

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

Tuesday 16 December 2003
(*Afternoon*)

Session 2

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EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

9th Meeting 2003, Session 2

CONVENER

*Richard Lochhead (North East Scotland) (SNP)

DEPUTY CONVENER

*Irene Oldfather (Cunninghame South) (Lab)

COMMITTEE MEMBERS

*Dennis Canavan (Falkirk West)
*Mrs Margaret Ewing (Moray) (SNP)
*Phil Gallie (South of Scotland) (Con)
*Mr John Home Robertson (East Lothian) (Lab)
*Gordon Jackson (Glasgow Govan) (Lab)
*Mr Alasdair Morrison (Western Isles) (Lab)
Mr Keith Raffan (Mid Scotland and Fife) (LD)

COMMITTEE SUBSTITUTES

Ms Wendy Alexander (Paisley North) (Lab)
Murdo Fraser (Mid Scotland and Fife) (Con)
*Nora Radcliffe (Gordon) (LD)
Nicola Sturgeon (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Christine Boch (Scottish Parliament Directorate of Legal Services)
Rob Gibson (Highlands and Islands) (SNP)
Mr Mark Ruskell (Mid Scotland and Fife) (Green)

THE FOLLOWING GAVE EVIDENCE:

Professor John Bachtler (University of Strathclyde)
Councillor Tom Barr (North Ayrshire Council)
Councillor Eddie Carrick (Clackmannanshire Council)
Alastair Cooper (Shetland Islands Council)
Councillor Dr Malcolm Green (Glasgow City Council)
Bob Leitch (Scottish Chambers of Commerce)
Karen Stirling (Scottish Chambers of Commerce)

CLERK TO THE COMMITTEE

Stephen Imrie

ASSISTANT CLERKS

Nick Hawthorne

David Simpson

LOCATION

Committee Room 1

Scottish Parliament

European and External Relations Committee

Tuesday 16 December 2003

(Afternoon)

[THE CONVENER *opened the meeting at 14:01*]

Regional Development Funding Inquiry

The Convener (Richard Lochhead): Good afternoon. I welcome everyone to the ninth meeting of the European and External Relations Committee in this session. We have received apologies from Keith Raffan, the Liberal Democrat member of the committee; however, Nora Radcliffe is here as a committee substitute. We will be joined later by other MSPs who want to attend the meeting for later items on the agenda.

Agenda item 1 is the committee's inquiry into repatriation of European regional development funds; it is the main item on today's agenda. The committee has previously considered the issue in detail and has taken written evidence on it in recent months. The consultation on the United Kingdom Government's proposal to repatriate regional funds closed shortly after the Scottish elections, so the committee has had to play catch-up. We sent a submission to the consultation, but it was not much more than a holding response. We decided to conduct a short inquiry, for which we took more written evidence. Today is the first meeting at which we will take oral evidence for the inquiry.

Our first witness is Professor John Bachtler from the European policies research centre at the University of Strathclyde. He will be a familiar face to some members of the committee because he acted as adviser on regional funding to the previous European Committee. We welcome him back today. Professor Bachtler will give us a 10-minute presentation to set the scene, which members will, I am sure, find helpful. There will then be an opportunity to ask Professor Bachtler questions before we move on to the next panel of witnesses.

Professor John Bachtler (University of Strathclyde): I thank the committee for inviting me to speak. I have been asked to set in context the UK's proposals for the future of structural funds, and to provide an update on our position in the debate on reform of structural funds. The context

for that debate is enlargement of the European Union, which is forcing a fundamental reappraisal of virtually every aspect of EU policy making and operation.

It is important to underline that the reform of structural funds is just one of a series of on-going debates. The constitution is very much in our minds, but a series of other issues is also being debated. The formerly sacred—if you like—roles of EU cohesion and regional policy are being challenged in the debates about making the EU more competitive, about securing its external borders and about various other security and environmental issues, all of which present budgetary challenges to the role of cohesion policy. Those debates are happening in an environment of budgetary constraint, as I will point out.

We are working within a complex timetable. The European Commission is due to publish in January a financial perspective on funding of the EU for the period 2007 to 2013, but last weekend's breakdown in discussions over the future EU constitution might well affect that timetable: there might be knock-on effects on the proposals for the future of EU cohesion policy, because the EU's major report—the so-called third cohesion report—which is due to be published towards the end of January, very much depends on the overall financial perspective.

Currently, the EU treaty provides for spending of up to 1.27 per cent of the EU's gross national product. That is now expressed in terms of gross national income, so the figure is 1.24 per cent of GNI. Although there is provision for a ceiling on spending, actual spending is nearer 1 per cent of GNI, which represents a budget of about €100 billion per year overall, for all areas of EU expenditure.

The richer countries, especially Germany, which is the main contributor to the EU budget, do not want in the future to pay any more into the budget, and would prefer to pay less. The poorer countries of the current EU—Spain, Greece and Portugal—would like to maintain after enlargement the level of EU support that they have been receiving. The new member states from central and eastern Europe that will come into the EU from May 2004 want a fair and equitable settlement and to be treated on a par with the current member states.

On structural funds, which are part of the overall EU cohesion policy, future spending during the period 2007 to 2013 can be considered in terms of options in relation to the potential ceiling on expenditure. If the EU were to spend the maximum amount—in terms of the current ceiling—on structural operations during that period, the figure could be of the order of €330 billion. However, if we were to base the figure on

what is actually spent at the moment, it would be nearer €260 billion. Those figures are meant to give an indication of the range that we might be talking about in terms of EU spending on cohesion policy after 2007.

When we think about what the EU might spend, it is important to note that there is at the moment a considerable underspend on what the EU makes available for cohesion policy. We are not utilising the full budget and there is, arguably, scope to make savings on current budgetary allocations—at least, some member states say so.

In terms of the characteristics of the debate, one can see it as being polarised between two options. The first option might be called rationalisation—it is sometimes termed renationalisation—and in that scenario future EU regional policy would be limited to the poorest countries. That is the UK's view and it is the view of the Dutch Government and the Governments of one or two other countries. That is the so-called cohesion model for the future of the European Union. The view of the German Government is similar to that; it also believes that funding should be concentrated on the poorest, but on the poorest regions as opposed to the poorest countries.

What unites all the countries that advocate the cohesion or concentration models is, essentially, the view that the richer countries should be able to deal with their regional problems and should not require transfers from the EU budget. The focus on the poorer countries or regions should enable the richer countries to pay less into the budget.

Set against that is a series of proposals that would, in effect, maintain the status quo, whereby the EU would intervene not only in relation to the poorest countries or regions, but would provide funding for problems in countries such as the UK, France, Germany, the Nordic countries and so on—wherever there are problems. Those options would make up a menu of different priorities from which countries would select those that were most appropriate.

When identifying where different countries sit in relation to the various options, it is fair to say that the net contributors to the EU budget—the UK, Germany, the Netherlands, Sweden, Austria and Denmark—are arguing for rationalisation of the EU budget. Members may have read the reports about the letter that six of the net contributor countries sent to the President of the European Commission yesterday, in which they argued for budgetary restraint. At the other end of the spectrum, there are countries that argue that more money be spent on EU cohesion policy. There are also countries in the middle. Given that decisions on the future of the EU budget will have to be achieved through unanimity, one would expect there to be a coming together of views from those

extremes but, as we saw at the weekend, that is certainly not guaranteed.

It is very difficult to say what we might end up with, given the imponderables. On what the Commission is thinking about and what it might publish in its third cohesion report in January, it is likely that its proposals will focus on three priorities for the period after 2007. First, there is the priority of encouraging convergence between the poorest member state countries and regions and the EU average, which is likely to get between 75 and 80 per cent of resources. Those resources would be concentrated on the objective 1 regions—those whose gross domestic product per capita is less than 75 per cent of the EU average. Other regions—those that benefit at the moment, but which are unlikely to benefit in the future—would also be allocated resources under that priority heading.

The Commission appears to think that all other regions outside the objective 1 areas would be the priority of a competitiveness objective, which might be allocated 20 or 25 per cent of resources. Half of those resources might go towards the European social fund and focus on human resource actions, and half might be allocated to European regional development fund themes. The ERDF themes that are being promoted at the moment are innovation, accessibility and the environment. The theme of co-operation under the Interreg initiative would also continue to be assisted.

On the competitiveness objective, which can be called the new objective 2, the European Commission is looking for a much simpler way of allocating resources in the future. It is thinking along the lines of allocating money to member states through what are called national envelopes, which might be defined in terms of GDP, population or employment. It would be up to member states to allocate that money within their territory and to determine the implementation mechanisms.

It is still unclear how that might work. The so-called open method of co-ordination may be used. It has been mooted that so-called tripartite contracts would be created between the European Commission, member states and regions or territories, but it is not clear exactly how it will be possible to ensure that member states meet EU objectives or achieve certain targets that the EU sets.

14:15

There is a series of imponderables relating to the competing demands on the structural operations budget. At the Brussels summit at the weekend, the Council agreed that there would be a European action for growth. Spending will be

allocated to major telecoms and research and development projects across the EU. A new neighbourhood instrument is being implemented for the new external borders and there are concerns about security and asylum issues on those borders. It is unclear how rural development may be financed in the future, and whether it will come under structural funds or the common agricultural policy.

It is perhaps early to be thinking about the issues for Scotland, because we are not clear about what the financial framework will look like, let alone what cohesion policy may look like in the future. However, if the Commission's thinking prevails in some form, we will need to consider how the national envelope that is allocated to the UK will be allocated within the UK; what policy priorities the Scottish Executive will choose and what weight it will attach to those priorities; how the allocation of resources within Scotland will be determined and what kind of implementation mechanisms may be selected. Will the existing approach, which involves delivering funding through the programme management executives, continue, or will another mechanism be introduced?

As I said, we must remember that a number of other policy reforms that are important for Scotland are under way. In particular, there is a review of EU competition policy with respect to state aids, which will determine how much aid we can allocate to business under our domestic policies. There is also a review of the common agricultural policy. As we know, in parts of Scotland receipts under the CAP are more important on a per capita basis than are structural funds.

It is clear that a number of issues must be considered. However, we are still in an uncertain situation in respect of future funding, let alone the actual policy.

The Convener: I remind members that we will hear from two more sets of witnesses. However, we have time for questions to Professor Bachtler, if members would like to ask any.

Irene Oldfather (Cunninghame South) (Lab): It is good to have you back before the committee, Professor Bachtler. I thank you for your presentation, but I would also like to pick your brains.

You mentioned a proposed budget ceiling for regional development funding of 0.45 per cent of EU GDP. I have heard here and there in Brussels that a number of member states are not convinced that that should be the ceiling and that it might be significantly lower. I am a committed Europhile, but the committee is considering the implications of any change for Scotland. If the budget ceiling

were set between 0.3 or 0.35 and 0.45 of GDP, compared with the proposals that the UK Government has made, what effect would that have on local projects on the ground in our constituencies? I know that that is a very simplistic black and white way of putting the problem, but are you able to make any predictions based on that premise?

Professor Bachtler: Irene Oldfather is right to say that 0.45 per cent is a very optimistic figure. Many of the poorer countries started by saying that it should be much higher than 0.45 per cent, but they are now clinging to that figure and hoping that it will not be reduced significantly, although I suspect that we will end up with a significantly lower figure. However, according to some figures that I have seen, at the moment we are spending considerably less than 0.45 per cent on regional development funding. In the past few years, we have spent between 0.3 and 0.33 per cent of EU GDP on that.

If the starting point was the current budget, or at least what the budget will be in 2006, such a figure would not necessarily be the end of the world. Given the kind of cuts that will be made to the current objective 1 regions, and given that objective 2 funding accounts for a relatively small amount of the overall budget—so savings from cutting objective 2 funding would be relatively small—Scotland may end up with a fairly sizeable amount of money, potentially of the order of half or three quarters of what we have at the moment. That is speculative.

Irene Oldfather: Would that be on the basis of a revised objective 2, in line with the Commission's proposals?

Professor Bachtler: That is right.

Irene Oldfather: A 50 per cent reduction shall be compared with what the UK Government seems to be proposing, which is a guarantee of present funds. We have been asking for further clarification on that. Are you able to weigh up one against the other? Can you put any more flesh on the bones? I know that you have been involved with the structural funds working group.

Professor Bachtler: There are two issues—one is financial and the other is the wider political situation. On the financial side, the UK has provided a guarantee. On the other hand, we do not yet know how that guarantee will work in practice or what the implications are for Scotland. Presumably, decisions would be made within Scotland, because the money would be transferred from the UK to the Scottish Executive, but to what extent is there a guarantee within Scotland that that money would be spent on the things that structural funds are being spent on at the moment?

