

Written Ministerial Statement on European Union Bill

13 September 2010

Minister for Europe David Lidington has published a written statement providing an update to the House on progress made in preparing the EU Bill.

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European Union: Forthcoming first session legislation

The Minister for Europe (Mr David Lidington):

There has been a profound disconnection between the will of the British people and the decisions taken in their name by the British Government in respect of the European

Union. This Government is determined to reconnect with the British people by making itself more accountable for the decisions it takes in relation to how the EU develops. We plan to decentralise the power from the Government to the British people, so the people can make the big decisions on the direction of the EU. This Government is committed to allowing the British people to have their say on any future proposals to transfer powers from Britain to Brussels.

Her Majesty's Gracious Speech set out that the Government will bring forward a Bill later in this session which would ensure that in future this Parliament and the British people have their say on any proposed transfer of powers to the European Union. I want to update the House at this stage on the progress made so far in preparing this legislation.

The Government will introduce a Bill which would require that:

- (a) any proposed future EU treaty, agreed by all EU Member States' governments, including the UK government, which sought to transfer areas of power or competence from the United Kingdom to the European Union would be subject to a referendum of the British people; and,
- (b) the use of ratchet clauses or passerelles, provisions in the existing EU Treaties, which allow the rules of the EU to be modified or expand without the need for a formal Treaty change, would require an Act of Parliament before the Government could agree to its use.

In addition, I set out in my statement to the House of 6 July that the forthcoming Bill would also make provision to enable the ratification by the UK of the EU Transitional Protocol concerning the composition of the European Parliament, in accordance with s.5 of the European Union (Amendment) Act 2008.



Other EU Member States, such as Ireland, France and Denmark already require referendums on changes to the EU Treaties in certain circumstances. Our legislation will set out in detail the circumstances in which a referendum would be required, and how Ministers would inform Parliament and the public of their decision as to whether a referendum should be held and the clear reasons for their decision. These formal Ministerial decisions would be subject to judicial review.

The referendum requirement, or lock, would not catch all amendments or Treaty changes. The lock would cover any proposed transfers of competence – the EU's ability to act in a given area – between the UK and the EU; and transfers of power, such as the giving up of UK national vetoes and moving to majority voting in significant areas, such as in Common Foreign and Security Policy. But Treaty changes which do not transfer competence or power from the UK to the EU would not be subject to a referendum. For example, Accession Treaties that transfer competences and power from the acceding country to the EU, and which only amend Treaty provisions to the extent necessary to facilitate the accession, do not transfer competence or power from the UK to the EU, and so consequently would not be subject to a referendum. The Transitional Protocol on the composition of the European Parliament, which would temporarily amend the number of MEPs, does not transfer any competence or power from the UK to the EU and so consequently would not be subject to a referendum.

The Coalition Programme says that the Government will ensure that there will be no transfer of competence or power from the UK to the EU during this Parliament; and so there will be no such referendum during this Parliament. A referendum would be required only if the Government supported a proposed change and if that change transferred power or competence from the UK to the EU, and would be held before the Government ratify such a change, or in the case of major ratchet clauses, agree formally to the use of the clause in the Council. As any EU treaty needs the unanimous agreement of all EU Member States including the UK, where the Government opposes any proposed treaty change, a referendum would not be required.

The coalition agreement contains a clear commitment that this Government will not join, or prepare to join, the Euro in this Parliament; nor will this Government agree to the UK's participation in the establishment of any European Public Prosecutor. Furthermore, this Government will ensure that any future proposal to do either of these will require a referendum of the British people. In addition, any proposal which would mean the UK giving up its border controls, or any proposal to adopt a common EU defence policy, would also require a referendum of the British people before the Government could agree.

The Government will propose in this legislation that an Act of Parliament is required before ratchet clauses are put into effect. This will give Parliament more power over the decisions being taken by the Government. Germany has a very similar policy already in place: to give the German Parliament more of a say over EU decision-making, Germany

has identified some areas that require legislation or parliamentary approval either before or following adoption by the EU of these ratchet clauses.

There is no one agreed definition of a ratchet clause; some provide for a modification of the EU Treaties without recourse to formal Treaty change, others are one-way options already in the Treaties which EU Member States can decide together to exercise and which allow existing EU competence or powers to expand. Examples include clauses which would add to what can be done within existing areas of EU competence, such as the ability to add to the existing rights of EU citizens; and clauses on the composition or procedures of EU institutions and bodies, such as a change to the number of European Commissioners. Where a ratchet clause would amount to the transfer of an area of competence or power from the UK to the EU, such as the clause which would allow certain decisions in Common Foreign and Security Policy to be taken by majority voting rather than by unanimity, we will also propose subjecting that ratchet clause to a referendum of the British people before the UK can agree to its use.

This Bill would allow the UK to continue to play a strong and positive role in the EU (just as their arrangements allow other Member States to do so) while increasing the accountability and democratic legitimacy of the EU. This Bill would ensure that the British people are able properly to have their say on any future transfers of competence or power from the UK to the European Union.
