

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

European Committee C

BETTER REGULATION

*Monday 8 February 2016*

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**Friday 12 February 2016**

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY  
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**The Committee consisted of the following Members:**

*Chair:* VALERIE VAZ

† Barclay, Stephen (*North East Cambridgeshire*)  
(Con)

† Burns, Sir Simon (*Chelmsford*) (Con)

† Campbell, Mr Alan (*Tynemouth*) (Lab)

† Glass, Pat (*North West Durham*) (Lab)

Grant, Peter (*Glenrothes*) (SNP)

Hopkins, Kelvin (*Luton North*) (Lab)

Kawczynski, Daniel (*Shrewsbury and Atcham*) (Con)

† Lidington, Mr David (*Minister for Europe*)

† Morris, James (*Halesowen and Rowley Regis*) (Con)

† Qureshi, Yasmin (*Bolton South East*) (Lab)

Rimmer, Marie (*St Helens South and Whiston*) (Lab)

† Shelbrooke, Alec (*Elmet and Rothwell*) (Con)

† Soubry, Anna (*Minister for Small Business, Industry  
and Enterprise*)

Anna Dickson, *Committee Clerk*

† **attended the Committee**

## European Committee C

Monday 8 February 2016

[VALERIE VAZ *in the Chair*]

### Better Regulation

4.30 pm

**The Chair:** Before we begin, let me briefly outline the procedure. A member of the European Scrutiny Committee may make a five-minute statement about the decision to refer the documents. One of the Ministers will then make a statement lasting no more than 10 minutes; questions to the Ministers will follow. Once questions have ended, one of the Ministers will move the main motion and debate will take place. We must conclude our proceedings by 7 pm. Does a member of the European Scrutiny Committee wish to make a brief explanatory statement?

4.31 pm

**Alec Shelbrooke** (Elmet and Rothwell) (Con): It is a pleasure to serve under your chairmanship, Ms Vaz. I will set out why these documents have been put forward by the European Scrutiny Committee for debate in this Committee.

The documents, which form part of the better regulation package published on 19 May 2015, comprise an overarching communication by the Commission indicating how it intends to improve the quality of its proposals for legislation, as well as a proposal for an interinstitutional agreement on better regulation, to replace and expand on a number of previous interinstitutional agreements. The package also includes some additional documents internal to the Commission and therefore not formally subject to scrutiny by the House: better regulation guidelines, a better regulation toolbox, and a regulatory fitness and performance—REFIT—state of play and outlook.

The package focuses on better preparation for legislation, increased scrutiny and increased consultation. Headline elements of it are the production of a road map and inception impact assessments at an early stage of formulating legislation, to permit citizens and stakeholders to provide views before drafting of legislation starts; further consultation on drafts of legislation that are subsequently produced; a “Lighten the Load” web portal, inviting views on existing EU legislation and initiatives; a strengthened regulatory scrutiny board, including independent members, to examine the fitness of proposed legislation; more stringent examination of proposed amendments to a legislative proposal; and greater transparency in the preparation of EU subordinate legislation.

The Commission has put into effect the matters that are in its own hands. The interinstitutional agreement has now evolved into a final provisional text, which received political endorsement at a Council meeting of 15 December 2015 but remains under consideration by the European Parliament.

Better EU regulation is not a new aspiration. The latest initiative can be viewed against the background of the Commission’s intention that the EU should interfere

less in matters where member states are better equipped to give the right response at national and regional level, and be more open and accountable about what it does and how it does it. Better regulation also now features in the competitive basket of the UK renegotiation. The European Scrutiny Committee has emphasised the importance of putting good intentions into practice and noted how the principle of early consultation could facilitate early, and therefore more effective, scrutiny by Parliament. It has noted that the proposals for greater consideration of amendments to legislation suggested by the Council or the European Parliament has been characterised as a power grab.

