

# Global Britain Briefing Note

No 72

19<sup>th</sup> February 2011

---

## How EU law is made

*EU lawmaking is a secretive process which neither the UK nor any other member-state is able to influence decisively*

- 84% of law in EU member-states originates in Brussels<sup>1</sup>.
- Those laws are proposed **in secret** by the unelected European Commission<sup>2</sup>, which has the monopoly power of proposing new legislation (neither the EU Council nor the European Parliament nor any parliament or other institution of member-states has the power to propose EU legislation).
- Those draft laws are negotiated **in secret** by COREPER<sup>3</sup>, the unelected Committee of Permanent Representatives (i.e. ambassadors to the EU) of the member states. The UK delegation is known as UKREP & its representative is one amongst twenty-seven representatives.
- Those laws are then decided **in secret** (sometimes after consultation with the European Parliament) by the Council of Ministers<sup>4</sup>, where the UK has 8% of the vote.
- The resulting laws are then executed by the Commission<sup>2</sup> (in which no EU member-state has any vote) & supported by the European Parliament<sup>5</sup> (in which the UK has 72 MEPs out of a total of 736).
- The Westminster Parliament is irrelevant in this process: it cannot reject or amend – even by one comma - laws handed down from Brussels. (National parliaments in other EU member-states are in the same position).
- All Westminster can do is to rubber-stamp them – which indeed it does – most of the time without even a debate in either the House of Commons or the House of Lords.
- The Luxembourg-based European Court of Justice<sup>6</sup>, which is legally-superior to all courts in member-states, has the ultimate power of decision over the interpretation and implementation of EU law.
- The Commission<sup>2</sup> is the sole enforcer of all EU legislation, with the power to fine member-states for non-compliance.

## Notes & References

- 1 *This figure comes from an authoritative study by the German Parliament, commissioned by former German President Roman Herzog and summarised by him in an article in Welt am Sonntag, 14.1.07. Estimates by governments of other countries (including the UK) are somewhat lower, but never less than 50%.*
- 2 **Commission:** *Commissioners and staff of the Commission are contractually obliged to act in the interests of the EU, not in the interests of any member-state. So British voting power is **zero**. The Commission is intensively-lobbied by trade associations & NGOs; those favoured by the Commission are often rewarded with Commission subsidies.*
- 3 **COREPER:** *The UK representative (UK ambassador to the EU) on COREPER is Kim Darroch KCMG. Informal British voting power: one twenty-seventh or **3.7%***
- 4 **Council of Ministers:** *UK formal voting power in the Council of Ministers is **8.4%** (29 votes out of a total of 345 votes for all 27 EU members). Post-Lisbon, majority voting is the rule in the Council: there are few occasions on which any member-state can exercise a veto in order to prevent an EU policy being adopted.*

*As and when new countries join the EU, the voting power of each existing member-state is automatically reduced. One consequence is to give more power to the unelected Commission.*

- 5 **European Parliament:** *There are 736 MEPs in total of whom 72 – 9.8% - represent British constituencies.*

*In practice, British voting power is far smaller than 9.8%, since the 72 British MEPs represent a number of British political parties and never vote as a bloc. The British party with the largest number of MEPs, the Conservatives, has only 25 MEPs, 35% of the total number of British MEPs of 72, and **just over three per cent** of all 736 MEPs.*

*As and when new countries join the EU, the voting power of the MEPs of each existing member-state is automatically (arithmetically) reduced.*

- 6 **Court of Justice:** *The European Court of Justice is superior to the highest national courts of member-states, and in many ways the most powerful of all EU institutions. There are over thirty judges. One of them, Eleanor Sharpston QC, is British. But she, like her fellow-judges, is unable to defend the interests of her own country, or those of any other EU-country: her task is to apply European law. So British voting power is **zero**.*
- 7 *“How EU Laws are Made”, by Dr Lee Rotherham, Bruges Group, October 2010, gives much more detail, at [www.brugesgroup.com](http://www.brugesgroup.com)*

# Global Britain

**Lord Stoddart of Swindon**  
*(Independent Labour)*

**Lord Pearson of Rannoch**  
*(United Kingdom Independence Party)*

**Lord Willoughby de Broke**  
*(United Kingdom Independence Party)*

**Lord Harris of High Cross (1924- 2006)**  
*(Cross-Bencher)*

**Briefing Note No 72:**

**How EU Law is Made**

**19<sup>th</sup> February 2011**

