early October of this year, and the Sub-Committee hopes to have its Report published in advance of the review of the Budget to be held in 2008–9.

Internal Market (Sub-Committee B)

Inquiry into the European Commission's Proposed Audiovisual Media Services Directive

- 107. Sub-Committee B is conducting an inquiry into the Commission's proposal for an "Audiovisual Media Services Directive" (revising the existing "TV Without Frontiers Directive"). This proposal has triggered much concern in the UK over the suitability of extending the scope of broadcast regulation to a host of new media services which are rapidly developing and playing an increasingly large role in the UK's economy. The inquiry will investigate the benefits and disadvantages that might result from this approach.
- 108. The Report will consider whether there is a need for a regulatory initiative in this area; whether the Commission's Proposal is an appropriate form for such regulation to take if any is required; and what the likely consequences of the Proposal will be for new and established media services both in the United Kingdom and within the European Union.
- 109. The deadline for the submission of evidence passed in early October of this year, and the Sub-Committee is hoping to have its Report published in December 2006.

Foreign Affairs, Defence and Development Policy (Sub-Committee C)

The EU and Africa—Follow-up Report

110. Sub-Committee C is producing a follow-up Report on the subject of the EU-Africa Strategic Partnership, taking note of the Government's Response to the Sub-Committee's EU-Africa Report and of further developments in the implementation of the EU Strategy for Africa. It is hoped that this Report will be published in November 2006.

Europe in the World

111. The Sub-Committee is undertaking an inquiry to consider the Commission's recent proposals for greater cooperation, coherence and visibility in European foreign policy. Key witnesses will include Geoff Hoon MP, the Minister for Europe; Robert Cooper, Director-General for External

Economic Relations and Politico-Military Affairs in the Council Secretariat; José Cutileiro, Commission President Barroso's special advisor on foreign affairs; Patrick Child and Peter Dun, Commission officials who helped to draft the paper; Erwan Fouéré, EU Special Representative and Head of Commission Delegation in Skopje; Lord Brittan, former Vice-President of the Commission and Commissioner for External Relations; and Alan Dashwood, Professor of European Law at Cambridge University.

112. The inquiry commenced shortly before the summer recess, and a Report is expected to be published in November 2006.

Environment and Agriculture (Sub-Committee D)

The EU Strategy for Biofuels

- 113. Sub-Committee D is scrutinising the Commission's "EU Strategy for Biofuels" and the setting of national targets for biofuels market share. The Sub-Committee's Report will assess the progress made by Member States in reaching their targets, and will evaluate the factors that have affected the development of national biofuels markets.
- 114. The Report will welcome the EU's setting of reference targets, but will urge the Commission to consider amending its Biofuels Directive to encourage Member States to use biofuels obligations, along the lines of the UK's Renewable Transport Fuels Obligation, as a tool to achieve targets. The conclusions will also acknowledge that Government intervention may continue to be necessary in order to provide long-term assurance to investors. It is hoped that this Report will be published in November 2006.

Law and Institutions (Sub-Committee E)

Evidence sessions and short Reports

- 115. Between returning after the Summer Recess and the State Opening of Parliament, Sub-Committee E proposes to hold three separate evidence sessions, as follows:
 - An evidence session on 'Rome III', relating to divorce law, with officials from the Department for Constitutional Affairs;
 - An evidence session on the Procedural Rights framework decision, with the Attorney General, Lord Goldsmith QC; and
 - An evidence session on the use of the *passerelle* in Article 42 of the Treaty on European Union, with the Minister for Europe, Geoff Hoon MP.
- 116. A short report will be published on each subject.

An EU Competition Court

117. Sub-Committee E has undertaken an inquiry into the need for an EU Competition Court, as proposed by the Confederation of British Industry in a brief of June 2006. The Sub-Committee will investigate the need for action at EU level, the relationship of a Competition Court to the current Court of First Instance, the jurisdiction and composition of a Competition Court, and the procedure of any Competition Court with regard to appeals. The deadline for evidence submissions is 3 November 2006.

Comitology

118. Sub-Committee E will review any proposals to change the comitology system, and the Committee will continue to press the Government to ensure that appropriate comitology decisions are presented to Parliament for scrutiny.

Home Affairs (Sub-Committee F)

Second Generation Schengen Information System

- 119. Sub-Committee F is conducting an inquiry into the legislative proposals which will govern the establishment, operation and use of the second generation Schengen Information System (SIS II). The Schengen Information System is the computerised database, operational since 1995, which enables Schengen States to exchange data on persons and objects in order to maintain security in an area without internal borders.
- 120. The new SIS will enable up to 30 States to connect to the system and integrate biometric data. All 25 Member States, plus Iceland, Norway, Switzerland and Liechtenstein will be connected to the system once it is rolled out. After further delays, this is now not likely to be until the end of 2008. The United Kingdom and Ireland are included in the database only for the purposes of police and judicial cooperation. They are not part of the free travel zone, and hence do not have access to the immigration data in the current SIS, and it is not envisaged that they should have access to this data in SIS II.
- 121. The Sub-Committee's Report will examine the interpretation and application of the SIS II provisions, including points relevant to the specific position of the United Kingdom. The Sub-Committee hopes to have its Report published in early 2007.

Social Policy and Consumer Affairs (Sub-Committee G)

European Commission Green Paper on EU Mental Health Strategy

- 122. Sub-Committee G is investigating the Commission's Green Paper on Mental Health Strategy, which was designed to launch a policy debate about the relevance of mental health to the EU, the need for a strategy at EU level, and the possible priorities of such a strategy. The Green Paper suggests that an EU strategy on mental health could add value by creating a framework for exchange and cooperation between Member States, by helping to increase the coherence of actions in different policy sectors, and by opening a platform for involving stakeholders in building solutions.
- 123. The Call for Evidence on the issues outlined above was issued in March 2006, and due to a delay to the inquiry, reissued in July. The deadline for such evidence passed in early October, and the inquiry is ongoing.