On the other hand, although one could argue that the EU money would be guaranteed for something like seven years—if that is the length of the next financial period—we know that there are downsides to European funding, in terms of the bureaucracy and administration that are associated with it. If the EU administrative implementation process was radically simplified, and if the policy priorities that were determined by the EU were very much in our interests, that would argue more in favour of the EU model.

Wider non-financial issues are associated with the structural funds. We have benefited from a certain amount of added value from being able to use structural funds in Scotland. From research that my colleagues and I have undertaken, we know that the funds have brought many benefits in terms of internationalising the activities of many organisations throughout Scotland. Indeed, many organisations are active in central and eastern Europe as a result of the links and contacts that they have made through structural funds, which will have spin-offs in terms of trade and investment and engagement in the whole European integration process. So, in weighing up the pros and cons, it is important to look not only at the financial issues, but at the non-financial issues.

Dennis Canavan (Falkirk West) (Ind): My point follows on from Irene Oldfather's. If it is thought to be desirable to increase EU spending on regional development, would it be accurate to say that there are only two possible ways to do that: either you increase the size of the cake—that is, the total EU budget—or you increase the slice of the cake that goes to regional development?

In the case of the first possibility, you said that the treaty provides for spending up to 1.27 per cent of EU GNP, which I take it is the total budget. How was that magical figure of 1.27 per cent arrived at, and why is actual spending currently about 1 per cent? Has it ever been significantly greater than 1 per cent? Is it just that it is politically difficult to increase it beyond that?

As for the other scenario, in which the slice of the cake for regional development is increased, would the member states want to shift more spending from the CAP, for example, to regional development?

Professor Bachtler: First of all, we are more likely to be managing reductions than increases in regional development spending or, indeed, in overall EU budgetary amounts. The current figure derives from a compromise—struck at European Council meetings—between what the net contributors were prepared to provide and what the net beneficiaries were prepared to accept in agreeing an overall financial package.

There are several reasons why we are not spending as much as others foresaw. If I recall the European Court of Auditors' reports correctly, structural and cohesion funds form the major reason why there has been underspend in the EU budget. We know from our own experience that we might be allocated a certain tranche of funding at the beginning of a programming period and that we might expect to spend that money on certain projects; however, if those projects are not forthcoming, we might not be able to commit that spending despite the best efforts of the administering authorities. Indeed, even if we commit that money, projects that we may expect to absorb £250,000 might, because of a change in economic circumstances, be able to draw down only £200,000. The rest of the expenditure remains unused.

Over time, applying for EU funding has become more complex because it has come with more and more conditions and has been monitored and controlled more rigorously. In this country and in others, such an approach has had an impact on applicants' interest in utilising the money.

As for spending on regional development, it is difficult to see how we will maintain the existing 0.45 per cent ceiling that has just been mentioned. That is partly because we are not utilising the budget and partly because there is a lot of competition for funding. The EU does not have many pots of money; it has an agricultural pot and a structural funds pot, and a few more per cent is spread among the other EU internal policies and budget headings. At the Lisbon council a few years ago, the EU said that it wanted to make Europe the world's most competitive and dynamic economy. However, it has neither the resources for, nor a budget heading entitled "Competitiveness". Where will that money come from? At the moment, it will probably come from our current spending on structural operations. The EU council is talking about spending more on security and immigration and asylum policies, particularly in relation to external borders. Again, the budget for those policies will have to be found somewhere, which means that more pressure will be put on EU cohesion policies.

In the future, the major amount of money will go to the new member states. Structural funds are quite difficult for countries to absorb because of the complexity of the objectives and the requirements that are associated with them. As a result, there are question marks over the ability of the new member states to absorb—in other words, to utilise—all the funding that would potentially be allocated to them.

During negotiations over funding for the interim 2004-06 period at last year's Copenhagen and Brussels European Councils, money was shifted

away from structural funds to agriculture because it was far easier for the new member states to get the money out the door through agricultural spending.

It is very unlikely that there will be more spending on the overall EU budget or, within that, more spending on EU regional development: it is likely to be less.

Phil Gallie (South of Scotland) (Con): I have three quick points. First, what will happen to the underspend? You have suggested that it may go into agriculture, but will any of it come back to the net-contributor nations? Secondly, if we were to go it alone and repatriate some of our contributions, would competition rules apply—rules for structural funding or other issues—to the way in which we could spend that money? I will leave my third point for the moment.

14:30

Professor Bachtler: If the EU does not spend as much in any particular year as was forecast, the money can be used—as it has been this year and in the past—to reduce the budgetary contributions of the different member states. Some money may be reallocated. The EU has recently created a kind of solidarity disaster fund and proposals for other similar initiatives are in the pipeline. Some money may be redeployed but, when significant amounts are involved, it comes back to the member states.

You asked about the rules for structural funds and the possibility of repatriation. If the UK proposal were to win through, it would be part of a broader settlement under which other rich countries would receive money back, too, or would not pay as much in, and would be allowed to deal with their own regional problems with their own regional policies. Were that to happen, we would still be subject to EU competition policy rules on the money that is spent on aid to business. It is not clear but, if the directorate-general for competition had its way, the existing rules on geographical concentration, on maximum rates of award and on other things would become stricter. There is an argument that countries that receive less in structural funds should have more flexibility to operate their own regional policies. That argument is there to be won or lost.

Phil Gallie: Is it true that no parts of Scotland will qualify for objective 1 status after enlargement?

Professor Bachtler: That is a good question. We are waiting for the latest data and it is possible that the Highlands and Islands might have qualified for objective 1 status had the EU stayed as an EU 15. In an EU 25, that area certainly will not qualify. However, if it qualified in an EU 15 but

not in an EU 25 it would become what is known in the jargon as a statistical effect region and would thus qualify for higher levels of funding than it would otherwise receive.

Mrs Margaret Ewing (Moray) (SNP): It is appropriate that my question should follow on from Phil Gallie's final point. I understand that, in the UK, only Cornwall would be eligible for continued objective 1 funding; south Yorkshire, Merseyside and west Wales and the valleys would no longer be eligible. Although they would become eligible for transitional funding, that is not the same as having objective 1 status. As a Highlands and Islands MSP, I am well aware of the objective 1 work that was undertaken. What are the implications for Scotland of the rationalisation of regional funding? That would surely impact on the Barnett formula arrangements for Scotland and on what Patricia Hewitt optimistically calls the normal devolution settlement. Has that been looked into by the unit with which you are involved, so as to ensure that in no circumstances will the deprived areas of the UK and Scotland miss out on securing guaranteed income in order to pursue all the great ideas that we have?

Professor Bachtler: We have not looked at the implications for the Barnett formula. I do not feel competent to comment, except to say that, as we have seen during the current funding period, the Treasury is prepared to make exceptions to the Barnett formula—as it did in making an extra allocation to Wales—in order to manage the current objective 1 programme, if that is deemed politically desirable. In the line that it has taken with respect to the current proposals, the UK has made great play of the fact that it is guaranteeing that the various UK regions and territories will not lose out. As I said, we do not know what that means. I suspect that, even if sufficient resources would not normally come to Scotland under the Barnett formula, there would be other political means at the Treasury's disposal.

Mrs Ewing: I find it rather worrying that we do not really know what might happen. I appreciate the various time scales and complications that apply in Europe at the moment, but I think that we must pursue the issue in greater depth.

Apparently, European receipts offer security for only a small fraction of regional spending. Have you any idea what that fraction might be?

Professor Bachtler: In Scotland?

Mrs Ewing: Yes.

Professor Bachtler: I am afraid that I do not know. I know that we have attempted to calculate Scottish receipts under structural funds under the 65-plus programmes that there have been over the past 30 years. We came up with a figure of about £4.5 billion of European funding having

come into Scotland since 1975. If we ally that to national co-financing, we are talking about programme spending of up to £12 billion. However, I cannot say what that is as a proportion of the overall figure.

Mrs Ewing: Could you come back to us on that?

Professor Bachtler: Yes, I certainly could.

The Convener: Irene Oldfather has a final, brief question, so I ask you to give her a brief answer, if possible.

Irene Oldfather: I want to ask about regional flexibility in state aid. The Government has suggested that the policy is one of decentralisation and devolution, and that there will be more regional flexibility. The committee has argued for that in previous years. What do you think the implications of that are?

Professor Bachtler: It is difficult to speak in detail about that issue without getting very technical. DG competition avoided adopting an excessively rules-based or legalistic approach to the issue of state aids and individual aid awards. It focused more on the actual economic impact of aid or aid awards, rather than on whether they contravened certain regulations or legal requirements. It is difficult to say how things might pan out regionally, but that approach might provide us with the scope to argue that certain types of aid that relate to peripherality or insularity do not have an adverse impact per se on EU trade and competition, and therefore to argue, in a way that we cannot at the moment, that that aid is justifiable.

Irene Oldfather: Thank you. That is very helpful.

The Convener: I thank you on behalf of the committee for the informative presentation that you delivered today. I am sure that we will be back in touch at some point over the next few weeks.

I move on to the next round of witnesses. Karen Stirling and Bob Leitch represent the Scottish Chambers of Commerce. We have already received written evidence from the SCC but, to remind the committee, I invite the witnesses to outline their key concerns on the issue.

Bob Leitch (Scottish Chambers of Commerce): Karen Stirling and I thank you for this opportunity to come before the committee to present some of our thoughts on an important subject that has not been highlighted sufficiently in Scotland as we move into a period of change.

Looking around the table, I think that most of those present know the Scottish Chambers of Commerce in one form or another. We have 20 affiliated chambers in Scotland; there are 35 chambers in total, and their membership covers

more than 9,000 businesses and represents more than 65 per cent of the working population in the land. Therefore, we have a large geographical and sectoral representation of business throughout Scotland, which gives us an insight into all kinds, sizes and shapes of businesses. Other organisations do not always have that benefit. The SCC seeks to promote the interests of its members by giving a voice to national issues.

The importance of regional development funding in Scotland is exceptional. Past and current regional development funding is of vital importance to Scotland and we welcome the opportunity to be involved in the debate. Some 85 per cent of the country, of which half is in transitional areas, is covered by structural fund eligibility. Between 2000 and 2006, Scotland stands to benefit from about £1 billion in structural funds, of which regional development funding is a key component. Scotland has benefited hugely from past funding programmes. As members will be aware, we were the third largest beneficiary of funds in the first 10 years of structural funding. The Highlands and Islands had objective 1 status and that, along with the transitional status that the region currently holds, has allowed it to develop significantly,

ERDF funding provides investment to create or maintain jobs in Scotland. It provides assistance for people to start businesses or to grow them and to develop sites and premises for businesses or tourism facilities to attract visitors from outside the region. It helps to link businesses to research and it improves facilities in colleges and other places where people learn.

In the interests of cohesion, we appreciate that, in comparison with the regions of the accession countries, our regions will no longer be underdeveloped, and that those countries must be allowed to benefit in the way that we have benefited. However, there are underdeveloped parts of Scotland that still require aid in order to promote cohesion. As we have heard already, it is not possible to comment on the amount of funding that will be available to Scotland, as the EU's plans are not yet known. The third cohesion report, which is due to be published in January but might be delayed, will outline the Commission's thinking on future plans for fund allocation. After the member states' negotiations are completed, agreement by the Council of Ministers will take place sometime in 2005.

The UK Government's proposed repatriation of regional development funding has raised some concerns and issues. The SCC is not opposed in principle to that proposal. However, we require a promise that regions will not receive less development funding under a renationalised system than they would have received under

transitional EU-led arrangements. This week, there are some indications that the latter might be the case. We are concerned about how the guarantee can be applied. If funding were to be repatriated, it would have to be clear how much of the money that is allocated to the Scottish Executive was for regional development funding, and a commitment would have to be obtained from the Scottish Executive that the funds would be used in that manner.

The Convener: Thank you. I invite questions from members of the committee.

Mr Alasdair Morrison (Western Isles) (Lab): Mr Leitch, towards the end of your presentation, you raised a point about how the guarantee would be applied. Is that point more about the duration of the guarantee or about its application?

Bob Leitch: It is to do with the application of the guarantee. It is easy to set out how we might do something in theory, but the practice is often more difficult. My point is that we must ensure that the practice works efficiently and effectively.

Mr Morrison: I do not know whether the witness has been given a copy of the statement by Patricia Hewitt.

The Convener: Everyone has received a copy of the statement.

Mr Morrison: I am referring not to members, but to the witnesses.