While the interinstitutional agreement has evolved in a way that is likely to be welcome, some elements cause the Committee concern and much of the agreement remains expressed in generalities. We therefore stress the importance of the commitment contained in the agreement being put into practice rigorously. There is no improvement on the earlier text in relation to the role of national Parliaments, but in correspondence with the Commission we have received an undertaking from the vice-president that the Commission’s inception impact assessments will be transmitted directly to national Parliaments, which will facilitate early and therefore more effective scrutiny. The possibility that impact assessments will be made public only at the end of the legislative process is of concern.

The interinstitutional agreement makes little significant improvement to the transparency of the EU legislative process, which is also a matter of concern. This issue is likely to remain in the public eye, due to the inquiry currently being undertaken by the EU ombudsman into the transparency of trilogues. The objective shared by the UK and other member states of having concrete targets for the reduction of the burden of regulation only finds expression in equivocal terms. That is why we felt it important to refer these documents to the Committee.

**The Chair:** I call the Minister to make an opening statement. I remind the Committee that interventions are not allowed during the statement.

4.35 pm

**The Minister for Small Business, Industry and Enterprise (Anna Soubry):** Thank you, Ms Vaz; it is a pleasure to serve with you in the Chair.

I am pleased to have the opportunity to discuss the European communication “Better regulation for better results”. My right hon. Friend the Minister for Europe and I will be happy to answer any questions the Committee may have about the better regulation agenda in the EU. As the Committee will be aware, the Government have introduced ambitious measures to minimise unnecessary red tape at national level, but action is also needed at EU level to limit the burdens on our businesses that stem from EU legislation, which the OECD has estimated to be about 50%.

Since taking office in 2014, the Juncker Commission has made welcome progress on better regulation, and the Government have lobbied consistently in Brussels to keep better regulation at the top of the Commission’s agenda. For example, the number of new initiatives proposed in the Commission’s 2015 and 2016 work programmes was 80% lower than the average in the previous five years, and more laws have been laid down for repeal in the past two years than during the whole of

the previous Commission. In the “Better regulation for better results” communication, which was published in May last year, the Commission set out what more it plans to do. The communication addresses long-standing UK priorities and the Prime Minister welcomed it as a significant step in the right direction.

The communication has three main themes: transparency, tools for policy makers and reviewing the stock of legislation. Specifically, the Commission announces longer consultation periods on legislative proposals and greater independence for its regulatory scrutiny board. The board examines the quality of impact assessments and its favourable opinion is needed before the Commission may adopt a proposal. The Commission also renews its commitment to applying a small and medium-sized enterprise test in respect of new legislation, systematically considering lighter regimes for SMEs and exemptions for micro-enterprises wherever possible. That is one area in which I particularly welcome action that will reduce burdens: SMEs are the backbone of all our economies and the Commission estimates that they create 85% of new jobs in Europe. Finally, the communication describes how the Commission’s regulatory fitness, or REFIT, programme to evaluate existing EU legislation will become more targeted, quantitative and inclusive.

We welcome those better regulation reforms, which demonstrate the Commission’s positive attitude and intention to make rapid advances. The communication is evidence that our efforts to embed the EU’s focus on competitiveness, jobs and growth are bearing fruit. We continue to work with like-minded member states to achieve further progress on EU better regulation from all three EU institutions. That is genuinely a shared responsibility for minimising the burden of EU legislation.

The interinstitutional agreement—IIA—governs working practices between the Council, the European Parliament and the Commission, and it is one of the key institutional priorities of the Juncker Commission. It replaces the IIA on better law making, dating from 2003, and focuses on improving the operation of the legislative process in the EU. A draft text was published in May last year and tripartite discussions concluded in December, culminating in a political agreement at the General Affairs Council. A formal vote in the Council of Ministers is expected at the General Affairs Council next week.