CHAPTER 4: ADMINISTRATIVE AND PROCEDURAL DEVELOPMENTS

Information on Council Meetings

124. The Committee welcomes steps taken by the Finnish Presidency, building on agreements reached under the United Kingdom Presidency in 2005, to ensure greater transparency in the Council of Ministers, including for example by enhanced webcasting of meetings³⁴. We note that developments will be reviewed at the end of the Finnish Presidency later this year³⁵ and look forward to scrutinising the outcome of that review.

Enhancing scrutiny

Scrutiny of Human Rights

125. The Committee expects shortly to receive from the Government proposals designed to provide enhanced information on the human rights implications of proposed EU legislation. This would deliver an undertaking given by the Government in response to our Review of Scrutiny³⁶. We await the Government's proposals with interest.

Scrutiny during co-decision

126. The Committee also expects shortly to receive from the Government proposals designed to provide enhanced information during the co-decision process on EU legislation. This too would deliver an undertaking given by the Government in response to our Review of Scrutiny³⁷. We await the Government's proposals with interest.

Scrutiny and Overrides—Summary

127. The Committee continues to take very seriously any breach by the Government of the Scrutiny Reserve Resolution (i.e. by agreeing to proposals in the Council of Ministers before our scrutiny of them is complete). We publish in each Annual Report data on the number of overrides by Department. The Government's statistics for the periods July to December 2005 and January to June 2006 appear in Table 1. This data is supplied by the Cabinet Office on behalf of the Government as a whole. The Committee will, over the year ahead, review the derivation of this data and report to the House again in the next Annual Report.

³⁴ See for example http://www.eu2006.fi/news and documents/front page news/vko26/en GB/1151658400091/
Our own Government has welcomed such initiatives: see for example HL Deb 6 June 2006, Col 1129
http://www.publications.parliament.uk/pa/ld199697/ldhansrd/pdvn/lds06/text/60606-01.htm#60606-01.intro0

³⁵ HL Deb 29 Jun 2006, Col WA 184

³⁶ "Government Response", 20th Report (2002–3), HL 99, http://www.publications.parliament.uk/pa/ld200203/ldselect/ldeucom/99/99.pdf

³⁷ Ibid.

TABLE 1
Government figures for scrutiny overrides in the periods July to December 2005 and January to June 2006, analysed by Government department

2003 and Jane	2002 y 00 y 022	10 2000, WI		00,011111	-ord drop dr	-
Government department	Number of newly deposited legislative proposals held under the Scrutiny Reserve Resolution		Number of Scrutiny Reserve Resolution overrides in the Lords		Lords overrides as a percentage of proposals covered by Scrutiny Reserve Resolution	
	Jul–Dec 05	Jan–June 06	Jul–Dec 05	Jan–June 06	Jul–Dec 05	Jan–June 06
DTI— Department of Trade and Industry	59	51	2	1	3.4	2.0
FCO—Foreign and Commonwealth Office	55	50	6	4	10.9	8.0
DEFRA— Department for Environment, Food and Rural Affairs	47	50	8*	6	17.0	12.0
HMT—HM Treasury	31	53	2	1	6.5	1.9
DFT— Department for Transport	25	33	0	0	0	0
HO—Home Office	23	29	1	0	4.4	0
FSA— Financial Services Authority	8	0	0	0	(no legislative proposals)	0
CO—Cabinet Office	4	1	0	0	0	0
DFES— Department for Education and Skills	3	4	0	0	0	0
DFID— Department for International Development	3	6	0	1	0	16.7
DCMS— Department for Culture, Media and Sport	2	2	0	0	0	0
DWP— Department for Work and Pensions	2	8	0	1	0	12.5

HMRC—HM Revenue & Customs	2	1	0	0	0	0
ONS—Office for National Statistics	2	3	0	0	0	0
MOD—Ministry of Defence	1	0	0	0	(no legislative proposals)	0
DCA— Department for Constitutional Affairs	0	4	0	0	(no legislative proposals)	0
Health	0	7	0	0	(no legislative proposals)	0
ODPM—Office of the Deputy Prime Minister / DCLG— Department for Communities and Local Government	0	1	0	1	(no legislative proposals)	100
Total	267	303	19	15	7.1	5.0

^{*} DEFRA total figure of eight overrides includes two overrides not included in previous report covering January to June 2005. The total number of Lords overrides for the period July to December 2005 was therefore 17.

128. According to the figures we have received from the Government, the number of occasions on which the Scrutiny Reserve Resolution has been overridden in the House of Lords has been declining since we began publishing data on overrides. Table 2 and Chart 1, below, show this downward trend.

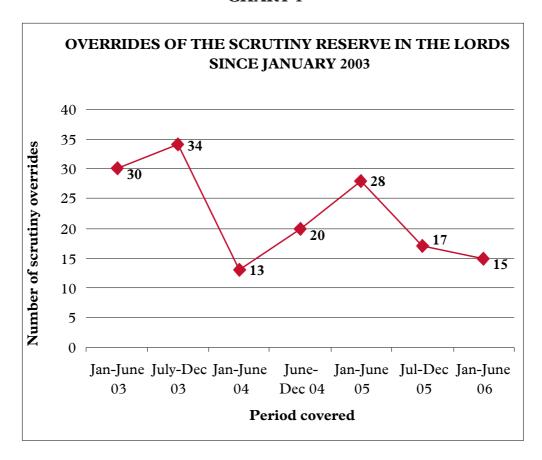
TABLE 2
Overrides of the scrutiny reserve in the Lords since January 2003

Period covered	Total number of Lords scrutiny overrides
Jan–June 03	30
July–Dec 03	34^{\dagger}
Jan–June 04	13
June–Dec 04	20
Jan–June 05	28^{\ddagger}
Jul-Dec 05	17
Jan–June 06	15

[†]The Committee began publishing scrutiny override figures in late 2003.

