



DEBATE PACK

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Parliamentary sovereignty and EU renegotiation

Backbench Business Committee Debate

Chamber

4 February 2016

Initiated by John Baron, Richard Drax, Craig Mackinlay,
Andrew Turner and Kate Hoey

Nigel Walker

Subject specialist:
Vaughne Miller

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1. Summary

The national and parliamentary sovereignty discussion has tended to focus on the powers of the unelected European Commission to propose legislation, the gradual erosion of the national veto in the Council of Ministers, the primacy of EU law over national law, the obligation to amend or repeal national laws as a result of EU Court rulings, and the need for a greater role for national parliaments in the decision-making process.

The *European Act 2011* contained a so-called 'sovereignty clause' confirming that ultimate legal authority remains with the UK Parliament rather than the EU. It made statutory the common law principle of the sovereignty of Parliament. In a written statement to Parliament, David Lidington said of the clause in the Bill:

The EU Bill places on a statutory footing the common law principle that Parliament is sovereign and that EU law only takes effect in the UK by virtue of the will of our Parliament expressed through Acts of Parliament. To date, case law has upheld that principle. This Bill will put the matter beyond speculation by placing this principle on a statutory footing. The provision is declaratory, affirming this common law principle. It does not alter the existing relationship of EU law and UK law.

Some legal experts regard the sovereignty clause as no more than a symbolic reaffirmation of the common law principle that a statute has no impact in the UK unless or until it is embodied in an Act of Parliament. Others thought it had value even though, strictly speaking, it did not change anything.

The preservation of parliamentary sovereignty has been firmly linked to the ability of national parliaments to object to or reject European Commission proposals. Since the Lisbon Treaty, two protocols have provided national parliaments with a mechanism for objecting to Commission proposals in accordance with the principle of subsidiarity. The EU Treaty also guarantees a role for national parliaments in [Article 12](#) of the *Treaty on European Union*. The Lisbon Treaty provisions were intended to strengthen political dialogue with an early warning mechanism of orange and yellow card procedures which in theory gave national parliaments more power. In practice these have been something of a blunt instrument. The yellow card threshold has been reached rarely and has lacked real influence and the orange card has not been achieved at all, so they have not been seen as mechanisms that can affect the legislative process.

The UK Government has consistently maintained that an enhanced role for national parliaments in the EU decision-making process would make it more democratic and pledged to make this one of the aims of its EU reform agenda.

The Government raised the idea of a 'red card' to veto unwanted EU proposals in 2013: a given number of national parliaments should be able to block Commission initiatives. In his [letter](#) to the President of the European Council, Donald Tusk, in November 2015, David Cameron asked for a new arrangement whereby groups of national parliaments, acting together, could stop unwanted legislative proposals. The precise threshold of national parliaments required would be a matter for the negotiation.

Donald Tusk's [draft proposals](#) to tackle the UK's sovereignty concerns reinforced respect for subsidiarity and proposed that Member States discontinue the consideration of a draft legislative act where a number of national parliaments object to it on subsidiarity grounds.

2. Press Articles

[EU's Donald Tusk to unveil proposed UK reform deal](#)

BBC News Online
2 February 2016

[EU referendum draft deal: Britain heads for June vote as David Cameron offered 'red card' to block EU laws](#)

Michael Wilkinson
Daily Telegraph
2 February 2016

[Cameron faces Cabinet backlash over EU 'red card' deal: Theresa May demands tougher rules on migrants and Boris Johnson warns 'more needs to be done'](#)

Tim Sculthorpe
Daily Mail
2 February 2016

[The UK's EU referendum: Everything you need to know](#)

BBC News Online
1 February 2016

[What they really think on Planet Tory](#)

Philip Cowley and Tim Bale
Daily Telegraph
1 February 2016

[Letters: The matter of British sovereignty lies at the heart of the EU debate](#)

Various Members of Parliament
Daily Telegraph
31 January 2016

[David Cameron's deal with Europe will have greater impact than the modest demands he has made](#)

John Rentoul
Independent
30 January 2016

[EU renegotiations: David Cameron to host Donald Tusk at No 10](#)

Rowena Mason
Guardian
28 January 2016

[EU Renegotiation is No 10's Achilles heel, says John Baron](#)

John Baron
Daily Telegraph
23 January 2016

[Sizing up Britain's EU renegotiation](#)

Gavin Hewitt
BBC News Online
20 January 2016

[David Cameron: There's 'a good case' for new UK sovereignty law](#)

BBC News Online
18 January 2016

[Q&A: What Britain wants from Europe](#)

BBC News Online
18 January 2016

[Grayling launches attack on 'disastrous' EU membership](#)

Kate Allen
Financial Times
13 January 2016

[David Cameron: the EU is not working and we will change it](#)