The Convener: I do not think that the witnesses have received copies of the statement. The committee received it only last night, so it is unlikely to have gone to the witnesses.

14:45

Mr Morrison: Perhaps I can put Mr Leitch at ease. As the convener said, last night we received a statement from the Department of Trade and Industry. The clerks will provide you with a copy.

In paragraph 2.2 on page 6 of the paper that accompanies the statement, under the heading "Defining the Guarantee", Ms Hewitt states:

"the Government's Guarantee means that the nations and regions would not lose out as a result of adoption of the UK's proposals."

Does that change your perspective or deal with your anxiety about the application of the UK Government's policy?

Bob Leitch: It goes a long way towards doing that.

Mrs Ewing: I have a brief question that relates to your written submission. As Alasdair Morrison pointed out, there has been an additional development from the DTI.

How does the SCC see chambers of commerce linking into decisions of the Scottish Executive about expenditure on regional funding? In your submission you say:

"there should be no centralisation of the work and initiatives to one overarching development agency, and the move towards centralisation would not encourage a strong local self-help philosophy."

How would that impact on Highlands and Islands Enterprise and Scottish Enterprise?

Karen Stirling (Scottish Chambers of Commerce): I will deal with the latter question first.

In our submission, we were suggesting that one of the advantages of the current system is seen to be the partnership approach that we have applied in Scotland with the four partnership agencies. We would not want that approach to be lost. If the funds are renationalised, the effectiveness of the partnership approach should be taken into account when deciding how funds should be allocated. The Scottish Executive might not give funding to Scottish Enterprise and Highlands and Islands Enterprise to allocate in the way in which they currently allocate their budgets. Some consideration might be given to maintaining or adapting the existing partnerships for the allocation of regional development funding.

Phil Gallie: You have mentioned the partnership approach, principally with respect to the Executive. However, in many cases chambers of commerce have a good relationship with local authorities. That, too, is a partnership.

Local authorities have made submissions that seem to be strongly opposed to the Government's proposals for repatriation. You have taken the business viewpoint and have reached the conclusion that the proposals might have some benefits for business in Scotland. What conversation have you had with local authorities about this issue? How would you put their minds at ease on it?

Karen Stirling: I have not yet spoken to any local authorities about this issue. As Phil Gallie says, the Scottish Chambers of Commerce has a good relationship with some local authorities and would be willing to enter into a dialogue. However, when we made our submission, we had not taken into account the issue that he raises.

Phil Gallie asks how we would put local authorities' minds at ease about the Government's proposals. In our submission, we did not wholeheartedly welcome repatriation. We cautiously welcome some aspects of the policy—for example, the devolution of responsibility for funding to the Scottish and regional levels. We are not saying that we support wholeheartedly the repatriation of funding. As Professor Bachtler

outlined, we do not yet know enough about what the situation would be if the EU system continued and what we would receive under the transitional arrangements. We have now received the statement by Patricia Hewitt, but we do not yet know fully what the UK Government's plans will be. It is very difficult for us to come down on one side or the other. I hope that local government will not be too alarmed by thinking that we are totally behind the UK Government's proposals.

Phil Gallie: Alasdair Morrison mentioned Patricia Hewitt's guarantee; she said that the nations and regions of the UK will not lose out. Given what we have heard from the professor about a possible underspend in Europe and a return of funds to the chancellor's coffers, is that something that Patricia Hewitt should be looking at? Do you think that, if that goes ahead, that money should be ring fenced for current funding programmes in Scotland and the rest of the UK?

Bob Leitch: The short answer is that, if there were to be any return of funds, we would want to ensure that they were utilised for the benefit of those purposes that were already established before the moneys went in any other direction. It is important that we ensure that that happens, and we would want that to be part of the guarantee that, I presume, Patricia Hewitt is giving in the paper. We have not yet seen the paper, which makes life slightly difficult for us right now. However, if we assume that that is the case, that is certainly what we would want.

As Karen Stirling said, we are not saying that we are 100 per cent behind what the UK Government is proposing. We are saying that the door is open for consideration and that we would wish to give full consideration to the proposals before deciding which way to go. I hope that our colleagues in local government, some of whom are sitting behind us right now, will appreciate that we are taking an open view on an open subject at a time when it is still open. Once we have more detail about how the proposal would be applied—if it were to be applied—we will take a view, and that view may well concur with what our friends in local government think.

Phil Gallie: Thank you very much.

The Convener: There are a couple of references in your written evidence to frustration over the lack of debate in Scotland on the future of structural funding. Could you elaborate on those concerns? What would you have liked to have taken place in connection with that debate that has not taken place?

Karen Stirling: Until the Parliament's inquiry into structural funding, I do not think that the business organisations were engaged in the debate. Having worked for the Scottish Executive

previously, I know that a lot of work and debate has been going on behind the scenes, but that does not seem to have entered the public arena. I do not have any specific suggestions as to what should have taken place, but I welcome the fact that we are now getting the opportunity to participate.

Irene Oldfather: Are there chambers of commerce on the structural funds working group?

Karen Stirling: No.

Bob Leitch: No.

The Convener: I thank the witnesses for coming along today and for their evidence, and I hope that they feel that they have been able to participate in the debate.

I invite our final panel of witnesses to take their seats. They are representatives of local authorities that have been particularly vocal on the issue. We have received many written submissions from local authorities the length and breadth of Scotland and I am delighted that four of those authorities are represented here today.

I welcome Councillor Tom Barr from North Ayrshire Council, Mr Alastair Cooper, who is an official from Shetland Islands Council, Councillor Eddie Carrick of Clackmannanshire Council and Dr Malcolm Green of Glasgow City Council. Thank you all for coming along today. I am happy to give all of you two minutes to set out your councils' points of view.

Councillor Dr Malcolm Green (Glasgow City Council): Thank you.

We had a brief meeting beforehand and, because what we all want to say to the committee is essentially the same basic message, the others have asked me to make an introduction on behalf of us all.

The Convener: You can have four minutes.

Councillor Green: I promise that I will not take up all the time that would have been allocated to the others.

There have been two panel presentations, which have raised—in one form or another—most of the issues that we want to cover. Forgive me if I seem to be listing the points rather than elaborating on and justifying them.

When the UK Government first raised repatriation of funds in the early part of 2003 there were three particular areas of concern. One was in relation to the sustainability of funding that the seven years of European structural fund programmes offer: there were serious concerns about whether that would be retained under a repatriated regime. The second concern was about what guarantees we would have that the

money—the quantum, whatever the total is from 2006 onwards—would be spent on those programmes and not diverted surreptitiously to other priority programmes of the Government. The third concern was about the delivery mechanisms.

I concede that all three issues are addressed in Patricia Hewitt's statement, to which Mr Morrison has referred and which we have had a look at—although it was made available to the public only when it was published last Thursday.

On the seven-year guarantee, confirmation is clearly given that under a repatriated funds regime the UK Government would commit itself to programmes that last as long as that. That is very welcome, but the devil is in the detail and as we get further into the areas of concern the aspects on which clarification would be highly desirable begin to multiply.

Ring fencing is, as I understand it, covered in the paragraph in the Secretary of State for Trade and Industry's statement that says:

"We envisage that the EU Framework would be established by agreement in the European Council of a set of high level, outcome-focused objectives".

That sounds fine and it is fine in principle, but how much detail would there be and how much flexibility would be allowed? Flexibility is a good thing, provided that it is not abused. I will come back to that point at the end of my comments, because it will, in effect, come down to how much trust we can place in the national Government to deliver consistently over seven years a consistent set of programme objectives such as we are used to with the current programmes.

The third area that I referred to was the delivery mechanisms. Again, the words that are used in Patricia Hewitt's statement are fine in themselves. She said:

"We also wanted to retain the strengths of the Structural Funds, such as multi annual funding and partnership working, but achieve significantly simplified delivery mechanisms."—[*Official Report, House of Commons*, 11 December 2003; vol 415, c96WS]

The argument is that if funding is under the control of the member state rather than the European Commission, the arrangements would be much simpler. That may or may not be the case; it all depends on the arrangements.

Scotland's share has already been raised and the guarantee has been given that the nations and regions of the United Kingdom will not lose out. That helps us to focus on the Barnett formula as being the usual mechanism—I presume that it is the Government's preferred one—for ensuring that the funds are made available to the Scottish Executive. We represent the tier of government below the Scottish Executive and the Scottish Parliament. We want to be sure that the funding

would be targeted effectively on economic development and employment generation in the areas that need it most. We fear that what might happen under the proposed regime is that the Scottish Executive would feel free to utilise the money in accordance with its own priorities.

15:00

I do not dispute the Scottish Executive's right to have such priorities and to justify them publicly, but if it chooses to disperse the funds through the Scottish Enterprise network instead of through the multilayered involvement of a large number of partners and stakeholders—as currently exist in the programme management committees, programme implementation committees and advisory groups—we would regard that as a significant diminution of local accountability, flexibility and responsiveness compared with what we know at the moment. Our basic position is not dissimilar to that which we have just heard about from the Scottish Chambers of Commerce. We regard repatriation of funds as being worthy of debate, but we are highly sceptical about whether what is on the table will deliver the claimed advantages. At this point, we prefer to stick with what we know.

That does not mean that we cannot simplify and improve the structures that we have: flexibility has to be kept under constant review to ensure that the programme's objectives and priorities keep pace with changing economic circumstances in the different regions of Scotland. However, on the basis of what we know at the moment, we believe that the current system offers a better chance of doing that than repatriation, as it has been presented to us, does.

I have one final general point that I do not believe has been raised so far in the debate, but I believe that it is important that the committee bear it in mind. Under a repatriation regime in which the money is simply given back to, or retained by, the member states, and those states are accountable only in general terms to the Council of Ministers, the European Commission would lose the central sense of responsibility that it has at the moment for economic development and the ultimate achievement of cohesion throughout the European Union. That would be a serious disadvantage to the concept of the EU. Repatriation is not simply a rearranging of the deck chairs to make them tidier: if the idea is pursued to its logical conclusion, it could strike at the very root of the EU, to which this country is committed.

The Convener: We have had many written submissions from local authorities and one of the common concerns is about the financial guarantee from Whitehall. Is the concern less about arguing with the fact that Whitehall is willing to offer a

guarantee than it is about whether the current Government is in a position to offer a guarantee, especially given that there could be changes of Government?

Councillor Green: In what I have said, I do not doubt the good faith of the Secretary of State or of the present Government. However, Government policies and priorities, as well as the individuals in charge of the spending areas, do and must alter. We believe that that is a serious risk, especially given the need for sustainability of programmes. It would be a serious discipline for a Government to subject itself to if it were to carry through what those words appear to promise. We have some doubts about the ability to do that.

Councillor Eddie Carrick (Clackmannanshire Council): Although it is one of the smallest councils in Britain, Clackmannanshire Council has done well in the past, and we would like to continue that. I agree totally with Bob Leitch and Phil Gallie: it is not that we disbelieve the Government, but if there is any change, we would seek to have the funds ring fenced. We know that the funds will decrease because of enlargement, but we do not want them to go down too far. That was supposed to be a political answer, by the way.

Councillor Tom Barr (North Ayrshire Council): I concur with what my colleagues have said about their major concerns. Long-term sustainability requires long-term planning and we are concerned about how the guarantee can last for the necessary length of time. North Ayrshire Council needs long-term planning for sustainability in economic growth.

Mr Morrison: Local government colleagues will be familiar with the three-year spending guarantees that already exist, and which are a reality for the UK Government, the Scottish Executive and your own fora. It is unfortunate that friends from local government have not had proper sight of the Patricia Hewitt document that I have in front of me; however, I wish to pursue a couple of issues. First, I would like to get your initial impressions on the definition of the guarantee, as laid out in the statement. Secondly, there is the matter of the duration of the guarantee. For the record, I will read out what Patricia Hewitt says on page 7 of her statement, at paragraph 2.3, which is headed "The duration":

"The Government has not specified the duration of the Guarantee because the length of the next Financial Perspective (and therefore the next round of Structural and Cohesion Funds) is not yet settled. Although the current Financial Perspective is seven years long, the previous one was six. And the Commission may decide to propose a five-year cycle to match the lifecycle of the Commission itself. But whatever the length of the next Financial Perspective, this Government will stand by its Guarantee for that period of time."

How do you respond to that? What additional safeguards would you like Patricia Hewitt to build into her commitment?

The Convener: I ask you also to clarify whether you had sight of the paper previously. My understanding is that perhaps you did.