[‡]This period includes a General Election, during which Committees cannot conduct business.

CHART 1



Documentation

- 129. The Committee welcomes the decision by the Commission to submit a range of documents direct to national parliaments from September this year. We do not see any need for the system of submission of documents from our own Government to change. This is for two reasons. Firstly, because this system requires the production by the Government of an Explanatory Memorandum on each document, constituting the Government's formal evidence to Parliament; and secondly, because the transmission of documents by the Commission does not cover all of the EU documents deposited by the Government under the Scrutiny Reserve Resolution. In particular, it does not cover proposals made by Member States under the second or third pillars of the Maastricht Treaty. The Commission's decision to consider comments by national parliaments is, however, significant. Equally important is the Commission's undertaking to issue a written response to comments it receives from national parliaments. Now, for the first time, there is an official direct channel of communication between national parliaments and the Commission.
- 130. We have for a number of years engaged directly with the Commission through our inquiries and by sending the Commission copies of the Committee's reports. The Committee will continue this dialogue in a proactive and constructive way that seeks to improve EU policy formulation, and it is welcome that such contacts will now be reinforced on the Commission's side by new procedures. We welcome the Commission's initiative as a contribution to transparency not least for

- those Parliaments which do not have such an established formal system for the deposit of documents.
- 131. We also welcome the establishment, as the result of decisions taken by the Conference of the Speakers of EU Parliaments in 2000, 2003 and 2004, by national parliaments of a new scrutiny website³⁸ to support interparliamentary cooperation in the European Union by providing a platform for the electronic exchange of EU-related information between parliaments in the Union. The Committee intends to use this new IPEX website to help us determine what other national parliaments' views are on certain dossiers; and, when resources permit, for promoting our scrutiny work with other national parliaments. We note that for the moment this website is for the use of parliaments only but hope that it will develop a public face to enhance the transparency of scrutiny across the EU.
- 132. The Committee continues to place a high value on the exchange of correspondence with Ministers, all of which we make publicly available. We will continue to press Government Departments to ensure that replies are timely and respond appropriately to our questions and concerns; and to ensure that a dedicated website for Explanatory Memoranda is established. The Parliamentary Under-Secretary of State at the Foreign and Commonwealth Office, Lord Triesman, stated in the debate of 27 October 2006: "The Government are committed to producing that website, which we hope to have up and running early in 2007." We welcome this undertaking.

Cooperation with the Commons Scrutiny Committee

133. The Committee holds three informal joint meetings per year with the House of Commons European Scrutiny Committee and UK MEPs. In 2006, these meetings were held in Brussels on 31 January (discussing EU energy policy, financial perspectives and the Commission's financial services white paper), at the House of Commons on 11 May (discussing updates on these issues, plus enlargement, institutional reform, and the Commission's communication strategy), and at the House of Lords on 19 October (discussing enlargement, the Commission's review of the internal market, and justice and home affairs).

XXXV COSAC—summary

- 134. COSAC is the Conference of European Affairs Committees of national parliaments of EU Member States and of Accession/Candidate States, and of the European Parliament⁴⁰.
- 135. It is the responsibility of the national parliament of the EU Member State holding the Presidency of the Council to host meetings of COSAC during the Presidency. The three national parliaments of the past, present and next holder of the EU Presidency form, along with the

³⁸ http://www.ipex.eu/ipex

³⁹ HL Deb 27 Oct 2006, Col 1444 http://pubs1.tso.parliament.uk/pa/ld199697/ldhansrd/pdvn/lds06/text/61027-0001.htm#06102742000004

⁴⁰ For further information, see http://www.cosac.eu/en/

European Parliament, the COSAC 'Presidential Troika', which gives political direction to the conference. The United Kingdom Parliament joined the Troika at the beginning of 2005 and remained a Troika member until 30 June 2006. Our Chairman was therefore involved in Troika discussions for the COSAC meeting in Vienna on 22–23 May 2006.

- 136. In our Annual Report 2005 (paragraph 29) we proposed four objectives for COSAC under the Austrian Presidency. Here we report on how these objectives were delivered.
- 137. *Objective 1*: Successful administration of the subsidiarity and proportionality exercise agreed under the UK Presidency.
- 138. In line with the agreement reached under the UK Presidency, COSAC invited the EU Committees of national parliaments to nominate proposals from the European Commission's annual legislative and work programme 2007 that they thought should be subject to the subsidiarity and proportionality check. We nominated four legislative proposals on the basis of recommendations from our Sub-Committees; the Presidential Troika then designated the most frequently mentioned proposals for the check. Thetwo proposals, both of which we nominated, were the:
 - Proposal for a Regulation on the applicable law and jurisdiction in divorce matters (2005/JSL/187); and
 - Proposal for the full accomplishment of the Internal Market for Postal Services (2006/MARKT/006).
- 139. The first of these proposals was adopted by the Commission on 17 July; the second on 18 October. We are scrutinizing the two documents selected for the COSAC subsidiarity and proportionality check in line with our usual procedures and will inform the House, the Government, the Commission and COSAC of the outcome of our scrutiny—and in particular whether we conclude that the Commission's proposals comply with the principles of subsidiarity and proportionality—in due course.
- 140. Objective 2: Raise the profile of the COSAC exercise within the EU institutions, thus stressing the role that national parliaments have in relation to subsidiarity and proportionality.
- 141. The Vienna COSAC meeting asked the Commission "to take into account comments from national parliaments—in particular with regard to the subsidiarity and proportionality principles—and within an acceptable timeframe to acknowledge receipt and offer a reasoned response."
- 142. Following this, in June, the European Council asked the Commission "to duly consider comments by national parliaments—in particular with regard to the subsidiarity and proportionality principles."⁴²