David Cameron
Daily Telegraph
15 March 2014

3. Press Releases

[Letter by President Donald Tusk to the Members of the European Council on his proposal for a new settlement for the United Kingdom within the European Union](#)

Donald Tusk
2 February 2016

[Letter by President Donald Tusk to the European Council on the issue of a UK in/out referendum](#)

Donald Tusk
7 December 2015

[Letter to Donald Tusk on EU reform](#)

David Cameron
10 November 2015

[Prime Minister's speech on Europe](#)

David Cameron
10 November 2015

[Foreign Secretary travels to Brussels for EU reform talks](#)

22 September 2015

[EU speech at Bloomberg](#)

David Cameron
23 January 2013

4. PQs

UK Membership of EU **26 Jan 2016 | 22910**

Asked by: Andrew Rosindell

To ask the Secretary of State for Foreign and Commonwealth Affairs, whether the UK has agreed to fund particular EU projects as a result of discussions with his EU counterparts as part of the renegotiation of the UK's relationship with the EU.

Answering member: David Lidington | Department: Foreign and Commonwealth Office

No.

Home Office: UK Membership of EU **21 Jan 2016 | 21946**

Asked by: Tim Loughton

To ask the Secretary of State for the Home Department, what contingency arrangements her Department has made for the eventuality of a majority leave vote in the upcoming EU referendum.

Answering member: James Brokenshire | Department: Home Office

The Government is fighting hard to fix the aspects of our EU membership that cause so much frustration in Britain - so we get a better deal for our country and secure our future. Departments are appropriately resourced to support the Government's priorities in Europe, including the renegotiation and referendum.

EU Renegotiation **14 Jan 2016 | 903024 | 604 cc974-6**

Asked by: Jeff Smith

Whether he has had discussions with the Prime Minister on the legal form of the UK's renegotiation deal with the EU.

Answered by: Jeremy Wright | Department: Attorney General

I regularly meet ministerial colleagues, including the Prime Minister, to discuss issues of common interest, including EU law matters, but I am not able to talk about the legal content of those discussions, because, by convention, whether Law Officers have given advice is not disclosed outside Government.

UK Membership of EU
13 Jan 2016 | 21191

Asked by: Andrew Rosindell

To ask the Secretary of State for Foreign and Commonwealth Affairs, what discussions he held with his Swiss counterpart on that country's relationship with the EU as part of his Department's preparations for the renegotiation of the UK's relationship with the EU.

Answering member: David Lidington | Department: Foreign and Commonwealth Office

The British Ambassador in Berne and other officials hold regular meetings with their Swiss counterparts to discuss a range of bilateral and multilateral issues, including Switzerland's relationship with the EU. Most recently, Swiss State Secretary Yves Rossier visited the UK in November and held meetings with Foreign Office and Treasury officials.

UK Membership of EU
13 Jan 2016 | 21158

Asked by: Andrew Rosindell

To ask the Secretary of State for Foreign and Commonwealth Affairs, what progress he has made in reducing red tape for British business during his Department's renegotiation of the UK relationship with the EU.

Answering member: David Lidington | Department: Foreign and Commonwealth Office

The Government is fighting hard to fix the aspects of our EU membership that cause so much frustration in Britain – so we get a better deal for our country and secure our future. That includes cutting red tape to make Europe more competitive, so we create jobs and make British families more financially secure. We have made progress; legislative proposals under the new Commission fell by 80 percent in 2015, and more regulations were repealed in 2015 than in the whole of the previous Commission. But the burden from existing regulation is still too high and so we are working to secure a target to cut the total burden on business.

Ministry of Defence: European Union
12 Jan 2016 | 21074

Asked by: Bernard Jenkin

To ask the Secretary of State for Defence, how many staff in his Department are working on matters related to (a) European policy, (b) the future of Europe, (c) reform of the EU, (d) the renegotiation of the UK's relationship with the EU, (e) the EU referendum and (f) the consequences of the EU referendum; how many full-time equivalent staff are working on such matters; what the (i) staff and (ii) other cost of such work is; what proportion of that work is undertaken by such staff on (A) communications, (B) strategy and (C) policy; whether his Department has established any specific unit or units to deal with those matters; to whom

such (1) staff and (2) units report; whether his Department has issued guidelines to staff on those matters; and if he will make a statement.

Answering member: Julian Brazier | Department: Ministry of Defence

The Government is fighting hard to fix the aspects of our EU membership that cause so much frustration in the UK - so we get a better deal for the UK and secure our future. Departments are appropriately resourced to support the Government's priorities in Europe, including the renegotiation and referendum.

**UK Membership of EU
11 Jan 2016 | 21277**

Asked by: Philip Hollobone

To ask the Secretary of State for Foreign and Commonwealth Affairs, what steps he is taking to restore the full value of the UK's rebate from the EU as part of the process of renegotiating the UK's membership.

