

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

Tuesday 22 March 2005

Session 2

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EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

6th Meeting 2005, Session 2

CONVENER

*Mr John Swinney (North Tayside) (SNP)

DEPUTY CONVENER

Irene Oldfather (Cunninghame South) (Lab)

COMMITTEE MEMBERS

*Dennis Canavan (Falkirk West) (Ind)
*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)
Iain Smith (North East Fife) (LD)

COMMITTEE SUBSTITUTES

Ms Wendy Alexander (Paisley North) (Lab)
Murdo Fraser (Mid Scotland and Fife) (Con)
Richard Lochhead (North East Scotland) (SNP)
Nora Radcliffe (Gordon) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

◊Hilary Benn MP (Secretary of State for International Development)
Tom McCabe (Minister for Finance and Public Service Reform)
Tim Simons (Scottish Executive Finance and Central Services Department)
Lynda Towers (Scottish Executive Legal and Parliamentary Services)
Ian Walford (Scottish Executive Justice Department)
Alastair Wilson (Scottish Executive Finance and Central Services Department)

◊by video link

CLERK TO THE COMMITTEE

Alasdair Rankin

ASSISTANT CLERKS

Nick Hawthorne
David Simpson

LOCATION

Committee Room 1

Scottish Parliament

European and External Relations Committee

Tuesday 22 March 2005

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

G8 and Council of the European Union Presidencies Inquiry

The Convener (Mr John Swinney): Good afternoon. I open the sixth meeting in 2005 of the European and External Relations Committee. I have received apologies from Iain Smith and Irene Oldfather, who are unable to join us today.

We have a busy agenda, which splits into three component parts. First, we shall take evidence on Scotland's contribution to the G8 summit and the United Kingdom presidency of the Council of the European Union from the Minister for Finance and Public Service Reform and, by video link, from the United Kingdom Secretary of State for International Development. There will be a break in the committee's proceedings at 3 o'clock to enable the technical arrangements for that video link to be established. At 4 o'clock, we shall take evidence from Mr McCabe again, on the European Union Bill.

The first item on our agenda is our inquiry into Scotland's contribution to the G8 summit and the UK EU presidency. The inquiry will examine both those political initiatives, on which the Government is currently focused. With us to address points relating to that is Mr Tom McCabe, the Minister for Finance and Public Service Reform.

I invite you to make any opening remarks that you wish to make and to introduce the colleagues who are with you.

The Minister for Finance and Public Service Reform (Mr Tom McCabe): On my left is Ian Walford, who is perhaps known to the committee. On my right is Tim Simons and to his right is Jane McCloskey, both of whom have been at the committee before. They will assist me this afternoon.

Thank you for inviting us along today. The committee has asked me to speak on a variety of subjects, the first two of which are the G8 summit and the United Kingdom presidency of the Council of the European Union. I shall begin with the G8 summit, then move straight to the UK presidency. I shall then take members' questions.

The committee will be aware that, during the recent parliamentary debate on the G8 summit, I

attempted to set out the Executive's objectives for the summit. Among those objectives were our determination to showcase Scotland to a worldwide audience and to demonstrate a contemporary Scotland that is vibrant and thriving, and to welcome visitors and show that Scotland is determined to play its part in the wider world. I am delighted that we are hosting such a major world event.

We also said that we wanted to maximise the economic benefits to Scotland from the summit, not just during the period of the summit but in the years following it. That is the experience that other countries have had. The advice that we have received is that the benefits of such a summit can last for a considerable time.

Importantly, we have said that we wish to engage the Scottish public in debate on the critical issues of Africa and climate change. We want to take the opportunity to make people in Scotland more aware of our climate change programme, to encourage people here to think more deeply about how we can protect our environment and hand over a better legacy to future generations, and to build on the historic connections that already exist between Scotland and some African countries. There is in Scotland great affection for that continent and there is awareness, perhaps because of our natural instinct to empathise, of the challenging situations in which people find themselves in some African countries. We want to build on that and on those historic links to ensure that we make the maximum contribution that we can to ensuring that other countries enjoy the prosperity that we sometimes take for granted.

We want to ensure, through the G8 summit's being held in Scotland, that the views that we hold in the Scottish Executive are transmitted to the United Kingdom Government and are reflected in the approach that it takes to the summit. Naturally, we want to generate a sense of pride in the fact that we are, once again, able to host a major world event. We will do our very best to ensure that we do that successfully, to showcase our country and to be seen as a welcoming nation. We are confident that we can achieve all those things.

We have been enormously impressed by the willingness of organisations in the public and private sectors to join in the effort. We have also been impressed by the level of interest that has been shown so far in the two main themes, which are climate change and Africa. Many people have shown willingness to make their views known, which bodes well for our hopes and aspirations to engender deeper awareness, deeper debate and greater commitment to assisting in tackling those two huge challenges in the world.