Councillor Green: I have a copy of the statement, but I have not had the opportunity to study the accompanying papers that back it up, which go into some aspects in more detail. We would be more than happy to give a local authority perspective on those aspects in writing later, if the committee wishes it. I could address Mr Morrison's question briefly, however.

Mr Morrison: As you saw the statement only moments ago, I invite you to respond in broad-brush terms. Where do you sit in relation to the clarification that Patricia Hewitt has given to us?

Councillor Green: While answering on behalf of my colleagues, I indicated that I welcome the guarantee, although I accept that it is yet to be decided how long it will be. We have got used to periods of six and seven years. If it were decided at European Union level that the period should be substantially shorter, we would want proper and open debate on that throughout the Union and we would wish to make our point very clear. I have accepted and welcomed the guarantee, and I have indicated that our main concerns are on other aspects: for example; the extent to which ring fencing would apply in practice for the purposes for which structural funds are given; and the delivery mechanisms. I forbore to dwell on that because of the shortage of time that I was allowed in making the initial presentation.

Dennis Canavan: I was intrigued by part of Clackmannanshire Council's submission. It says:

"Without financial direction from the European Commission and the possibility of sanctions should Member State policy deviate from agreed priorities of common policies, renationalisation will pose a threat to the successful delivery of such policies. **Consequently, Clackmannanshire Council believes that it is inappropriate for the funding of regional policy to be returned to the Member State in the way proposed by the DTI.**"

Is that view shared by all the local authority representatives who are present? Does that mean that local authorities put more faith in the European Commission than they do in the Department of Trade and Industry or the Scottish Executive?

Mr John Home Robertson (East Lothian) (Lab): Careful!

Councillor Carrick: Could I give you a written reply to that, Dennis, given that everything I am saying to you is being reported? [*Laughter.*] So that I may retain my seat, I will give you a

politician's answer: you're no far away. I think that that part of our submission is in line with the policy of the Convention of Scottish Local Authorities, the East of Scotland European Consortium and the West of Scotland European Consortium. The submission was produced by officers—very good officers, I might add—and we had sight of it before it came to the Scottish Parliament.

Dennis Canavan: Do other local authorities agree?

Councillor Barr: Our position, as with WOsEC and COSLA, is that we agree fully with that statement. I have not seen the ESEC submission, but I believe that it is along the same lines.

Dennis Canavan: Would any of you go as far as to say that, if an envelope of money was to be handed over to the UK Government or the Scottish Executive for regional development purposes, you would not trust the DTI or the Scottish Executive to give a fair share to your authority? Would you trust them to do that, or would you prefer to trust the European Commission to set out the criteria, oversee the process and—in the words of Clackmannanshire Council—direct it?

Councillor Carrick: We are concerned about that, which is why we are talking about ring fencing. It is not that we do not believe the UK Government or the Scottish Executive but, if the Chancellor of the Exchequer has other priorities, he might use the money in ways that he wants. If the money comes through the Scottish Executive, it might use it in ways that it sees as being correct. We are happy with the way things are at the moment. However, we know that less money will come down to us and we do not want it to be depleted yet again in the process if the system has to change.

Alastair Cooper (Shetland Islands Council): In the case of the Highlands and Islands, the question is one not necessarily of trust, but of experience. Experience has taught us that Europe has been kind to the Highlands and Islands.

Mr Home Robertson: There is a slight risk of looking the gift horse in the mouth. Given the contrast between the economies of the United Kingdom and Scotland and those of Poland, Hungary and the Czech Republic, is not there a risk that we could end up with nothing at all if we leave the matter entirely to the European Union?

Councillor Green: My assumption is that, given that whatever the United Kingdom qualifies for will be decided at European level, the decision is not one that we, as local authorities or regional bodies, can influence directly. That is why I said that, whatever the quantum is, it will be decided on the criteria. However, we know that the criteria have yet to be finalised, as indeed has the period of the next structural fund programme, which is

still under negotiation. Indeed, as we know from last weekend, more fundamental issues that should have been put to bed months ago are still uncertain.

All of that will be decided by ministers. We are concerned that the sums of money—whatever sums the regions of the United Kingdom qualify for—should be properly and sustainably devoted to the objectives that are agreed at European level.

In answer to the earlier question, if the United Kingdom Government is logical about its submission, it should ask for a different regime for the whole European Union and not only for the United Kingdom. It would be in no way consistent in the European context for the UK to have money made available to it for its own purposes, as it were. The UK cannot have an agreement for a loose framework of outcomes and objectives rather than for specific programmes, while the rest or parts of the European Union are put under a central regime. I cannot envisage that that would happen. It would be better—in terms of cohesion of the EU—for the European Commission to have proper responsibility for economic development in all 25 states, and for implementation of the cohesion report, than it would be to have the fragmentation that has been suggested.

Dennis Canavan raised the subject of trust. Some months ago, a number of us were at a UK-wide conference. I was surprised by the extent of consensus among authorities—big and small—from throughout the United Kingdom. They said that they trusted the European Commission more than they did their own government departments. We share that view. That does not impugn the integrity of individual ministers; it simply reflects the kind of short-term domestic pressures that affect member-state Governments far more than they affect the European Union.

15:15

Mr Home Robertson: I do not think that that was an answer to my question. It is self-evident that the balance of need in the expanded European Union will shift to the east. Anybody who considers Europe as a whole will have to understand that the bulk of the need for structural funding will be in the accession states, whether we like it or not. Under those circumstances, anything that is administered from Brussels will not allow very much for areas such as Scotland.

Councillor Green: As I understand it, that is where the 0.45 per cent comes in. The ability of the new member states from central and eastern Europe to absorb structural funds is severely limited—and, in effect, capped—by that 0.45 per

cent. Professor Bachtler can correct me if I am mistaken.

The point behind Mr Home Robertson's question was certainly going through my mind earlier this year. When we compare the gross national products and individual incomes in central and eastern Europe with the GNPs and individual incomes in the existing member states in the west—even their deprived parts—we see a huge disparity. I thought, therefore, that all the structural funds would go eastwards. However, that is not the case because of the cap—which, as I understand it, applies to member states individually. The accession states cannot absorb more than a certain amount. That will leave a significant amount—albeit a reduced amount—for the existing member states, which opens up the real probability that Scotland will still have structural funds to disburse. That being the case, today's debate is relevant. How are those funds to be disbursed in Scotland? That is the aspect that I was addressing.

Mr Home Robertson: That is helpful as far as it goes. However, the United Kingdom Government has gone rather further. It has given a substantial undertaking to maintain the value of structural funds. I therefore find it odd to see people from local authorities looking a gift horse in the mouth and saying, "We don't want this. We'd rather have less from Europe." That seems to be perverse, or am I being unfair?

Councillor Green: At present, funds are disbursed through a perhaps cumbersome system of programme committees that are locally based and involve the stakeholders. If we were dealing directly with the Commission in Brussels, we would be singing a totally different tune. However, in the west of Scotland—since 1989, I think—we have had a system of local disbursement that the west of Scotland pioneered for the whole European Union. The Strathclyde European Partnership Ltd—as it now is—is an arm's-length company that administers the system. It does not spend the money itself, but works very hard indeed to get stakeholders big and small to suggest projects that are then evaluated against the criteria by their peers before going before a programme implementation committee. Everything is overseen by the programme monitoring committee. The structure has counterparts in other parts of Scotland, but is not replicated in the rest of the UK or, indeed, in the rest of Europe. We do not want to lose that structure under a repatriation regime.

My third point was about the delivery mechanism. The words in Patricia Hewitt's statement are fine, but what do they mean for Scotland? They might mean more for England, where they do not have our structure; but we want

to preserve the best of what we have in Scotland, which is why we have taken our position.

Gordon Jackson (Glasgow Govan) (Lab): I do not pretend to understand whether we are better off one way or the other or whom we trust more, but I am interested in a broader political point that Malcolm Green, as a good European, made twice. To put it bluntly, things that are coming from Brussels are announced on the notice board and the message is given that we are all part of Europe and that we all belong together. If one member state repatriates, something of that is lost, and the issue becomes the UK Government spending its own money. To me, as a pro-European, that is a concern.

I would like to ask my council colleagues whether that issue matters to councils and councillors or whether, in some ways understandably, the issue is seen in terms of the balance sheet. Does the attitude of being good Europeans and therefore operating within a Brussels context have any relevance? I can see Phil Gallie saying, "I hope not," but most of us around the table like to think that it matters.

Councillor Carrick: It is a wee bit of both. It is always good to get a project up and running with the European sign above it. If the funding comes from the UK Government, no one bothers, but if it is a European project, everyone takes note that the money has been dragged in from European funding. I am always glad to see European funding in Scotland, wherever it is. It shows that local authorities, MSPs and MPs are doing their jobs.

Councillor Barr: The honest answer to Gordon Jackson's question is that we will be very good Europeans in Ayrshire if that means that we will get more money. I must be honest: we will be anybody's if we can draw economic benefits for our residents.

The Convener: That is now on the record.

Alastair Cooper: In the case of the Highlands and Islands, it is more important that the money is ring fenced and that we know that the pot is there for that specific area. The fact that it comes from Europe is important, but less so.

Phil Gallie: I note Gordon Jackson's comments about displaying the European sign. The fact is that, whether we like it or not, the money comes from UK taxpayers and more of it goes elsewhere than into those projects. That is done in the spirit of the European Union and the cohesion that Malcolm Green mentioned. When we debated the matter in committee some time ago, Dennis Canavan thought that that was not a reason for Europe to distribute the funds. We must find a better reason than just advertising the European Union cause.

I make the point to the councillors that whether or not we repatriate, there will be a major change in the amount of money that is available. In determining how it should be divided, the committee must consider what is best for Scotland.

Councillor Green: I have no disagreement with the point that you make. Of course it is the member states that generate the wealth. The European Union is not a state in itself but precepts on the revenues of individual member states. In answer to Mr Home Robertson's question, we discussed the fact that we all recognise that the structural funds will have to be distributed with a significant bias towards central and eastern Europe. The first and second cohesion reports set that out starkly; with the exception of the city of Prague, the eastern parts of the continental European Union as it will be after 1 May next year enjoy—if that is the word—an average GNP of about 40 per cent of that of western Europe.

The funds that are available to Scotland will undoubtedly be significantly reduced. No one can say whether they will be reduced by 50 per cent, by 100 per cent or by something between those figures, but on the assumption that there will still be significant structural funds, which is the assumption that all the advice suggests that we should make, we must ensure that the mechanism for delivery and the priorities to which the money is applied are those that are most fitted to develop the parts of Scotland that most require those additional funds. Of course, the UK Government and the Scottish Executive are fully involved in that process. We are not suggesting in any way that they be bypassed—that could not be the case because the First Minister is the accounting officer for the structural funds and therefore through his civil servants is closely involved in the committee structures that I have described. It is essentially a partnership.

Councillor Carrick: To a certain extent, the point of delivery of the funds does not matter. It is the pound in the pocket that counts and where it comes from does not matter to us. We all want to be good Scots, good Europeans and good citizens. As I said in response to Gordon Jackson's question, I am always proud when I see that a road that would not have been built otherwise has been funded in Scotland by the European Union—we know that we put the money in first to get it back out, but the important point is that we get it back out for the right projects. When we see new buildings that enhance communities, we are proud to say that we are good Europeans. We understand where the money is coming from. I am always glad to see a sign saying that a project was delivered by European Union funding but, as we all know, that is funded by the UK Government.

Phil Gallie: Councillor Green, you mentioned your reluctance to have Scottish Enterprise interjected into any distribution of funds. You suggest that if we were to go for repatriation, the existing structures for distribution of funds should remain. Would that be possible under repatriation? Why are you worried about Scottish Enterprise?

Councillor Green: I gave Scottish Enterprise as an example. Scottish Enterprise is, of course, a very important partner in the process. It is the lack of funds available through the Scottish Enterprise network that has caused many of the shortfall difficulties that we have struggled with during the past 12 months in meeting the spending targets. As committee members know, unless we meet our spending targets within two years of projects being approved, the money is withdrawn and repatriated—if that is the right word—to Brussels. We have had to struggle with might and main to ensure that that has not happened.

The inability of the Scottish Enterprise network fully to play its part in bringing forward and supporting projects has been a continuing problem for us—one that we have raised with the Scottish Executive on several occasions. I was not singling out Scottish Enterprise with the intention of demonising it. I was pointing out that, unless under a repatriation regime special structures are devised that replicate all the advantages that we believe that we get from the current distribution mechanism, we think that we will lose a considerable set of advantages. I do not rule that out, but that is not being suggested. Therefore, our stance—as I strove to emphasise at the outset—is not that we have ruled the proposal out in principle or that we are opposed to any discussion on it. We welcome the opportunity to debate the proposal, but the lack of clarity about the detail of the repatriation of the funds causes us at this point to prefer what we know rather than the hypothesis that we do not know.