⁴¹ http://www.cosac.eu/upload/application/pdf/14a46ee8/COSAC%20Beitrag%20endg%20%20en.pdf

⁴² http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/90111.pdf

- 143. In September, the Commission adopted a set of guidelines for considering comments from national parliaments. The Committee understands that the Commission has undertaken to respond to comments from national parliaments within three months.
- 144. *Objective 3*: Follow up work on the London Contribution by maintaining a focus within COSAC on scrutiny of CFSP (Common Foreign and Security Policy) and impact assessments.
- 145. In March, the COSAC Presidency wrote to the President of the Commission with a number of questions inquiring about what action the Commission was taking on the issues covered by the paragraphs on impact assessments in the London Contribution. This was the first time that COSAC had followed up one of its Contributions. In April, President Barroso replied to these questions, and the issue of impact assessments was the subject of a chapter in the COSAC biannual report presented to the Vienna meeting in May⁴³. Furthermore, the conclusions of the Vienna COSAC included several paragraphs on better regulation and impact assessments (see Annex 5).
- 146. The COSAC biannual report for the London meeting included a breakdown of the personnel involved in all the European Security and Defence Policy (ESDP) missions—the first time that the Council had released this information. The Vienna COSAC biannual report again included a chapter on ESDP operations, providing details of new civilian EU operations and information on how they were scrutinised in national parliaments.
- 147. *Objective 4*: Continue to raise the profile of the Contribution addressed to the EU institutions.
- 148. The Contribution from the London COSAC was the first translated into all Community languages, published in the *Official Journal of the EU* and sent to the Presidents of the EU Institutions. This good practice was continued after the COSAC meeting in Vienna. Meeting these objectives was possible because the UK Parliament was represented on the COSAC secretariat.

Contact with MEPs and other national parliaments

- 149. The Committee is taking a more pro-active approach to promoting its Reports in the European Parliament and Brussels. One of the conclusions of the Committee's Report⁴⁴ on public awareness reads: "Sub-Committee Chairs and other interested Members will continue to look for opportunities to promote their Committee Reports to interested groups in Brussels". During the period covered by this Annual Report, members have presented the conclusions of EU Committee Reports to the European Parliament on three occasions:
 - Lord Norton of Louth presented the conclusions of the Report on human rights proofing EU legislation to the European Parliament

⁴³ The biannual report and the letters are available at: http://www.cosac.eu/en/meetings/vienna2006/oedinary/

⁴⁴ "EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords", 32nd Report (2005–6), HL 179, http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeucom/179/179.pdf

- Committee on Civil Liberties, Justice and Home Affairs on 22 February 2006.
- Lord Norton of Louth presented the conclusions of the Report on the Fundamental Rights Agency to the same European Parliament Committee on 4 May 2006.
- Baroness Thomas of Walliswood presented the conclusions of the Report on the Consumer Credit Directive to the European Parliament Committee on the Internal Market and Consumer Affairs on 9 October 2006.
- 150. In addition, Lord Bowness discussed the Report on the EU's Strategy for Africa with Linda McAvan MEP and other representatives from EU institutions and non-governmental organisations at a roundtable event held in Brussels on 11 July 2006. The Committee is living up to the commitment it made in the Report on public awareness; it is also continuing to meet with MEPs on specific matters, as detailed below.
- 151. Members of the Select Committee attended an interparliamentary forum on the future of Europe, held in Brussels in May 2006. Members also took part in a conference on subsidiarity hosted by the Austrian Presidency in Sankt Pölten, Austria, in April 2006. A delegation was sent to the meeting of the Conference of European Affairs Committees (COSAC) held at Vienna in May 2006, and the Chairman attended a meeting of COSAP (a conference of EU committees from the countries of the Western Balkans) convened in Zagreb in March 2006. Written and oral evidence was received from MEPs on the inquiry into enlargement, MEPs and many parliamentarians from other Member States contributed to the inquiry into public awareness, and contact has been maintained with the Scottish Parliament and the Welsh Assembly on the subject of COSAC's researches into subsidiarity.
- 152. Sub-Committee A received evidence from MEPs on their inquiry into the management and audit of EC expenditure and accounts, and on their inquiry into the Lisbon Agenda. Members of Sub-Committee A attended a meeting in Brussels with the European Parliament and national parliaments on the subject of the Lisbon Agenda. Members of Sub-Committee A also attended a Brussels meeting in June 2006 with the European Parliament's committee on budgets, and attended a conference on "The role of budgetary control committees in national parliaments, in particular with regard to the control of the Community budget", held in Brussels in October 2006. Sub-Committee A has also received assistance from Alain Lamassoure MEP on their inquiry into the EU's Own Resources.
- 153. Sub-Committee B has had contact with the Welsh Assembly at the official level with regard to their Audiovisual Media Services inquiry, and with the Scottish Parliament with regard to the Maritime Green Paper. Members of the Sub-Committee met both formally and informally with several MEPs in connection with their inquiry into the revised draft Services Directive, and will do so again with their Audiovisual Media Services inquiry.