Answering member: David Lidington | Department: Foreign and Commonwealth Office

The Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron), has been clear about the four objectives at the heart of our renegotiations: economic governance, competitiveness, sovereignty and migration/welfare. These were explained in the Prime Minister's letter of 10 November to President Tusk and, as the Prime Minister explained in his statement on 5 January, were discussed in detail during the December European Council meeting.

The financing system for the EU budget, which determines the UK's contributions to the EU from 2014 to 2020, including the rebate, was agreed in 2013 when the Government secured an historic real-terms cut to expenditure and protected the rebate. Parliament ratified that deal last year.

**UK Membership of EU
15 Dec 2015 | 18969**

Asked by: Andrew Rosindell

To ask the Secretary of State for Foreign and Commonwealth Affairs, what progress he has made in his renegotiation with the EU on achieving migration restrictions without requiring treaty change.

Answering member: David Lidington | Department: Foreign and Commonwealth Office

Tackling abuses of the right to free movement and reducing the draw that our welfare system can exert across Europe are key elements of the renegotiation agenda. The Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron) has been clear in his discussions with other leaders that the reforms we are seeking must be legally binding and irreversible and that in some areas that will mean treaty change. We look

forward to further substantive discussions on this issue at the December European Council.

UK Membership of EU
15 Dec 2015 | 18968

Asked by: Andrew Rosindell

To ask the Secretary of State for Foreign and Commonwealth Affairs, what his Department's plans are for making progress on the UK's renegotiation with the EU before the next EU summit.

Answering member: David Lidington | Department: Foreign and Commonwealth Office

The Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron), The Secretary of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for Runnymede and Weybridge (Mr Hammond), The Chancellor of the Exchequer (Mr Osborne), my right hon. Friend the Member for Tatton and I have continued to meet our counterparts to discuss the UK's renegotiation since September and we will continue to do so. There will be a substantive discussion at the December European Council as planned.

UK Membership of EU
28 Oct 2015 | HL2763

Asked by: Lord Stoddart of Swindon

To ask Her Majesty's Government whether Parliament will be able to debate and vote on proposals for the renegotiation of the United Kingdom position in the European Union before they are submitted to the European Council.

Answering member: Baroness Anelay of St Johns | Department: Foreign and Commonwealth Office

The British Government has been clear that it will continue to keep Parliament informed on the progress of the renegotiation, including through evidence sessions to the appropriate Committees. Most recently the Minister of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for Aylesbury (Mr Lidington), gave evidence to the European Scrutiny Committee on 16 September, and the House of Lords EU Committee on 12 October on this topic. The Government will also ensure that any documents that are subject to Parliamentary scrutiny are deposited in the usual manner.

UK Membership of EU
22 Oct 2015 | HL2578

Asked by: Lord Luce

To ask Her Majesty's Government what steps they are taking to ensure that the public will be properly and impartially informed about the full range of consequences of withdrawal from membership of the European Union.

Answering member: Baroness Anelay of St Johns | Department: Foreign and Commonwealth Office

The Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron), is focused on success: he believes he can and will succeed in reforming and renegotiating our relationship with the EU and campaigning to keep the UK in the EU on that basis. The public will expect Ministers to set out the results of the renegotiation, how the relationship with Europe has been changed and if, and how, those changes address their concerns. As the Chancellor of the Exchequer, my right hon. Friend the Member for Tatton (Mr Osborne), said in response to Oral Questions to the Treasury on 16 June 2015, Official Report Column 166: 'I am sure that the Treasury will publish assessments of the merits of membership and the risks of a lack of reform in the European Union, including the damage that that could do to Britain's interests.'

UK Membership of EU
21 Oct 2015 | 11664

Asked by: Andrew Rosindell

To ask the Secretary of State for Foreign and Commonwealth Affairs, what progress was made during the recent visit of German Chancellor Angela Merkel on negotiations on the UK's relationship with the EU.

Answering member: David Lidington | Department: Foreign and Commonwealth Office

We are not able to give a running commentary on the discussions. The Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron) is focussed on success. He believes he can and will succeed in reforming and renegotiating our relationship with the EU and campaigning to keep the UK in the EU on that basis. I welcome Chancellor Merkel's statement to the Bundestag on 15 October that "it goes without saying that we will work constructively with the British government" on this question, and that she was "convinced that we will be able to find an acceptable compromise".

EU Defence Policy
12 Oct 2015 | 10396

Asked by: Douglas Carswell

To ask the Secretary of State for Defence, what proposals his Department has for further defence integration between the armed forces of EU member states; and whether defence integration will be included in the Government's planned renegotiations of the terms of its membership of the EU.