The Government’s negotiating mandate adopted a two-pronged strategy for meeting ambitions for the IIA: to maintain interinstitutional balance at least where it was set by the Lisbon treaty and the previous IIA and to prevent encroachment on the Council’s powers and prerogatives; and to pursue a broad better regulation agenda, including through proposals for measures on better regulation and better impact assessment processes. The Government were also clear that where proposals on better regulation could not be achieved through the IIA negotiations, the door was to be left open to pursue them through other means.

The Government’s better regulation objectives were a priority during negotiations and they have been successfully achieved in a number of key areas, which is a real boost for small businesses, which are the motor of our economy. First, the Commission makes a firm commitment that impact assessments will include

“potential short and long-term costs”,

the impact on the competitiveness of a proposal, and subsidiarity and proportionality tests. It makes a specific commitment that its impact assessments will, in future, have

“particular regard for Small and Medium Enterprises”

through “think small first” principles. Secondly, the European Parliament and the Council confirmed that they will carry out impact assessments in relation to their substantial amendments to the Commission’s proposal, which is something that the United Kingdom has consistently called for.

Thirdly, and most important, the Commission commits for the first time to assessing the feasibility of establishing an EU burden reduction target—a significant achievement that was added to the text of the proposal as a result of the UK’s lobbying. However, we want to go further. As set out by the Prime Minister, the Government made better regulation one of the elements of our reform agenda ahead of the referendum, and as the Committee will know, the President of the European Council has proposed measures to address the agenda. That is a significant result for British businesses. We are pleased with the way in which the IIA preserves the level of interinstitutional balance, which was another of the Government’s key objectives during the negotiations. The IIA text reflects the UK’s call for a more systematic and timely consultation of co-legislators in agreeing the Commission’s annual work programme. It now provides clear provisions to hold the Commission to account to deliver its annual work programmes in line with the promised improvements to the process.

During negotiations, we explored the option of addressing the role of national Parliaments in EU decision making through the IIA. The IIA text acknowledges the need for national Parliaments to be able to exercise fully their prerogatives under the treaties, and commits the EU institutions in their legislative work to be fully compliant with subsidiarity and proportionality principles. However, the Commission and a clear majority of member states felt that that was a matter for debate between the Commission and national Parliaments directly, rather than as part of IIA negotiations. As a result, strengthening the role of national Parliaments remains a key element of the UK’s renegotiation agenda. We are seeking a new arrangement whereby groups of national Parliaments acting together can stop unwanted legislative proposals.

I hope my introduction assures members of the Committee that the Government have secured ambitious outcomes across a number of aspects of the legislative process in the EU. Crucially, the agreement strengthens the better regulation provisions in several key areas of UK interest. Hon. Members will have seen the letter from the Prime Minister to President Tusk, so they will know that better regulation is very much at the heart of our EU reform agenda. Huge progress has been made across the whole EU; awareness is growing that we must regulate less and ensure that existing regulation is doing the job it is meant to do, rather than holding back small and medium-sized businesses across the whole EU. We are leading the charge. I thank the European Scrutiny Committee for calling for this debate.

**The Chair:** We now have until 5.30 pm for questions to the Minister. I remind hon. Members that questions should be brief and that they may, subject to my discretion, ask related supplementary questions.

**Pat Glass** (North West Durham) (Lab): It is a pleasure to serve under your chairmanship, Ms Vaz. I have two brief, pragmatic questions.

The document sets out ways in which consultation can be improved and cites the 12-week rule as the appropriate framework. That mirrors the Cabinet Office guidance on consultation, to which the Government—certainly, in my experience—rarely conform in practice despite requiring others, such as local government, to adhere to it. Is it possible for the document to be more closely aligned to our Cabinet Office guidance? The Cabinet Office guidance is really good. It specifies not only that there is a 12-week timescale, but that it should not span times when it is more difficult to engage with the public such as the six to eight weeks of the summer holidays or, at least, the month of August when the Government go into standby mode.

My second question is about feedback. The one thing that really irritates people about consultation is when they go to the trouble of giving their views, but receive little or no feedback. Are there any plans to ask the EU to look at that in the document—I did not see any—to ensure that feedback is built into the consultation process?