The Convener: As we have been discussing Scottish Enterprise, does Alastair Cooper have any comment on Highlands and Islands Enterprise?

Alastair Cooper: I support the concept of the Highlands and Islands partnership delivering a similar programme. We have no problem with Highlands and Islands Enterprise. Local authorities and Highlands and Islands Enterprise work together closely.

Irene Oldfather: I want to make one point and ask Councillor Green one question. I am not unsympathetic to the point that he raises about long-term programmes, budget flexibility and so on. I am not unsympathetic either to the principle of delivery mechanisms. I am aware that the European Commission has said that Scotland is one of the flagship areas in terms of partnership

on the ground. I believe that the difficulties to which Councillor Green referred can be overcome. I understand that he wants further clarification of them. I do not believe that anyone would accuse me of being anti-European or a Eurosceptic. I am pro-European, but I am in danger of agreeing with Phil Gallie on this particular point, which is that I believe that there are other ways of promoting Europe than just putting up a placard. I understand what colleagues from the councils are saying, which is that having the money is more important than having the placard. I believe firmly that there are other ways of promoting Europe through inter-regional co-operation and education programmes.

15:30

My concern comes down to the point that I raised with Professor Bachtler. At the most optimistic level, on a budget of 0.45 per cent of GDP with an optimistically revised objective 2, I believe that Professor Bachtler's best guess—if I understood him correctly—is that Scotland might achieve around 50 per cent of present levels. I just cannot understand the rationale behind that and the approach in relation to the UK guarantee. I appreciate that Professor Bachtler wants further clarification of the issues. However, if I understand correctly, it seems to me that we are looking at 50 per cent versus 100 per cent. I realise that Professor Bachtler received the accompanying papers at short notice, but I would appreciate it if he would take time to review them and perhaps come back to the committee after reflecting on today's discussion. I believe that that would be helpful.

There is one question that we have not covered that I wanted to put to Councillor Green, which is on the issue of regional flexibility and state aid. The Glasgow City Council written submission mentioned the principle of cities and regions working together. The idea is that regions that are prosperous tend to have prosperous cities attached to them. I wonder whether, in view of those comments, Councillor Green has anything to say about possible flexibility in relation to state aid at regional level.

Councillor Green: Thank you for giving me the opportunity to respond on that point. The committee has our written submission, which it can read and re-read at leisure. I did not dwell on that because it is a kind of extension of the debate. Certainly, we welcome the fact that the UK Government has been committed for a considerable time to pressing for the maximum possible review and reduction of the CAP and, I hope, avoiding the artificial distinction between urban and rural.

Under the Eurocities banner, the cities of Europe, which are now well organised in a way

that could not have been said to be the case a decade or five years ago, have given a lot of thought to the matter. Their thinking is very much in line with Glasgow's thinking, which has now been accepted by the Scottish Executive, that cities form the metropolitan heart of their region—the travel-to-work area, in broad terms—and that the prosperity, or lack of it, of a city and its region tend to go together. We believe that the concept of city plus accompanying region is a better way to view the priority for the allocation of structural funds than the increasingly artificial distinction between CAP and structural funds. Therefore, our view is a shot in support of the UK Government's stance to utilise progressively more and more of the CAP funding for the benefit of regions that depend on cities.

The Convener: On behalf of the committee, I thank all four council representatives for coming today to give oral evidence. I also thank them for their written submissions. Please feel free to remain in your seats while we close this agenda item.

We were due to hear from UK ministers because, clearly, they are taking decisions about this matter. Unfortunately, despite the fact that we have been as flexible as we can with our diary, both the DTI ministers and the UK Treasury ministers have declined our invitation. They cited diary pressures as the reason. I believe that that leaves us at a bit of a disadvantage. I would not say that it leaves our inquiry hamstrung, but it is a disadvantage, given that we must hear from the UK ministers. I note that the local authority representatives are nodding their heads vigorously.

I have a couple of quick suggestions. The first is that we ask the Presiding Office to write a letter to encourage the UK ministers to give evidence to the committee. Failing that, we could ask Alistair Darling, the Secretary of State for Scotland, to give evidence. Failing that, we could send a delegation from the committee to Whitehall to meet the relevant ministers on their patch and to take evidence.

Mr Morrison: We should not forget that there are more ways of communicating with and extracting facts, details and answers from ministers than by having them physically appear here. The committee is more than capable of tabling a list of questions and using the traditional means of posting a letter—or we could even use electronic means—to ensure that the relevant ministers receive those questions. I am certain that the ministers that you mentioned will be more than happy to assist the committee and give us written responses. If we require further clarification thereafter, the whole process can begin again. The fact that UK ministers have complex

commitments is not the end of the world. The committee can draw up a simple table of questions. There are only nine of us and I am sure that we can all come up with a number of questions that can be put into sections, and away we go to get the answers.

The Convener: Of course, those criteria could apply to all witnesses.

Phil Gallie: I agree with Alasdair Morrison that there is more than one way to skin a cat. However, I am particularly disappointed that Patricia Hewitt is not prepared to come here. I would have thought that she would be keen to engage with us, especially as her document emphasises her commitment to devolution. That apart, there are other ways of handling the matter. There is a Scottish Affairs Select Committee operating at Westminster and there is a Secretary of State for Scotland. It might be worth while holding a joint meeting of this committee and the Scottish Affairs Select Committee to thrash out the issue. The select committee could then demand that the minister come to one of its meetings, as it is entitled to do.

Mr Home Robertson: We obviously need to be selective. It is physically impossible for UK ministers, particularly Cabinet ministers, to come here frequently. However, the Minister for Europe is coming here in January, is he not?

The Convener: Yes.

Mr Home Robertson: The Government speaks with one voice—even Denis MacShane—so it might be appropriate to ensure that he gets briefed on the matter and can speak on behalf of the UK Government at that meeting, if that would help to speed things up.

Mrs Ewing: I think that Mohammed should go to the mountain. If the ministers are not prepared to come to us, we should go to them. This is a DTI issue, which it will pursue on behalf of Scotland in all the negotiations that follow on, and I would certainly like representatives of this committee to meet representatives at the DTI at some point before we try to complete a report. Otherwise, we will leave ourselves exposed by not having collated all the information that we want.

I would also like to find out what the UK committees are doing on the subject at Westminster. Perhaps our clerks could find out about that. Are evidence-taking sessions taking place down there and could we share evidence with them? If we had representatives going down, we could be involved in those committees as well as in seeking a meeting with either the Treasury or the DTI.

Gordon Jackson: I take Alasdair Morrison's point about writing. We are certainly not at the end

of the line; we could ask lots of written questions. However, I tend to think that, logically, we could do that with every witness, but we do not because there is something about talking to people that works. I would not discount sending written questions, but I think that some kind of meeting would be important, whether that involves Alistair Darling coming here to answer for his colleagues or, as Margaret Ewing has suggested, a couple of members from here going to talk to people in Westminster. If we are saying that it is a huge issue and that the lead player is the DTI, if the DTI is too busy to meet us we must do something else to get the face-to-face encounter, even if that means that we must physically move.

The Convener: I remind the committee that we will be hearing oral evidence from the Scottish minister with responsibility for the matter, Jim Wallace. The original idea was to have both ministers here at once. We will be taking oral evidence from ministers, but at the moment it will be just from the Scottish Executive.

Irene Oldfather: We are taking evidence from Jim Wallace and, as John Home Robertson has said, Denis MacShane is also coming, but if Patricia Hewitt cannot fit a meeting into her diary, we must accept that. There have been countless occasions in the past when ministers have come to the committee but, because of lack of time, we have not been able to put questions and have had to follow through with written submissions. We should ask the Minister for Europe whether, in view of the fact that ministers from the DTI cannot come, he would be willing to take questions from us. We could also pursue the matter with the Scottish Executive. I think that that would be reasonable.

I recall that, on occasions in the past, the officers involved have come to give evidence to the committee. I think that officers from the Department for Work and Pensions did that when the minister was not available. That might be another alternative that we could explore.

Mr Morrison: I would like to clarify something, convener, as I think that I misheard you. I thought that Mr MacShane was not able to come; I did not appreciate that it was only Patricia Hewitt who could not come. If Denis MacShane is coming, we obviously need to have a structured discussion with him, as John Home Robertson said, and we can arrange that through our clerks. Denis MacShane is more than capable of responding and articulating exactly what the UK Government's position is, as he regularly does not only in Scotland but where it matters, in Brussels.

The Convener: I appreciate your point, but it is worth clarifying that Denis MacShane will be here strictly for one hour in the evening at the beginning

of January to discuss the EU constitution. It is worth bearing that in mind.

If the committee is happy, we shall take all the suggestions that have been made and e-mail members to find out which have majority support. Otherwise, we will be here all day taking individual votes, and I do not think that anyone wants that. Is the committee happy with that approach? The options are not all mutually exclusive.

Phil Gallie: Could we find out whether the Scottish Affairs Select Committee is doing anything?

The Convener: Yes.

Irene Oldfather: Will the clerks investigate the matters that have been raised in relation to the select committee and other possible options, such as officers giving evidence, and circulate that information to committee members so that we have the opportunity to respond before any letter goes out or any decision is made?

The Convener: We shall ask the clerks to suss out the potential for all the various options that have been suggested and then seek a majority view and prioritise them. Is that agreed?

Members indicated agreement.

The Convener: I now bring this item to a close. As it is Christmas, I offer the committee a five-minute comfort break. We shall reconvene at 3.45.

15:41

Meeting suspended.

15:50

On resuming—

Genetically Modified Organism-free Zones

The Convener: We move on to agenda item 2. The remaining items will be a lot quicker than the first item. Item 2 is on GM-free zones and their consistency with European Community law. We will consider a paper that we commissioned from the Parliament's directorate of legal services.

The background to the paper is that the Minister for Environment and Rural Development wrote to the committee on 23 September on a range of issues, one of which related to the debate on GMOs. We discussed the issue on 4 November and decided not to approach the Scottish Executive, but to request advice from the directorate of legal services to enable us to discuss the matter further and decide what, if anything, to do next. We have a very good paper in front of us, and I express our thanks to the directorate for putting it together. I am delighted that Christine Boch is with us today to talk about the paper, and I have asked her to outline its salient points for a couple of minutes.

Christine Boch (Scottish Parliament Directorate of Legal Services): I do not intend to repeat all of my paper, so this will just be a quick series of one-liners.

The field is regulated by Community law, with which Scottish ministers must comply under the Scotland Act 1998. Which Community law is relevant? The guidelines were not very helpful in assessing the question of whether GM-free zones are compatible with Community law so, instead, I considered directive 2001/18/EC, which I perceive to be the relevant legislative instrument. I propose to say a few words about that, and when I have talked about which Community law is relevant, I will discuss briefly what Community law requires.

The guidelines cannot be considered in isolation, as they are just an offshoot of the Community legislative regime on genetically modified organisms. That regime grew throughout the 1990s and is now quite comprehensive. It includes legislation and rules on marketing, traceability and labelling of genetically modified organisms. For today's purpose, the most important piece of legislation is directive 2001/18/EC, which regulates two distinct types of releases. In Community jargon, they are known as experimental releases and commercial planting. Members are perhaps more familiar with experimental releases as farm-scale trials, and

commercial planting is sometimes known in the UK as the growing of GM crops.

I repeat that Community law regulates experimental releases and commercial planting and that Scottish ministers must comply with that law. I will put that in other words to hammer home the point. Scottish ministers are administering a Community regime and they work within the rules that govern that regime. Therefore, they can derogate from that regime only when all the Community conditions for derogation are satisfied.

What does Community law require? The directive lays down a general obligation to take all appropriate measures to avoid the adverse effects on human health and the environment that might arise from a release. I realise that I should have told you—members may already know this—that there has been only a farm-scale trial of experimental releases in the UK. To date there has been no commercial planting of GM crops in the UK. To put the matter another way, Scottish ministers have a duty to refuse consent to a release in situations in which such a refusal is the appropriate measure to avoid an adverse effect on human health or the environment.

Apart from the general obligation, Scottish ministers must comply with the procedural obligations that are laid down in the directive, which I go through in paragraphs 3 and 4 of my paper. Members will see that the directive creates a system of notification, risk assessment and approval, which means that no experimental releases or commercial planting can take place without consent. The decision on the granting of consent must be based on the safety of a proposed release.