- 154. Members of Sub-Committee C attended meetings of the Conference of Foreign Affairs Committee Chairmen (COFACC) in Vienna in March 2006 and in Helsinki in September 2006. Members attended a joint meeting of European Parliament and National Parliaments' Foreign Affairs Committees in Brussels in May 2006. Members also attended the Conference of Defence Committee Chairmen in Helsinki in October 2006. Members of Sub-Committee C attended a joint European and National Parliamentary meeting on development cooperation, held at the European Parliament in Brussels in October 2006. The Chairman of the Sub-Committee was represented at a joint meeting of chairmen of development committees of EU national parliaments with African parliamentarians, held in Cape Town in May 2006.
- 155. Sub-Committee D consulted with other national parliament scrutiny committees as to their views on the thematic strategies on waste and natural resource use. These views were subsequently considered by the Sub-Committee. Members of Sub-Committee D have attended EU conferences involving agriculture committees of national parliaments on "The European Model of Agriculture" (Helsinki, 11–13 October 2006) and on "The Development of Agriculture in the Euro-Mediterranean Region" (Strasbourg, 28–29 September 2006).
- 156. Sub-Committee E used contact with the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) to assist their inquiry into the proposed Fundamental Rights Agency.
- 157. Manfred Weber MEP gave evidence to Sub-Committee F's inquiry into a common EU returns policy in March 2006. A member of Sub-Committee F attended a Presidency meeting of Chairmen of Justice and Home Affairs Committees of Parliaments of the Member States, held in Vienna in April 2006. Another member of the Sub-Committee attended a European Parliament meeting of the same Chairmen and Committees, held in Brussels in May 2006. Two members of Sub-Committee F visited Brussels in October 2006 to attend a meeting of members of the European Parliament's LIBE Committee with members of national parliaments, to discuss progress on the Hague Programme. A member of the Sub-Committee delivered one of the keynote addresses.
- 158. Sub-Committee G received oral evidence for their consumer credit inquiry from the Chair of the European Parliament Internal Market and Consumer Protection Committee. Other MEPs gave written evidence to the Sub-Committee for its inquiries into consumer credit and an EU mental health strategy.

Visits

TABLE 3 Visits undertaken by the Committee and Sub-Committees

* An asterisk denotes a visit that was detailed in the section on Contact with MEPs and other national parliaments, above

Personnel	Visit	Purpose
Members of the EU Select Committee	Brussels in June 2006, and Berlin and Paris in October 2006	To gather evidence for inquiry into EU enlargement
	Brussels in May 2006	* To attend an interparliamentary forum on the future of Europe
	Sankt Pölten, Austria in April 2006	* To attend a conference on subsidiarity
	Vienna, Austria in May 2006	* To attend a COSAC meeting
	Zagreb, Croatia in March 2006	* To attend a COSAP meeting
Members of Sub- Committee A	Brussels	* To attend a meeting with the European parliament and national parliaments on the Lisbon Agenda
	Brussels in October 2006	* To attend a meeting of national parliamentary committees on budgets
	Luxembourg	To attend a meeting of the European Court of Auditors
	Brussels in June 2006	* To meet with the European Parliament's committee on budgets
Members of Sub- Committee C	Brussels in October 2006	To gather evidence for inquiry into "Europe in the World"
	Brussels twice in March 2006	To gather evidence for inquiry into the EU's Strategy for Africa
	Brussels in July 2006	* To attend a roundtable discussion on Africa
	Vienna in March 2006, and Helsinki in September 2006	* To attend meetings of COFACC
	Brussels in May 2006	* To attend a joint meeting of Foreign Affairs Committees
	Helsinki in October 2006	* To attend the Conference of Defence Committee Chairmen
	Brussels in October 2006	* To attend a joint European and National Parliamentary meeting on development co-operation
	Cape Town in May 2006	* To attend a meeting of development committees

		,
Members of Sub- Committee D	Helsinki and Olkiluoto in Finland in March 2006	To gather evidence for inquiry into nuclear safety and waste
	Brussels in March 2006	To gather evidence for inquiry into nuclear safety and waste
	Paris in March 2006	To gather evidence for inquiry into nuclear safety and waste
	Henstridge in Somerset in May 2006	To gather evidence for inquiry into biofuels
	Strasbourg in September 2006, and Helsinki in October 2006	* To attend a conference of agriculture committees of national parliaments
Members of Sub- Committee E	Brussels in February and May 2006	* To present conclusions of recent inquiries to the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE)
Members of Sub- Committee F	Brussels in March 2006	* To gather evidence for inquiry into an EU return policy
	Yarl's Wood detention centre in March 2006	To gather evidence for inquiry into an EU return policy
	Brussels in October 2006	* To attend a meeting of the LIBE Committee and national parliamentarians
	Vienna in April 2006	* To attend a meeting of justice and home affairs committees
	Brussels in May 2006	* To attend a meeting of justice and home affairs committees
Members of Sub- Committee G	Brussels in October 2006	* To present conclusions of the consumer credit inquiry to a European Parliament committee

Debates

- 159. A debate took place on 23 March 2006 to take note of the report on the sugar regime published by Sub-Committee D in December 2005, in the context of the Doha development round of World Trade Organisation negotiations. The subject matter of the Sub-Committee's 2005 Report on the Common Agricultural Policy (CAP) was raised on 7 February 2006 by a Starred Question on funding for the CAP over the period 2007–13. The Sub-Committee's work was also mentioned during the debate on 18 May 2006 on the future state of UK agriculture.
- 160. Sub-Committee E's work was the subject of a debate on 8 June 2006, which focussed on the Fundamental Rights Agency and on the Sub-Committee's Report on the proposed EU Gender Equality Institute.

- 161. The Report produced by Sub-Committee F on the subject of Economic Migration to the EU was debated in the House on 11 May 2006. On that day, the House also debated the Sub-Committee's Report on a common EU returns policy. A member of the Sub-Committee, Lord Marlesford, also raised the issue of migration through written questions on the failure to remove prisoners recommended for deportation (before the matter reached public notice).
- 162. The Committee's Report on Public Awareness of the Scrutiny Role of the House of Lords (see paragraphs six to eight) was debated in the House on 27 October 2006⁴⁵. The Committee will shortly be considering, in the light of this debate, how to take forward the initiatives detailed in that Report.