**The Minister for Europe (Mr David Lidington):** I am glad that the hon. Lady drew attention to the 12-week rule. Of course, that also ties in with what is in the draft reform texts from President Tusk apropos the suggested red card for national Parliaments. President Tusk is talking about having a 12-week period during which reasoned opinions can be tabled, rather than the eight-week deadline that is set out at the moment. That is a real benefit to national Parliaments. I have a lot of sympathy with what the hon. Lady says on both counts. One has to have a caveat in terms of the ability of EU institutions to act urgently when there is urgent need, perhaps most obviously on issues to do with plant or animal health and the need to act swiftly to prevent the spread of disease.

I sympathise with the hon. Lady's wish that we try to align European arrangements more closely to Cabinet Office guidance, but the reality is, of course, that at EU level we are dealing with 28 different Governments and 28 different Parliaments, each of which has its own arrangements for domestic legislative processes and, indeed, for parliamentary recesses and holidays. For example, in parts of Europe, including Scotland, the summer holiday starts towards the end of June, and there are other places where people break a lot later. It is similar at Christmas and new year, when the duration of the holiday depends on whether western or Orthodox Christianity is the mainstream in a particular country. Although we have probably got a decent distance, I accept that there is further to go, but we must bear in mind such complicating factors.

**Pat Glass:** And on feedback?

**Mr Lidington:** On feedback, the text of the interinstitutional agreement contains a certain amount that goes in the direction that the hon. Lady suggests, particularly annex 1 to the agreement and the new arrangements for consultations in the preparation and drawing-up of delegated Acts—in other words, EU secondary legislation, the equivalent of statutory instruments here.

One of the benefits of the interinstitutional agreement that we now have is that there is a commitment to involve member states' experts much more closely in the preparation of draft delegated Acts and in a timely manner. There is a specific requirement for the Commission to say openly, at the end of any meeting of member state experts, what conclusions it has drawn, how it will take those experts' views into consideration and how it intends to proceed. Those conclusions will be recorded in the minutes of the meeting. There is a permissive provision in the rules for broader groups of stakeholders to be involved in the preparation and drawing-up of delegated Acts, so there are some measures in the text that take us very much in the direction that the hon. Lady suggests.

More generally, in terms of its better regulation proposals, the Commission has chosen to make more information available at an earlier stage. Stakeholders' comments will therefore be more relevant and helpful because they will have access to the documents—the road maps and the inception impact assessments—that will give more detail about the policy initiative in question. Clearly, the proof of the pudding will be in the eating, but the proposals amount to a very useful step forward from the previous position.

**The Chair:** As no more Members wish to ask questions, we will proceed to the debate on the motion.

*Motion made, and Question proposed,*

That the Committee takes note of European Union Documents No. 9079/15 and Addenda 1 and 2, Commission Communication: Better regulation for better results—An EU agenda and No. 9121/15 and addendum 1, Commission Communication: Proposal for an Interinstitutional Agreement on Better Regulation (IIA); welcomes the Commission's intention to use these documents to refresh and take forward its work on better regulation; supports the negotiations on the Interinstitutional Agreement that started in June this year, aimed at setting out the commitments of the European Parliament, the Council and Commission concerning better regulation, interinstitutional relations and the legislative process; and welcomes the Commission's report on the working of the comitology committees in 2014, which enables the Government to assess critically the effectiveness of these committees.—(*Anna Soubry.*)

4.49 pm

**Pat Glass:** Better, more transparent regulation is difficult to argue against. We certainly do not want worse, more opaque or more cumbersome regulation. The documents attempt to set out a strategy to improve efficiency and therefore to deal with some of the more common criticisms made of the EU: that it is inefficient, bureaucratic and disengaged, and that it too often strays beyond the principles of subsidiarity and proportionality and hangs on too long to legislation that is no longer appropriate or required. Engaging with these proposals will hopefully provide a pathway towards addressing some of those criticisms, with agreed goals of efficiency, ongoing legislative renewal and review, and increased public consultation and awareness of the functions of the EU and its purposes and how citizens can participate in the formation of new legislation and the review of existing legislation.

