

Why legislating in the EU was a bad idea

I was used to an open democratic process when helping make laws in the UK. A Green paper setting out the problem and legislative options invited those with views to suggest improvements or alternatives. A White Paper setting out a detailed government proposal invited forensic criticism. Three readings in each of the Commons and Lords, with a detailed scrutiny of the draft line by line on Committee ensured plenty of opportunity for MPs, peers and outside interests to defend or attack the idea of the bill and to work to improve its details. At every stage the public could be involved. Every stage was undertaken in public.

The EU system is so different, restricting public discussion and scrutiny. The main debates over the draft laws took place in secret. The Commission drafted the law. Ministers from member states were not meant to draft laws or even to table amendments. It is true that over the years the European Parliament did develop more open procedures to consider draft laws, but only based on laws the Commission had written and the Council meeting in private had approved.

As a legislating Minister I wanted to open it up for wider public scrutiny. I did what I could by showing drafts to the UK parliament and encouraging debate there before I went to Brussels to negotiate. I kept in my mind what each country had said about the draft when the Council came to debate it and sought to share this with the press. The press were not interested. They explained to me that they needed stories on all the days I was not in Brussels, and the Commission took a dim view of anyone saying what had happened in the Council. Of course many Ministers did tell their national press what they wanted them to know about their own role, without having to worry about anyone having a different recollection of what they said and did.

In practice most Ministers went along with the Commission that they needed to reach an agreement, however needless or undesirable yet more laws might prove. I objected to the way there was no official opposition saying either we did not need that law, or telling the Commission how it needed a major rewrite. At every stage in the UK Parliament the opposition is there to challenge the need for a law, the principles behind the law, and the detail of the draft.

No wonder we ended up with so much law that proved to be anti innovation, complex, bureaucratic and costly. It is a major brake on the progress of the European economy.