If Scottish ministers remain within the margin of discretion that is laid down in the directive, they have powers to refuse the experimental release of GMOs into the environment or commercial planting, so much so that I suggest in paragraph 7:

"If no consent is ever granted, then in effect Scotland would become a GM free zone."

I go on to say:

"However, the Scottish ministers could not avail themselves of their duties under the Directive by declaring Scotland a GM free zone."

That is because Scottish ministers must examine every application—for example, for a trial of commercial planting—on a case-by-case basis.

Therefore, we see that the legislative framework under directive 2001/18/EC is rather onerous. Can Scottish ministers derogate from the directive? The answer is that theoretically they can do so because, although the directive is primarily an internal market directive that is meant to create a unified market for biotechnology, it also has

measures to protect human health and the environment. Article 95 makes it possible to derogate from harmonisation measures, but to do so it would be necessary to fulfil the conditions that are laid down in article 95(5).

Paragraph 12 of my paper outlines Austria's attempt to get such derogation:

"Austria made a request to derogate from Directive 2001/18/EC on behalf of the Upper Austrian Province which was planning to ban the use of GMOs in that part of Austria in order to safeguard organic farming and conventional crops from GMOs contamination as well as protecting biodiversity."

I took the trouble of spelling out what the legislation proposed to do—sorry, I do not mean "took the trouble"; I mean that I detailed what the legislation proposed to do—to show what it has been possible to do within the Community framework. There was an attempt to ban commercial planting altogether. It was agreed that experimental releases would still be allowed, although they can take place only in closed systems. The Commission considered that decision and rejected the request for derogation, because it felt that the conditions that were laid down in the treaty had not been satisfied in the particular case. Austria had failed to provide any new scientific evidence on the basis of problems specific to Upper Austria.

16:00

Upper Austria has since convinced Austria to bring an action for annulment of the Commission decision on its behalf, and the case was lodged in court at the end of November. We do not yet know the outcome. The same opportunity would be open to the Scottish ministers. However, like the Austrians, they would have to provide new scientific evidence, from since the adoption of the directive, to justify its case. They would also have to establish the existence of circumstances specific to Scotland that could justify the more stringent environmental measures that might be contemplated.

I come finally to the guidelines, which are what I was asked to consider. They establish co-existence as a primary value. It is not just important but essential for the Commission to ensure that no form of agriculture—be it conventional, organic or using GMOs—be excluded in the European Union. In other words, the guidelines posit co-existence as a primary value. The guidelines provide an indicative list of possible measures that a member state might want to use to inform us of strategies at national, regional and local levels.

I think that the rest of my written advice is reasonably clear, but I point out that, notwithstanding subsidiarity, the type of measures

that the Commission envisages are really management measures at farm level, rather than truly regionwide measures.

Although the guidelines establish co-existence as a primary value, I do not consider that they require us to grow GM foods in every single part of Scotland. In fact, I suggest that it might be possible to argue that the explicit reference to the fact that

"farms may be separated by some distance"

would justify large separation distances between the areas where GM crops are allowed. If one wished to do so, one could call the areas that fell within those separation distances GM-free zones. However, in my view, Scotland as a whole could not be declared a GM-free zone.

I go on to discuss proportionality and non-discrimination, but I think that the convener wants me to stop there.

The Convener: Thank you, Christine. There are MSPs out there who read our committee agendas, and I am pleased to welcome Mark Ruskell and Rob Gibson, who are attending for this item. We have the paper before us, and I would like to suggest a couple of options. We can note the paper, or we can pass it to the appropriate committees for their attention. If we think that there are issues and further options to consider, we can appoint a reporter.

Phil Gallie: I have a question on the second option. Have the clerks checked the Environment and Rural Development Committee's report? Perhaps committee members should have checked it. I cannot recall whether we did so. Do the clerks know whether the report took account of the legal situation in Europe? If it did not, perhaps that was an omission. On that basis, it would be worth sending the report back to the Environment and Rural Development Committee. If the report took account of the European legal situation, there is no point in pursuing the matter.

The Convener: I am not sure whether that point has been checked. Perhaps Christine Boch knows.

Christine Boch: The Transport and the Environment Committee, as it was then, considered the legal position in its report on GMOs, but the field was regulated then by directive 90/220/EEC rather than directive 2001/18/EC. The legal framework has changed. The Transport and the Environment Committee did not consider the new regulatory framework, so it would be worth sending the report back to the Environment and Rural Development Committee.

Mrs Ewing: I have a legal point. I have received letters from constituents who indicated that Wales has been made a GM-free area. I wonder whether

Christine Boch has knowledge of that and of how Wales managed to get round the directive.

Christine Boch: I am happy to look into that question, if the committee wishes me to do so.

The Convener: We will assume that answers will be provided later for any questions for which we do not have answers at present.

Nora Radcliffe (Gordon) (LD): I have a comment on the paper's conclusion. I believe that the conclusion pares down further than it ought, because ministers have powers to refuse consent only in particular circumstances. That should be made clear in the paper's conclusion, because many people will look at the conclusion without necessarily reading the rest of the paper.

I also believe that the last sentence of the conclusion does not fit with the paper and is a non sequitur. The point that the paper's last sentence makes is not argued in the paper; it is almost a political comment that does not belong in this type of paper. The point in the last sentence could be referred to later or could be included as a political comment, but it does not fit with what is meant to be an objective look at the legal situation.

Christine Boch: I take on board the member's comment. I realise that the word "strong" in the paper's last sentence should not have been used and I apologise for using it. Perhaps I could have balanced its use by modifying the earlier part of the sentence to read, "an environment very favourable to the bio-technology industry". The paper in no way makes any policy suggestions. In the final sentence, I was trying to say that it is for politicians to make the decisions and I was explaining what those decisions are. I was not making any policy suggestions. The point that it is not for lawyers to make such suggestions is fair.

The Convener: I believe that the point has been clarified. Of course, the paper is not the committee's paper.

Nora Radcliffe: I wonder whether there is a mechanism for taking out the paper's last sentence. I am not commenting on what the sentence says; I just do not believe that the sentence is appropriate in its position. I would be happy if the sentence were taken out.

The Convener: The committee can express a view on the paper, but it is not a committee paper. It is a paper by the directorate of legal services.

Nora Radcliffe: Well, I suppose my reservations and my belief that the paper's final sentence is not appropriate as part of the conclusion are on the record now.

The Convener: Your point is on the record and I am sure that Christine Boch will take that point on board.

Mr Morrison: I want to follow up the point that Margaret Ewing raised about Wales. Again, it comes down to the interpretation of what the Welsh have done. I will certainly welcome Christine Boch's clarification of that, but I believe that we already have the answer on the front page of the legal directorate's paper, in paragraph 1, which says:

"the creation of a compulsory GM Free Zone would be inconsistent with the Community Law principles of proportionality and non-discrimination".

Obviously, I await Christine Boch's response, but, without being too presumptuous, I believe that the statement in paragraph 1 answers the question. As far as I am concerned, and subject to the amendment that Nora Radcliffe suggested, we should merely note the paper and move on quietly because the Wales point is, frankly, a non-issue.

Mr Home Robertson: I go along with that. The directorate of legal services declares in paragraph 4 of the paper:

"Declaring Scotland a GM free zone would constitute a breach of Community law."

The point could not have been made more specifically. We should simply note the paper and ensure that our colleagues in the Executive and in other parliamentary committees are aware of the point in paragraph 4.

The Convener: Mark Ruskell and Rob Gibson have been sitting patiently, so I shall allow them to ask questions and make comments.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): The paper certainly reaffirms my understanding of the implementation of the directive. However, I note that the conclusion states that Scottish ministers

"also have powers to ensure that a range of measures are taken to protect conventional and organic farming from contamination from GM crops."

My understanding is that it is a bit stronger than that and that Scottish ministers have a duty, arising out of the directive, to take those measures. It is not a power in the sense that they can decide whether or not such measures are put in place, which means that the conclusion is much stronger. Does Christine Boch agree?

Christine Boch: Yes, I agree. That is the point that I was making in paragraph 5, which says that Scottish ministers

"have a duty to take all appropriate measures to avoid adverse effect on human health and the environment and they have the duty to refuse consent if a risk to the environment or health that cannot be managed has been identified."

I thought that that was what I was saying, but I confirm that your understanding is the same as mine.

Mr Ruskell: Although the points that colleagues have made about the legality of GM-free zones are valid, paragraph 10 states that new scientific evidence would be required. In such a situation, a GM-free zone could be possible if the European Commission agreed that the evidence backed up a call for a GM-free zone.

Christine Boch: Again, I thought that that was what I was saying in my advice. Theoretically, it is possible, if new scientific evidence can be adduced and if circumstances specific to Scotland can be shown. However, as I say at paragraph 11, the Commission must also be satisfied that that in no way creates a GM-free zone.

The Convener: My reading of the directive is that we must draw a distinction between what you have said and Scotland's ability to declare itself a GM-free zone. That is an important distinction.

Christine Boch: Yes.

Mr Home Robertson: Conversely, if Scottish ministers were to impose restrictions that could be demonstrated to be unreasonable and not founded on genuine concerns about the environment or safety, I presume that those could be challenged as being unreasonable. That would open up the Scottish Executive to legal challenge, which would be a silly thing to do.

Christine Boch: Indeed. As I have said, Scottish ministers must comply with Community law, and a characteristic of Community law is that it is enforced in national courts. That is a consideration for Scottish ministers in any area.

Rob Gibson (Highlands and Islands) (SNP): The situation has moved on since the reports that the Transport and the Environment Committee drew up in the previous session, not only because of the adoption of the new directive but also because of activities here in Scotland and in Europe.

We have heard evidence that Upper Austria, via the Austrian Government, is contesting a European Commission decision. Part of the reason for that is that Upper Austria has a lot of organic farming, and it is felt that the area needs special protection. In the area that I represent, Shetland is considering the idea of having a GM-free zone and Highland Council has decided to have one. Many of the reasons given are precisely the ones that Upper Austria is giving in its arguments. Given that a number of regions with legislative powers, including Wales, Salzburg, the Basque Country and many other regions in Europe, are trying to establish new Community practice, the committee would be doing less than its duty if it did not take on board the fact that we in Scotland have good reason to review what is going on in Europe.

As this committee deals with Europe, I ask members, if possible, to keep abreast of the developments in Upper Austria and to report on them. Were the issue to come to the Environment and Rural Development Committee, that committee would be asking the same question and would want to know why the European and External Relations Committee had not been keeping us abreast of what is happening in Europe.

It would certainly help us if we knew what was happening on the issue, because there will be scientific evidence about the field-scale trials fairly soon and the matter will then be for the Environment and Rural Development Committee and many other committees to discuss. The Parliament has an interest, the committee on which I usually sit has an interest and the European and External Relations Committee has an interest because of the links to Europe that it provides. I hope that colleagues will consider making a report to Parliament and to the other relevant committees to keep us up to date with developments.

16:15

The Convener: The committee will be discussing the options available to us in a few minutes. As a matter of course, we keep up to date with developments elsewhere in Europe that impact on Scotland and we do our best to convey that information to the appropriate committees.

Irene Oldfather: What are our conclusions?

The Convener: Despite the comments from visiting members, I think that there is no appetite among committee members to appoint a reporter at this stage. Views differ on whether we should note the paper or pass it to other committees. Are members happy at least to pass the paper for information to the Environment and Rural Development Committee, instead of us commissioning reports and keeping them to ourselves?

Mr Morrison: As I said at the outset, I am also a member of the Environment and Rural Development Committee, as is Rob Gibson. I welcome the contributions from visiting members, but I maintain the position that I outlined earlier. The paper is interesting and Nora Radcliffe has suggested a number of amendments to it, but my view is that, although the issue is on-going, it is also a non-issue in many respects, and I suggest that we merely note the paper. Obviously, we will receive further clarifications from Christine Boch on the issues raised by Margaret Ewing and other members.

Mr Home Robertson: A detailed point arises from Nora Radcliffe's comments on the final

sentence of the paper. It is not our document but a document from the directorate of legal services, but it might be appropriate for Christine Boch to reflect on that point and do any tidying up that is necessary before passing it on.

The Convener: If we were to copy the paper to another committee for information, it would also get a copy of the *Official Report* of this meeting, so the points that we have raised would be highlighted.

Phil Gallie: John Home Robertson suggested that there could be value in passing on the paper to other committees. I think that we should simply go along with that, as it makes sense.