The documents recognise the influence that member states have, in that, without their engagement, those good intentions cannot be delivered. We should welcome the fact that the EU, and in particular the Commission, has recognised that there are issues that need to be addressed and has set out a strategy for doing so.

Good intentions are one thing, but the EU needs to will not only the ends, but the means to achieve its goals. It is important to recognise the difficulties it will face in bringing about these efficiencies. However, it is clear that there is an understanding that the future of the Union depends not only on its being relevant to ordinary people's lives, but on ordinary people being able to engage and have some influence. In that sense, I think this is a major step in the right direction.

4.50 pm

**Mr Lidington:** I am grateful to the hon. Lady for her contribution.

We have before us a welcome step forward. One has to look at the various things that are happening in the EU in smarter regulation to see that we are shifting the course of the super-tanker, albeit not as fast as I would perhaps wish. Whether Governments are from centre-right or centre-left political families, Europe is waking up to the existential nature of the crisis of economic competitiveness that faces it. We all know that unemployment in many parts of Europe, particularly youth unemployment, is far too high. We know, too, that Europe is struggling with sluggish growth rates. That is all happening at the same time as European economies are contending with the challenge of global competition and digital technology, which is starting to shake up our professional and white collar occupations in the way that automation did factory-floor working a generation ago.

In the light of those multiple economic challenges, the blunt truth is that unless Europe can raise its game, and dramatically, in terms of economic competitiveness, the next generation of Europeans will be able to afford neither the standard of living, nor the social protection, nor the public services that our children and our grandchildren will expect and that Europeans today, from whichever country they come, take for granted. If that were to come to pass, it would breed social and political tensions that would make the rise of extremist movements such as Jobbik and the Front National seem relatively mild.

That is a massive challenge, and what we are debating today is important because it is one element—I put it no more strongly than that—in addressing that profound economic challenge. It sits alongside other efforts to promote smarter, less burdensome regulation on business, alongside the drive to negotiate free trade deals between Europe and other countries and regions of the world, and alongside efforts to deepen the single market to

make it as good a single market in services and digital as it already is in goods. Since the Juncker Commission came to office, we have so far seen an 80% reduction in new legislative and regulatory initiatives coming out of the Commission, compared with the last year of the Barroso Commission. We have also seen a large number of the measures that the Prime Minister's business taskforce called for a couple of years ago translated into action at European level.

In the documents we are debating this afternoon, we see an effort to turn that mentality into something that is embodied within both the corporate culture and the systemic working of the European institutions. We have, in one set of documents, the Commission's better regulation agenda, which is a declaration by the Commission that in future it will act in this particular deregulatory way. We have an interinstitutional agreement that takes us further than where we are at present towards greater transparency and greater involvement of national Parliaments, and a commitment to improve the general quality and comprehensibility of regulations made at European Union level.

At the same time, we have the renegotiation that my right hon. Friend the Prime Minister is leading and the draft texts from President Tusk that were published last week. Those texts provide, among other things, four specific targets for the reduction of regulation—something that has never been accepted previously. They provide too for a mechanism for the retrospective review of EU law and regulation and for the Commission, in doing that work, to seek the views of both the Council representing national Governments and of individual national Parliaments. If that approach is, indeed, reflected in a final negotiated settlement, I hope national Parliaments will seize the opportunity in practice to create a kind of green card mechanism whereby national Parliaments work together to promote particular objectives in terms of smarter, less burdensome and less complex European regulation.

While the measures are not a panacea—I would never claim that they are—they are significant moves that take Europe in the right direction, towards being more competitive, less burdensome on business and better at creating the jobs that our young people desperately want and need. We should therefore welcome those initiatives.

*Question put and agreed to.*

4.56 pm

*Committee rose.*