Answering member: Julian Brazier | Department: Ministry of Defence

Her Majesty's Government is focused on delivering a successful renegotiation; we believe we can and will succeed in reforming and renegotiating our relationship with the EU and campaigning to keep the UK in the EU on that basis. Although we welcome closer co-operation between the armed forces of EU and NATO member states, this needs to be based on improving defence capabilities across Europe, not creating new institutions. We will not support measures which would undermine member states' competence for their own military forces, or lead to competition and duplication with NATO

UK Membership of EU
18 Sep 2015 | 10133

Asked by: Douglas Carswell

To ask the Secretary of State for Foreign and Commonwealth Affairs, what planning the Government has undertaken on the steps necessary for the UK to withdraw from the EU in the event that the outcome of the EU referendum is a vote to leave.

Answering member: David Lidington | Department: Foreign and Commonwealth Office

The Government is focused on delivering a successful renegotiation: it believes it can and will succeed in reforming and renegotiating our relationship with the EU and campaigning to keep the UK in the EU on that basis. The Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron) is confident of achieving this but has said that if we do not achieve the necessary reforms, he rules nothing out.

Ministry of Defence: UK Membership of EU
15 Sep 2015 | 9516

Asked by: David Nuttall

To ask the Secretary of State for Defence, which external organisations officials in his Department have met to discuss the consequences of the UK leaving the EU in each of the last three years; and how many meetings such officials have had with each such organisation.

Answering member: Julian Brazier | Department: Ministry of Defence

The Government is focused on delivering a successful renegotiation: it believes it can and will succeed in reforming and renegotiating our relationship with the EU and campaigning to keep the UK in the EU on that basis.

The Secretary of State for Defence and Ministry of Defence officials regularly meet with a range of external organisations to discuss the Government's objectives in Europe. Details of Ministerial meetings with external organisations are published quarterly at the following link: <https://www.gov.uk/search?q=Ministerial+meetings+with+external+organisations>.

Government Departments are appropriately resourced to support the Government's priorities in Europe.

5. Debates

[EU Membership \(UK Renegotiation\)](#)

HC Deb 5 January 2016, Vol 604 cc1-23WH

[Renegotiation of EU Membership \(Devolved Administrations\)](#)

HC Deb 10 November 2015, Vol 602 cc66-84WH

6. Statements

Foreign Affairs Council and General Affairs Council: 18 January

27 Jan 2016 | HCWS495

David Lidington (The Minister for Europe): My Right Honourable Friend the Secretary of State for Foreign and Commonwealth Affairs attended the Foreign Affairs Council and I attended the General Affairs Council on 18 January. The Foreign Affairs Council was chaired by the High Representative of the European Union for Foreign Affairs and Security Policy, Federica Mogherini, and the General Affairs Council was chaired by the Dutch Presidency. The meetings were held in Brussels.

Foreign Affairs Council

[...]

Preparation of the February European Council

The GAC prepared the agenda for the 18 and 19 February European Council, which the Prime Minister will attend. The draft February European Council agenda covers: the UK's EU renegotiation; migration, and economic issues.

On the UK's EU renegotiation, I reiterated the Prime Minister's message that what mattered more than the timing of a deal was getting the substance right.

7. Further Reading

House of Commons Library publications

[EU reform negotiations: what's going on?](#)

Commons Briefing Paper CBP-7311
30 December 2015

[European Union Referendum Bill 2015-16: Progress of the Bill](#)

Commons Briefing Paper CBP-7249
11 December 2015

[The UK and the EU: reform, renegotiation, withdrawal? A reading list](#)

Commons Briefing Paper CBP-7220
24 November 2015

[The 1974-75 UK Renegotiation of EEC Membership and Referendum](#)

Commons Briefing Paper CBP-7253
13 July 2015

[Exiting the EU: UK reform proposals, legal impact and alternatives to membership](#)

Commons Briefing Paper CBP-7214
4 June 2015

House of Lords Library publications

[European Union Referendum Bill](#)

Lords Library notes LLN-2015-0033
8 October 2015

Acts of Parliament

[European Union Referendum Act 2015](#)

- [Bill stages](#) – *European Union Referendum Act 2015*: dates for all stages of the passage of the Bill, including links to the debates

European Scrutiny Committee (House of Commons)

[UK Government's renegotiation of EU membership: parliamentary sovereignty and scrutiny inquiry](#)

Comprehensive list of reports and evidence sessions of this inquiry

EU Select Committee (House of Lords)

[Visions of EU reform inquiry](#)

Publications and evidence sessions of this inquiry

[Referendum on UK membership of the EU: reform process inquiry](#)

Comprehensive list of reports and evidence sessions of this inquiry

Electoral Commission

[Referendum on membership of the European Union: assessment of the Electoral Commission on the proposed referendum question](#)

September 2015

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