Mr Home Robertson: The document is not exactly secret. I would just note it, and if anybody wants to pick it up, they can.

The Convener: There is clearly a difference of opinion.

Nora Radcliffe: There is the on-going matter of the appeal against the decision on Upper Austria. If that appeal is successful, that will change the complexion of the issue. It might be useful to have somebody looking out for the outcome of that appeal.

Gordon Jackson: I, too, suggest that we simply note the paper, on the ground that, if we pass it over, someone will no doubt interpret that as our making an issue and saying that the matter needs to be examined. If Rob Gibson wants to raise the issue in the Environment and Rural Development Committee, we do not have to pass on the paper to allow that committee to get hold of it. The paper is available and Rob Gibson can take it to the Environment and Rural Development Committee without our sending it, as it were.

The Convener: I suggest that, as a compromise, we note the paper but agree to monitor future developments that might be relevant.

Irene Oldfather: The committee's role in relation to the document has been discharged. Christine Boch has given us the legal opinion that declaring Scotland a GM-free zone would constitute a breach of Community law. I can see that there was an argument for bringing the issue to the committee. I have been uncharacteristically quiet on the matter, but it seems to me that, having brought the issue to the committee, our job has been discharged. I agree with Gordon Jackson and Alasdair Morrison. Individual members of the Environment and Rural Development Committee might want to raise the issue, but for us to pass on the paper to that committee would perhaps send the message that we have a view on the paper that is not really reflected among members of this committee.

The Convener: The compromise that I suggested attracted lots of nodding heads around the table. Does anyone disagree with my proposal?

Irene Oldfather: I have some concerns about the suggestion that there should be on-going monitoring, which is the role of the Environment and Rural Development Committee and not of this committee.

The Convener: As deputy convener, you will appreciate that one of our on-going duties is to monitor developments in Europe and their impact on Scotland so that we can flag them up to other committees. Are there any objections to the compromise that I have suggested or to our continuing to monitor developments?

Mr Home Robertson: If anything comes our way, we can pass it on.

The Convener: As that is agreed, I thank Rob Gibson and Mark Ruskell for coming along for that item. Of course, they are at liberty to stay for the rest of the meeting.

Scottish Executive (Scrutiny)

16:20

The Convener: The next item on the agenda is pre and post-council scrutiny. As ever, the usual options are available to the committee in responding to the regular updates. I should point out that a couple of the papers have arrived, even though the information for members says that they are due—they should be among the other papers for this meeting. Are there any comments on the item?

Phil Gallie: I wanted to ask about the intergovernmental conference.

The Convener: We are coming to that. At the moment, we are still on pre and post-council scrutiny.

If there are no comments, do members agree to all the recommendations? It is worth mentioning that we are still awaiting some outstanding information—we have voiced concern in the past about the lack of papers from certain departments. One option that is open to us in the future is to invite heads of department along to discuss the committee's scrutiny role. I get the impression from ministers that they are doing their best to get papers to us on time, but that they are not always able to do so for various reasons. Do members agree to keep that matter on the agenda, so that at some time we can invite heads of department to give their views on what can be done to improve scrutiny?

Members indicated agreement.

Irene Oldfather: In the past, there have always been discussions at officer level between the clerks to the committee and the officers in the Executive. Perhaps Stephen Imrie can tell us what stage those discussions are at. It seems to me that it would be more helpful for us to put pressure on ministers rather than on the officers, which I am not sure is the right way of proceeding.

The Convener: I am happy to ask the clerk to respond to that. I suggested the heads of department because I thought that there might not be support for getting the ministers along to discuss time scales for scrutiny.

Irene Oldfather: We may not have to get them along. We could write to them.

The Convener: We have done that before.

Stephen Imrie (Clerk): I would hesitate to put words into the mouths of officials in the Scottish Executive. We have had very cordial discussions with our contacts in the Finance and Central Services Department, who are our first point of contact. We are making common efforts to

encourage other departments of the Scottish Executive to provide the information to mutually agreed timetables. It would be wrong of me to go much beyond that on the record, except to say that, at our initial level of contacts, the officials have a framework for asking for the information to mutually agreed timetables. Whether members feel that that framework has been enforced is a question for the committee, as is the question of whether it is at ministerial level or at official level that they wish to investigate matters further.

The Convener: I do not want to open up the item into a big discussion. Most members appear to be of the view that we should leave the matter on the agenda so that we can, in future, invite heads of department or, if we wish, the ministers. At some point, however, we will have to discuss the lack of response.

Irene Oldfather: In order to progress the matter, it might be helpful if the clerks prepared a short report identifying percentages by departments and providing us with the hard facts. Once we have examined that, we can take up the matter in written correspondence with ministers. If we have information analysed by department, that may encourage departments to reply to us more promptly. That may be better than inviting heads of department to appear before us, as, technically, they are responsible to ministers rather than to the committee.

The Convener: If members wish, I am happy for an analysis to be put to us, with options, although I point out that on several previous occasions we have written to the Executive about the issue. However, it is worth while having an analysis carried out. Is that agreed?

Members indicated agreement.

Nora Radcliffe: To what extent is the delay the fault of the Scottish Executive and to what extent is it the fault of Westminster? Where are the bottlenecks?

The Convener: Generally speaking, the delay is down to Scottish Executive ministers. Our pre and post-council scrutiny relates to Scotland's representation at council meetings.

Mr Home Robertson: We have received a paper on energy for the transport, telecommunications and energy council of 15 December. That issue was raised at the recent European members information liaison exchange network meeting.

Energy and electricity are important to the Scottish economy, as is oil. The paper that we have received states that the council was "DEFRA/DTI Led" and that the Executive will follow the United Kingdom line. I seek an assurance that someone from the Scottish

Executive is actively engaged with these issues, given the importance of energy to the Scottish economy. We produce a big share of the UK's energy. We export oil and much electricity, not just to the rest of the UK, but to Ireland, through the interconnector. Most of us want to ensure that Scotland maintains its market share in the sector. I hope that the Executive will look to protect Scottish interests in all international discussions of the issue.

The Convener: I am happy to seek reassurance on that point.

Nora Radcliffe: The documents talk about energy infrastructure in a wider Europe. Does that have implications for the national grid?

The Convener: To which council are you referring?

Nora Radcliffe: The transport, telecommunications and energy council.

Mr Home Robertson: The issue is particularly important, because we have interconnectors with other member states. Recently in Italy there was a failure of electricity supplied from other member states. We must have an efficient system for transmitting electricity around the European Union. Scotland plays a significant part in that, so we need to consider the matter.

The Convener: We can seek clarification on that point, but we cannot yet answer Nora Radcliffe's question.

Nora Radcliffe: Rationalising the national grid would have significant implications.

The Convener: Do members seek other points of clarification?

Phil Gallie: We have an interconnector with France, so that is an issue.

Mr Home Robertson: There is also an interconnector with Ireland.

Phil Gallie: Yes, although the electricity goes initially to Northern Ireland. Another important issue is dialogue with Russia about gas. Russia is a major source of energy for the future. The whole paper is relevant to Scotland's interests in the longer term.

The Convener: We can raise all those issues in a letter to the appropriate minister.

Intergovernmental Conference

16:28

The Convener: The fourth item on the agenda is an update on the intergovernmental conference. The issue has twisted and turned since we last discussed it, given recent developments. We thank the clerks for the helpful briefing note that they have supplied to us. Clearly, they had to turn that around fairly quickly, given the pace of events at the weekend.

The briefing note is self-explanatory. It explains the current position, in light of the fact that the constitution was not agreed at the weekend. Do members have comments? You will have an opportunity to put questions to the Minister for Europe in a couple of weeks, when he appears before us.

Gordon Jackson: Shall we leave discussion of the matter until then?

The Convener: Yes, unless members are seeking particular points of information.

Phil Gallie: I would like some information. A number of so-called red lines were laid down in respect of our position. I would like to know whether any of those issues were debated and determined or whether all that the heads of Government managed to get round to was talking about the voting issues.

The Convener: The briefing from the clerks addresses some of those issues.

Phil Gallie: It says that they are not clear about what happened.

The Convener: I am sure that we will seek clarification of that prior to the minister's appearance. We will provide members with a proper paper in the run-up to that meeting.

Mrs Ewing: I suggest that after our meeting with Denis MacShane, which is only an hour long, we approach the Irish consul general in Edinburgh and attempt to arrange a meeting with him about the Irish presidency. That might yield a considerable amount of information, because the Irish are picking up the matter and having to run with it. There is a troika of Italy, Ireland and the Netherlands.

The Convener: I remind the committee that we will receive our regular briefing from the ambassador from the country that holds the presidency. Early next year, we will hear from the Irish Government's representative on its priorities for the presidency.

Phil Gallie: I thank the clerks for the briefing paper, which is most helpful. I am disappointed and disgusted by some of the comments that have been made by so-called senior people in Europe, especially John Palmer, the political director of the European Policy Centre. He seems to condemn totally Poland and Spain for standing up for what they see as their interests. His remarks that they "have to learn" suggest a total turning-back on any element of democracy. Before the IGC, it was clear to many which decisions member states would fail to reach. The fault lies with those in Europe who tried to put too much into a constitution that was doomed to failure.

Mr Home Robertson: Phil Gallie would say that.

Phil Gallie: I have been saying it for the past two or three months.

The Convener: He has said it again and it will be on the record again.

Convener's Report

16:31

The Convener: The next item on the agenda is the convener's report. The first point under this item is a briefing paper outlining the options for the committee to mark the enlargement of the EU in 2004. We have discussed the matter before. The clerks have helpfully given us more indication of the possible options. Members will note that we have already agreed to be as ambitious as we can in marking enlargement, within the time scales and resources that are available to us. There are five options before us. Some of them would not require much time, but others would require time and resources. I invite initial comments on the options.

Irene Oldfather: I thought that when we discussed the matter previously we more or less agreed that we would try to showcase Scotland while embracing enlargement and that we would do that in partnership with the Commission and the European Parliament. I am not sure which of the options listed here that is, but from the previous discussion I thought that that was where we were going. I thought that, as well as recognising and celebrating enlargement day, we would arrange a joint conference or seminar, along with the Executive, the European Parliament and the Commission, to which business would be invited.

The Convener: That is still the objective. We have provided a brief outline of the options, rather than the details. The business community and others will be involved. I suggest that we agree all the options in principle and allow the clerks in due course to indicate to us any pressures on time and resources.

Phil Gallie: Do we have a budget for this?

Mr Home Robertson: If we are not careful, this could be big. We are talking about rather elaborate gatherings of people from all over the European Union. We need to be careful and to target our activities as effectively as possible.

The Convener: I agree. However, until we start to work out some of the detail, we will not know what resources are required. There have been on-going discussions with the European Commission and others about funding assistance, to which we have referred at previous meetings. That is the key to determining what we can achieve. Some of the options will not require much time or many resources, if we are happy for them to proceed.

Gordon Jackson: I have no problem with that, but I thought that option 1 might be more than we

could get away with. I may be wrong, but it seemed a big deal and rather ambitious.

I like options 2 and 3 and think that they could be combined. There is no reason why we cannot hold an event that brings in diplomatic missions, consular corps and so on—option 3—and representatives of communities from the accession countries who are in this country. Those options do not seem to be separate and mutually exclusive. We could hold one extremely good event, without the huge expense and problems of bringing people here from all over Europe. That is fine if it can be done, but option 1 strikes me as a bit over the top. Perhaps my vision is too small.

The Convener: We definitely agreed to option 1 at a previous meeting.

Irene Oldfather: I thought that we discounted it—that is my recollection of the discussion that took place. The argument articulated at the time was that if we want to engage with the citizens of Europe, business and so on we do not want an event that is about politicians and committees; we want one in which there is wider involvement. I thought that on that basis we discounted option 1.

I agree with Gordon Jackson that there is considerable merit in options 2 and 3. I welcome the information that the clerks have provided, because I am aware that a number of organisations are holding events. I know that the University of Paisley is hosting a major conference and is looking to organise satellite seminars throughout Scotland. It would be good if committee members could participate in some of the events that are taking place across Scotland. I welcome the suggestion that some events need not be held in Edinburgh and hope that committee members will undertake to do work out and about in Scotland—we do not want everything to be concentrated in the Parliament and to be about committees and politicians. It should be about a wider Europe than that.

The Convener: That point was made and agreed at previous meetings. I do not have in front of me the minutes of the meeting at which we agreed to option 1, but as I speak the clerks are checking to clarify exactly what we agreed. I understand that we did not discount option 1 and agreed to pursue it, provided that it was possible within the time scales and resources available to us.