APPENDIX 1: RECENT REPORTS FROM THE SELECT COMMITTEE

Session 2005-06

Evidence by Commissioner Franco Frattini, Commissioner for Justice, Freedom and Security on Justice and Home Affairs Matters (1st Report, Session 2005–06, HL Paper 5)

Correspondence with Minister: June 2004–February 2005 (4th Report, Session 2005–06, HL Paper 16)

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)

Scrutiny of Subsidiarity: Follow-up Report (15th Report, Session 2005–06, HL Paper 66)

The Work of the European Ombudsman (22nd Report, Session 2005–06, HL paper 117)

Annual Report 2005 (25th report, Session 2005–06, HL Paper 123)

Ensuring Effective Regulation in the EU: Follow-up Report (31st Report, Session 2005–06, HL Paper 157)

EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords (32nd bis report, Session 2005–06, HL Paper 179)

The Brussels European Union Council and the Priorities of the Finnish Presidency (44th Report, Session 2005–06, HL Paper 229)

Session 2004-05

Developments in the European Union: Evidence from the Ambassador of the Grand Duchy of Luxembourg and the European Parliament's Constitutional Affairs Committee (3rd Report Session 2004–05, HL Paper 51)

Remaining Government Responses for session 2003–04 (11th Report, Session 2004–05, HL Paper 94)

Strengthening national parliamentary scrutiny—the Constitution's subsidiarity early warning mechanism (14th Report, Session 2004–05, HL Paper 101)

Clause 2 of European Union Bill—the Constitution's Passerelle Provisions (15th Report, Session 2004–05, HL Paper 102)

Finland's National Parliamentary Scrutiny of the EU (16th Report, Session 2004–05, HL Paper 103)

APPENDIX 2: THE SCRUTINY RESERVE, AND OUR ORDERS OF REFERENCE

Text of the Scrutiny Reserve Resolution, agreed by the House on 6 December 1999

- (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.

European Union Committee's Orders of Reference, 24 May 2005

Excerpted from Hansard

Moved, That a Select Committee be appointed to consider European Union documents and other matters relating to the European Union.

That the expression "European Union documents" shall include the following documents:

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

That the committee have power to appoint sub-committees and to refer to such sub-committees any of the matters within the terms of reference of the committee; the committee have power to appoint the chairmen of sub-committees, but such sub-committees have power to appoint their own chairman for the purpose of particular inquiries; two be the quorum of such sub-committees;

That the committee have power to co-opt any Lord for the purpose of serving on a sub-committee;

That the committee have power to appoint specialist advisers;

That the committee and any sub-committee have power to adjourn from place to place;

That the committee have leave to report from time to time;

That the reports of the Select Committee from time to time shall be printed, notwithstanding any adjournment of the House;

That the minutes of evidence taken before the European Union Committee or any sub-committee in the last Session of Parliament be referred to the committee;

That the minutes of evidence taken before the committee or any sub-committee from time to time shall, if the committee think fit, be printed.

APPENDIX 3: GOVERNMENT RESPONSE TO THE COMMITTEE'S ANNUAL REPORT 2005

Thank you for your letter of 2 March to Douglas Alexander, enclosing a copy of your Committee's Annual Report for 2005. Douglas provided evidence to the Committee on the outcome of the UK Presidency on 17 January and I look forward to continuing contacts with the Committee.

The Government welcomes the quality of analysis and expertise, reflected in this annual report, that the Committee contributes on European issues.

Your letter highlighted a number of areas, set out in the Report on which you requested Government responses. I attach a short note covering these points.

I am copying this letter to Baroness Amos, Leader of the House of Lords, Jimmy Hood MP, Chairman to the House of Commons European Scrutiny Committee and Les Saunders, Cabinet Office.

GEOFF HOON

Government response to House of Lords EU Committee Annual Report 2005

1. Explanatory note: Where the Committee has asked for a specific response from the Government the relevant paragraph from the Report has been included in *italics*. For more general Government responses the relevant paragraph numbers have been listed.

Subsidiarity and the Conference of European Affairs Committees of National Parliaments of EU Member States (COSAC): Paragraphs 21–29, 42–51

- 2. The Government welcomes the Committee's work on subsidiarity and the Committee's 14th and 15th Reports. We support a greater role for national parliaments in monitoring the application of subsidiarity. This was part of the motivation behind the Sharing Power in Europe Conference held in The Hague in November 2005 and the Government was grateful for Lord Grenfell's involvement.
- 3. The Government is aware that the Committee has some remaining concerns about Article 8 of the Protocol on Subsidiarity and Proportionality in the Constitutional Treaty. Whether or not the Protocol comes into force through the Treaty, the Government would want to ensure that it retained its right of access to the European Court of Justice (ECJ) as well as ensuring a significant role for Parliament. The Government and Parliament would need to work together to devise a system to ensure that unrepresentative claims were not forwarded to the ECJ.
- 4. Given the current uncertainty of the Treaty our focus should now be on what we can do to increase the role of national Parliaments within the current treaties. The Austrian Presidency held a conference in St Poelten in April 2006 on this. The Government acknowledges and welcomes COSAC's proactive contribution in this area.