Mr Home Robertson: Can we discount it now?

The Convener: Is the committee content to allow the clerks to progress options 2 to 5?

Mr Home Robertson: I am not sure that option 4 is terribly productive—the Commonwealth is the Commonwealth. I am trying to be helpful.

The Convener: That option was suggested by Keith Raffan and agreed by the committee at the time. Unless we want to start going back on all our decisions, I suggest that we leave it on the list.

Do we agree to allow the clerks to progress options 2 to 5, to provide us with more details on option 1 and to clarify the minutes of our previous meeting?

Irene Oldfather: We are not asking for more details on option 1. The committee's view is that we do not want to pursue that option. I do not want to be difficult, but I want to make a point about option 5. I recognise that it would be nice to have a chamber debate on enlargement in committee time, but I am aware that the committee has also asked for a debate on the intergovernmental conference. It would also not be a bad idea for us to have a debate on the Commission's forward work programme. I do not want to agree to option 5 if it means that something else has to go. It would be helpful if we had an overall picture of committee bids for time in the chamber. I am not opposed in principle to our seeking a debate on enlargement.

The Convener: I intended to mention before the end of the meeting that 21 January has been mooted for a European and External Relations Committee debate in the chamber. We have requested a debate on the IGC—any debate on enlargement would not replace that.

Irene Oldfather: That is fair enough.

Gordon Jackson: I know that we are planning to have a debate on the IGC. In the back of my mind, I am wondering whether the need for that debate now is the same as it was before, given that history has moved on. I know that it would give Phil Gallie a wee chance to do some grandstanding against the IGC, but I am not sure whether the debate is particularly relevant anymore, given that things are in such a state of flux. There are other issues that we could debate.

Mrs Ewing: Phil Gallie could dust down his speech again over Christmas.

Phil Gallie: I will.

The Convener: We will discuss the debate once we have finished discussing the options and have taken a decision on them.

It has been proposed that we dump option 1. I suggest that we wait to find out what we agreed before, given that there is dispute about that.

Irene Oldfather: The committee has agreed today that option 1 is very ambitious.

Mr Home Robertson: We should let it go. There is quite enough in the other options.

Mrs Ewing: Option 1 is probably for the longer term, once the states are in the EU. I suspect that the accession states do not have European committees as such at the moment—although they might have a temporary committee, they will not have a full-time European committee. Option 1 should not be dismissed totally, because we have experiences to pass on.

The Convener: Sure. Do we agree to leave option 1 on the agenda for the longer term?

Mr Home Robertson: Let us leave it on the back burner.

The Convener: I am slightly concerned that we are not organising a major event, which was the plan to which the committee agreed.

Gordon Jackson: The point that I was trying to make was that, although it is great to invite people to get a wee trip to Edinburgh from various places, we already have links with people in this country. I was speaking to a guy the other day who will become the Slovak Republic's consul in Scotland because of the links that he has into that community. We could plug into the existing communities in this country in a big way. The event does not have to be a major one, although it would be fine if people want to send a representative from their own country.

Mr Home Robertson: That is covered in options 2 and 3.

Gordon Jackson: I do not want the convener to suggest that we want to do away with something that could be an important and significant event. In my view, it would be wrong to do so.

The Convener: I take that point, if we agree to hold one event. Option 2, however, contains lots of little events, which is something that we can ask the clerks to take on board. Option 1 is on the back burner.

Phil Gallie: I back what Gordon Jackson just said—I am sorry, Gordon; I realise that that is the kiss of death. The suggestion is sound. There is real value to be gained in it and I back it 100 per cent.

The Convener: So we believe that options 2 to 5 are goers. We will ask the clerks to work them up. Option 1 is on the back burner for the time being. We will see whether we can find an appropriate occasion to invite other European committees to Scotland. I hope that we will not make too much of a habit of reversing past decisions.

Irene Oldfather: In working up options 2 to 5, we must take account of resources. The clerks are trying to deal with a number of issues that the committee has identified as priorities in relation to the IGC, the Commission, the work programme,

structural funds and the inquiry into promoting Scotland. It would be helpful for us to clarify that what we are asking the clerks to work up can be done within our resources.

The Convener: My understanding is that we have discussed and agreed that that is the case.

Irene Oldfather: I wanted to put it on the record today.

The Convener: It is on the record, as it has been several times.

The next item on the convener's report concerns the transposition and implementation of EC/EU obligations in devolved areas. The clerks are continuing to hold discussions with the Executive about improving how that is achieved and monitored. I suggest that we acknowledge that work and encourage further improvements.

Members indicated agreement.

The Convener: The next item on the convener's report is the update on the network of regional parliamentary European committees. Do members have comments?

Irene Oldfather: I welcome the update. On a point of information, a few weeks ago I bumped into Luc van den Brande, the head of the Flanders delegation. He wanted me to tell the committee that he was most impressed with the work that had been done in setting up the internet site and the newsletter. He emphasised that he felt very positive about NORPEC in the longer term and about the involvement of Flanders in it.

The Convener: Okay. The next item on the convener's report is the monthly report from the clerk/chief executive and the external liaison unit on the Parliament's external relations activities. Do members have comments to make?

Mr Home Robertson: For what it is worth, I note that the chair of the Catalan committee has "MCP" after his name. Does that stand for what I think it stands for?

Stephen Imrie: Just on a point of interest, MCP stands for member of the Catalan Parliament. The former convener of that committee is no longer the convener. He has gone on to greater and better things—he has become the clerk.

The Convener: In case anyone is wondering, I have no ambitions in that direction.

The final convener's report item is feedback from John Home Robertson and Phil Gallie on the meeting of the European members information and liaison exchange that they attended.

16:45

Mr Home Robertson: The meeting took place on 8 December in the chamber and was attended

by about 30 or 40 people from various organisations throughout Scotland, including local authorities, businesses, trade unions and voluntary organisations.

The gathering had been convened by the Minister for Finance and Public Services, but no ministers were present at the meeting, which was embarrassing. It is tragic that Andy Kerr's father died during the weekend before the meeting, but it is bizarre that nobody from the Executive was present to explain what had happened. What is more, the deputy minister was not at the meeting and the Executive official who was meant to be present was not there either. The stand-in chairman was George Calder, who is the head of the Executive's European office. The Executive's involvement was a bit shambolic, which was embarrassing. Somebody should have explained what was going on. I do not understand why the deputy minister was not present.

A range of issues was raised and both Phil Gallie and I participated in discussions. The subjects included energy, oil, the chemical industry and structural funding. The gathering was worth while, but I hope that the Executive or somebody took a note of it and that a report of the meeting will be circulated, accompanied by a proper explanation of what happened to the minister. I hope that those comments were helpful.

The Convener: Are you suggesting follow-up correspondence from us?

Mr Home Robertson: No. It is incumbent on the Executive to undertake that, because it was responsible for the meeting. We filled the gap for it.

The Convener: It is all the better for the committee that both committee members were present.

Phil Gallie: In the circumstances, we must accept that the situation was unfortunate. However, lessons must be learned. As we met in Edinburgh, another minister could have come along to apologise and explain the situation. Andy Kerr's absence was fully understandable. Tavish Scott was absent because of problems with travel arrangements—given that we are talking about travelling from Shetland in the winter, perhaps that could have been anticipated. The Executive could have done better.

The meeting was good. John Home Robertson highlighted the key issues that the audience raised. Once again, Mrs Holt of the European Commission emphasised her disappointment that the work programme did not contain more. However, George Calder pointed out that progress had been achieved on only 40 to 45 per cent of the previous year's work programme.

The work programme was premised on a successful outcome of the constitutional discussions, so it might now have been thrown into disarray. That point was made at the meeting and perhaps we should take it into account in future.

The Convener: I thank the members for their report.

Sift

16:47

The Convener: Do committee members have any comments about the sift?

Members: No.

The Convener: Before closing the meeting, I will respond to Gordon Jackson's comments about the topic for debate. We requested committee time in the chamber to debate the IGC and we have received a provisional offer of a slot on 21 January. Given the turn of events at the weekend—although we could still debate the subject and what happened at the weekend—perhaps we should pick another subject. We might do that by e-mail, but do members feel strongly now about any subjects that we could debate?

Irene Oldfather: I would like to reflect on the matter. The question is a wee bit difficult, because we are trying to guess ahead of Denis MacShane's visit to us on 7 January whether having the debate would be helpful.

One other matter that it would be useful for the committee to consider is the Commission's work programme, which gives us a view of where the Commission is going in the next year. Examining that would be helpful for the committee as the Commission's work programme influences our work programme.

We should not decide now—I take the point that the decision might best be reached by e-mail during the next few weeks. If something is to be debated, perhaps we should debate the Commission's work programme.

Phil Gallie: As others have said, the work programme has been thrown into disarray. I do not know what advantage there is in discussing it now, because a rethink is called for. However, if, in the interests of democracy and of spreading the work, we are not going to debate the IGC, it would be useful to discuss the proposed constitution as it stands, particularly after Mr MacShane's visit.

Mr Morrison: When is the deadline for the decision?

The Convener: We want to give as much advance notice as possible to allow the clerks and other people make preparations. We will also have to agree on a motion. I suggest early January, but I will take guidance from the clerks on that.

Stephen Imrie: I will provide the committee with the exact date, but it would be helpful if the committee agreed in principle to have a debate in the chamber. Time for committee debates in the chamber has become free. I was asked whether

the committee would be interested in having a debate and, given members' previous comments, I suggested that the committee might be interested. We would need to be clear on a subject a few days or a week or so in advance. Unless the debate is to be one of those orientation debates, it would have to be on a motion that is agreed by all members of the committee.

Mr Morrison: How long is the time slot? Is it a three-hour slot?

Stephen Imrie: I do not know. I will have to find out more details. As the slot is on a Wednesday afternoon, it would have to be corralled into the available time, but I am not sure whether it will be for two and a half hours or a smaller share of the time. The outcome will depend on competing bids by committees. If more than one committee comes up with ideas, our debate may be shorter.

Mr Morrison: Basically, we can defer the decision until the new year.

Gordon Jackson: We should decide that we will take the time that is available, but we do not have to decide what we intend to do with it.

The Convener: We will consult by e-mail and, I hope, reach a decision at our next meeting.

Mr Home Robertson: If we are finished with that point, I have a separate point.

The Convener: Please be brief.

Mr Home Robertson: My point is really a point of order—I discussed it with you privately before the meeting, convener. The point arises from your dual role as convener of the committee and as a party spokesman on fisheries. I do not want to make a meal of the issue, but I want to clarify the need to be explicit about the capacity in which you are expressing a view. For example, you issued a press release either last week or the week before that stated:

"Franz Fischler's vision appears to have been clouded by his desire to kill off Scotland's fishing industry".

You are entitled to that view—although I might not agree with it—but I suggest that, when you express such relatively undiplomatic and non-inclusive views, it is important that you make it clear that you are not expressing the view in your capacity as convener of the committee.

The Convener: To my understanding, I have never been mislabelled in making utterances on fishing matters. I have never been referred to as convener of the committee in such statements. Are you aware of that happening?

Mr Home Robertson: No, but there is a risk that journalists might put two and two together, which might give rise to embarrassments and difficulties elsewhere. I make no complaint about the press

release—you are perfectly entitled to those views—but there is an inherent risk in conveners of a committee of the Parliament expressing political views of that nature. We will have to learn as we go along, but I urge you to be careful.

The Convener: I take your point, but I have been convener since June and the issue has not yet arisen. I hope that you accept that.

Irene Oldfather: I want to raise a separate point. I value the committee's cross-party working and its independence. In that vein, it was a bit discourteous for the committee's views to be used in an Opposition debate without any discussion with committee members beforehand. If we are to continue to work on a cross-party basis and with the independence that the committee has shown in the past, the use of the committee's views in Opposition debates, without discussion with committee members, is not helpful. I want to put that on the record.

The Convener: I suggest that you write to the Parliamentary Bureau about that issue, because it is not really an issue for the committee.

Phil Gallie: Can I make a point about what Irene Oldfather said?

The Convener: A final point. The issue is not on the agenda.

Phil Gallie: As everything that is said in the committee is in the public domain, any member who wants to use anything that is said in the committee should be able to do so without discussing it with other members. Once a member has made a statement on a public platform, they must stand by it. What is the problem?

The Convener: As the issue is not on the agenda, I must bring the discussion to a close. Members' comments are on the record.

I thank members and wish them a happy festive period. I will see you all on Wednesday 7 January. Feel free to take one of the spare mince pies.

Meeting closed at 16:55.

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