Better Regulation: Paragraphs 36–41, 59–64

- 5. The Government welcomes the progress made on better regulation during 2005—including during the UK's Presidency—and believes that this provides a sound basis for ensuring better regulatory outcomes on individual policy dossiers in the future.
- 6. The Government will continue to give high priority to the better regulation agenda in Europe. We will work with the Commission and other member states to embed the use of impact assessment in the work of the Institutions, including through the measurement of administrative costs of proposals and use of impact assessment during discussions on proposals in the Council.
- 7. In line with the conclusions of the Spring European Council, the Government supports the increased focus on SMEs and looks forward to seeing robust Commission proposals to encourage SME growth and development.
- 8. The Government strongly supports the Commission's efforts to simplify existing EU legislation. During 2006, we shall encourage progress to implement on time the Commission's October 2005 Communication, in particular adoption by the Commission of simplification proposals contained in its rolling programme and agreement to these by the Council and Parliament at an early stage. As the Committee may be aware, the Commission carried out extensive consultation with both member states and stakeholders for its Simplification Communication. The Government believes it is important that the Commission continues to involve stakeholders in the initiative.
- 9. The Government welcomes the interest in better regulation—in particular simplification—shown by the European Parliament, following the recent adoption of four reports by the Internal Market and Legislative Affairs Committees and the debate at the plenary session on 4 April 2006. The European Parliament, as the co-legislator, has an important role to play in simplification and will have responsibility for scrutinising proposals as part of the co-decision process. Proposals simplifying EU legislation will be subject to the usual Parliamentary scrutiny procedure at national level.

Council Meetings

The Committee has pressed through COSAC for greater transparency in the Council of Ministers. We expect the Government to report progress on this matter to parliament at the earliest opportunity. (Report para 178)

10. The Minister for Europe wrote to Jimmy Hood MP, copied to Lord Grenfell, on the issue of Council Transparency on 13 March setting out progress under the UK Presidency and longer-term goals. The Government will continue to keep the Committee updated on this matter.

Scrutiny overrides

We note that our Government is committed to making sure that overrides are avoided wherever possible. Some Departments make particular efforts to ensure that overrides are avoided and these we commend. We note that an override can on occasion be triggered by events outside the control of our Government, for example by the last minute presentation of a new text by the Presidency. But every Department must remain vigilant to ensure that standards do not slip. We expect the Cabinet Office to continue to take a lead in ensuring that performance improves in those Departments where the twice-yearly returns show a need for improvement. We are much heartened by the lower figures for last year so far, compared with 2004. (Report para 181)

We also note that we have a responsibility to help prevent unnecessary overrides—for example by managing our work so that documents are considered by Sub-Committees in an appropriate time-scale and not left to fester unexamined and "awaiting scrutiny". All Sub-Committees recognise that this means taking time to consider routine scrutiny items as well as spending time examining witnesses, and all Sub-Committees manage this balance in their own way. (Report para 182)

The Committee was, however, delighted at the much improved record of the Government on scrutiny overrides over the first half of the year, and we hope that they have continued to perform as well in the period following June 2005. (Report para 188)

11. The Government welcomes the Committee's remarks about the much improved record in the first half of 2005. We remain committed to keeping the number of scrutiny overrides to a minimum and the figure of 22 overrides for the second half of 2005, including 19 where scrutiny could not have been completed in the House of Lords, shows that figures remain lower. Of these 19 overrides, 11 occurred at times when the Committee was not sitting because of the Parliamentary recess. The Cabinet Office continues to work with Departments to promote the benefit of forward planning and working closely with the Committee to ensure that as much business as possible is cleared before periods of recess, and in ensuring that items listed in the Committee's Progress of Scrutiny document are reviewed regularly and that responses to the Committee's questions are responded to as quickly as possible.

Resources

Having a member of staff working for the Committee in Brussels is proving to be a valuable support for our scrutiny work and we recommend the continuation of the post. The Committee's effectiveness is enhanced by having a presence on the ground in Brussels. We have instructed the post-holder to focus in particular on:

Obtaining information for the Committee (and in particular advance intelligence of Commission proposals);

Explaining and promoting the work of the House in relation to EU affairs;

Strengthening relations with the Brussels offices of the devolved administrations and other national parliaments; and

Fostering personal and face-to-face contacts with people in the EU Institutions in order to enhance further the reputation of the House among EU decision makers and gain influence for the Committee's recommendations. (Report para 209)

12. The Government acknowledges the value of the Committee's representation in Brussels and agrees with the Committee's assessment of the focus for the post in the year ahead.

We urge Her Majesty's Government to establish a dedicated website where the public can easily access all explanatory memoranda and regulatory impact assessments. These documents are invaluable to all those engaged in scrutiny of EU matters and, although publicly available on request, could in this way be considerably more easily accessible. (Report para 211)

13. The Government agrees that in the interests of full transparency Explanatory Memoranda (EMs) on EU proposals should be easier to access than they are currently. The Cabinet Office is working to set up a website where EMs can be consulted and hopes that this can be established shortly.

APPENDIX 4: SUPPLEMENTARY MEMORANDUM FROM THE AUSTRIAN AMBASSADOR

Services Directive

Q: The European Council hopes for "sustained momentum" in progress on the Services Directive (para 21). What are the significant unresolved issues relating to the draft Services Directive that the Austrian Presidency will seek to resolve? What are the obstacles to progress?

A: In our view, the common goal must be to reap the benefits of an internal market for services in creating jobs and promoting economic growth, taking into account principles of social and environmental responsibility.

The Austrian Presidency will endeavour to further the removal of obstacles regarding the provision of cross-border services. In this, we will work closely with the European Parliament and the European Commission to achieve political consensus. A balance will have to be struck between the two principles "country of origin" and "country of provision"; in other words, the safeguarding of social and environmental standards, the avoidance of wage or social dumping. The challenges are to ensure effective control mechanisms and provisions for legal redress. We also expect that exceptions to the country of origin principle will have to be made with regard to services of general interest and such services as fall under the category of private law.

Nuclear Safety

(Q 21 and 22—Lord Renton of Mount Harry)

The ECJ judgment of 10 December 2002 (RS C-29/99) on the question of community competence regarding the accession of the European Atomic Agency to the Convention on Nuclear Safety admits a broad interpretation of the criteria of community competence concerning the protection of the population and the environment against ionising radiation. It can thus be followed that substantial regulations on Community level regarding nuclear safety cannot *a priori* be excluded.

APPENDIX 5: COSAC FINAL CONTRIBUTION

Contribution adopted by the 35th Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC), held in Vienna 22–23 May 2006

The Future of Europe and the Period of Reflection

COSAC believes that in order to renew the confidence of Europe's citizens in the Union a broad debate which does not limit itself to the fate of the Constitutional Treaty has to be continued at all levels. In this regard citizens' specific concerns and the status of public opinion in the Member States need to be understood.

COSAC takes good note of the debate in the Joint Parliamentary Meeting on the Future of Europe on 8 and 9 May 2006. COSAC is convinced that the meeting made a valuable contribution to conclusions that might be drawn from the period of reflection.

COSAC calls on the European Council on 17 June 2006 to present a roadmap for further measures to be taken, in particular for the future of the ratification process in general, and to come up with specific proposals on how the Union could function better.

The Constitutional Treaty

COSAC calls on the European institutions to explain better the advantages of the Constitutional Treaty not just in terms of institutional questions but also with regard to citizens' rights, transparency, balance of solidarity and subsidiarity, democracy, rights of national parliaments and values.

COSAC welcomes the decision of 16 Member States including most recently Belgium, Estonia and Finland who have either already ratified the Constitutional Treaty or declared their intention to do so as a positive signal to keep the ratification process in motion while equally respecting the decision of other Member States which have not yet ratified.

Subsidiarity and Proportionality

COSAC regards the monitoring of the effective application of the principles of subsidiarity and proportionality as an important element of the scrutiny role of National Parliaments.

COSAC stresses that the EU should act in areas where action on the European level clearly brings added value. This matter was dealt with at a conference on subsidiarity in St. Pölten on 18 and 19 April 2006 as a follow-up to the Hague-conference.

COSAC bearing in mind the role national parliaments already play in the scrutiny of EU legislation as acknowledged in the Amsterdam Treaty's Protocol No 9 on the role of national parliaments in the European Union and Protocol No 30 on the application of the principles of subsidiarity and proportionality stresses that their full use should lead to more efficiency in implementing EU policies.

COSAC warmly welcomes the commitment of the President of the Commission at the Joint Parliamentary Meeting on the Future of Europe on 9 May 2006 to transmit directly all new legislative proposals and consultation papers to National Parliaments, inviting them to react so as to improve the process of policy formulation. COSAC asks the Commission to take into account comments from National Parliaments—in particular with regard to the subsidiarity and proportionality principles—and within an acceptable timeframe to acknowledge receipt and offer a reasoned response.

COSAC requests the Commission to provide its annual legislative and work programme, the annexes and indicative lists in all languages. In addition, more detailed information on the proposals would allow national parliaments to discuss the substantial policy direction of the Commission.

COSAC welcomes the Conclusions of the Conference of the Speakers of European Union Parliaments of Budapest of 7 May 2005 that referred to COSAC's "declaration on the role of National Parliaments in the European debate: Raise national European awareness" and called upon the National Parliaments to hold a debate preferably in plenary session each year on the annual legislative and work programme of the Commission with due respect for their internal work programme, legal framework and traditions.

COSAC notes that a significant number of National Parliaments have agreed to take part in the second subsidiarity and proportionality check based on legislative proposals from the Commission's annual work programme for 2006. Since part of the proposals will only be dealt with in the second half of 2006 COSAC invites the incoming Finnish Presidency to take over the coordination under the terms of the conclusions of the XXXIV COSAC.

COSAC looks forward to the official inauguration of the IPEX website by the Conference of the Speakers of European Union Parliaments at their next conference in Copenhagen from 29 June to 2 July 2006 which should allow National Parliaments to better coordinate their activities and exchange their best practises in the framework of COSAC.

Better regulation

COSAC thanks the President of the Commission for the information on the follow up of its contribution of the XXXIV COSAC with regard to impact assessments. COSAC asks the Commission to translate at least the summaries of all its impact assessments into all official languages of the Union.

COSAC welcomes the Commission's initiative on better regulation, its efforts to simplify existing EU law and to achieve a better quality of new proposals while preserving the *acquis communautaire*.

COSAC encourages the Commission to devise a method aiming at assessing and reducing bureaucratic costs by the end of 2006.

COSAC welcomes the launch of the Commission's impact assessment web page on the Europa website where the proposals of the legislative and work programme together with roadmaps, impact assessment reports and policy documents can be found.

Openness in the Council

COSAC underlines the necessity to realise maximum transparency in the EU decision making process for the benefit of our citizens, European democracy and the future of the EU.

COSAC calls on the Council to allow open sessions for European Union legislative proposals including on certain matters not subject to the co-decision

procedure as set out in Art 251 ECT and amend its rules of procedure accordingly.

The 5th Biannual Report

COSAC welcomes the 5th biannual report prepared by the COSAC Secretariat which has again been helpful for obtaining an overview of the developments in the European Union that are relevant to parliamentary scrutiny.

The Western Balkans

COSAC expresses its support for the reform and stabilisation process in the Western Balkans as steps towards the integration of these countries into the European Union. In this context COSAC welcomed the presence of COSAP at its meeting as a special guest.

COSAC welcomes the start of negotiations to transform the Central European Free Trade Association CEFTA into a comprehensive Free Trade arrangement for South Eastern Europe as an important step on the road to full integration of all countries of the region into the European structures.

Neighbourhood Policy

COSAC takes a positive note of the transformation process in the Ukraine and regards the neighbourhood policy as a necessary part of complementing the EU enlargement policy.