As members may know, the First Minister will visit Malawi later this year. He will also shortly

announce more details of the events, which will take place in April, May and June, that we are planning around the G8 summit. The summit is a great opportunity to welcome a large number of individuals to our country, including journalists, delegates and people who want to come and make known peacefully their views on the direction of the world and the condition in which some countries find themselves. We see the summit as being an opportunity to have thousands of ambassadors for Scotland leave our country saying very good things about how we conducted the summit and presented our country and the opportunities that exist here. We would like thousands of ambassadors to leave with an image of contemporary Scotland as a thriving modern nation that is able and willing to play a part in the developing world.

It is only fair to say that we are aware that there may—I stress “may”—be some individuals who would like to come to Scotland and abuse the hospitality, perhaps by behaving in a way that would disrupt people’s daily lives. We sincerely hope that those individuals will be dissuaded from taking such a course of action, but we are absolutely confident that, if anyone is determined to try to disrupt either the summit or the daily lives of individuals in Scotland who are going about their peaceful business, adequate plans are in place to deal with that.

In summary, our hope is that the Gleneagles summit will go down in history as a meeting of world leaders that made a marked difference, and from which point in history there was greater determination to tackle climate change and hand over a far improved legacy to future generations. We also hope that it will mark the start of a greater willingness, through the demonstrable actions of leading countries, to address the terrible challenges that are faced in some of the countries that make up the continent of Africa. As members would expect, we intend to carry out a post-event impact study. Once that study is completed, we will be happy to share it with the committee and discuss it at the appropriate time.

I move on to the United Kingdom presidency of the Council of the European Union. In the second half of this year, the United Kingdom will assume the presidency for the first time since devolution. As members would expect, the Scottish Executive wants to ensure that Scotland makes a full and active contribution to the presidency.

Our main objectives for the UK presidency are to assist the UK Government in delivering a successful and effective presidency and to make full use of the opportunity to promote our country as a vibrant and welcoming place that is determined to play its full part in Europe. We believe that we can do that by supporting the

many presidency-related events that will take place in Scotland. We aim to ensure that those events are a success, both for visitors and in terms of the content of the work that is carried out. As members will be aware, Scotland will host a significant number of presidency-related events—at the moment, more than 30 are planned, but that list could grow—that will cover a wide range of policy areas, formats and bodies.

We also want to assist the overall effort by providing support to United Kingdom ministerial colleagues. As members will know, I attend the joint ministerial committee on Europe, meetings of which are held in London. I have previously taken the opportunity to stress to the Foreign Secretary that Scottish ministers are keen to assist the UK delegation wherever that is required. The offer was warmly received. We will also help out at official level, by chairing EU working groups when official-level meetings take place.

It is important to stress that the role of the presidency is to work for the benefit of the European Union as a whole. Whichever country holds the presidency must operate impartially and not focus unduly on its own national interests. Successful presidencies are those under which EU business is taken forward in an effective, impartial and business-like manner.

It is important to be realistic about what we can achieve during the presidency. Obviously, it would be wrong to assume that the outcome of EU negotiations will be more favourable to the UK or Scotland just because we hold the presidency, because that would obviously impact on our impartiality. However, I stress that the Executive has been fully consulted on the joint United Kingdom-Luxembourg operational programme. We will continue to work closely with the UK Government both on planning for the presidency and, more generally, on relevant on-going EU business to ensure that Scottish views and interests are taken fully into account.

I have given an overview of our approach to the G8 summit and the United Kingdom presidency. As I said earlier, I will do my best to answer any questions that members may have.

The Convener: I thank the minister for his opening remarks. We will deal first with the G8 summit, then with the UK presidency.

You mentioned the Executive’s desire to engage the public in debates on Africa and climate change as part of the G8 summit. You also said that the Executive’s views were transmitted to the UK Government. In your comments on the presidency, you mentioned the JMC on Europe as a forum for discussion on presidency issues. What mechanisms does the Scottish Executive have for transmitting its views—and, consequently, the

views that it elicits from the people of Scotland and the views of Scottish Parliament committees—to the UK Government to influence the agenda for the G8 summit?

Mr McCabe: That is done in two ways: at official level and at ministerial level. At official level, there is substantial contact between officials of the Scottish Executive and those of the Westminster Government. There are also ministerial contacts. For instance, when I met Denis MacShane during a visit to Brussels not too long ago, we discussed various EU-related matters. Obviously, Scottish ministers—usually either me or my deputy—also attend the JMC on Europe. On those occasions, we do our best to ensure that the views of the Scottish Executive are not only transmitted to the United Kingdom Government but reflected in the position that the United Kingdom Government takes.

The Convener: Did I understand you correctly as saying that the JMC on Europe is the mechanism through which the Executive can influence and provide input into the agenda of the G8 summit?

Mr McCabe: I am sorry—I missed you there.

The Convener: Do I understand you correctly as saying that the mechanism for conveying issues concerning the G8 summit from the Executive to the United Kingdom Government is the JMC on Europe, or is there a different structure in Government that has been established for the purposes of the G8?

14:15

Mr McCabe: You have misunderstood me. In your opening remarks, you said that we would discuss the G8 summit. When you asked the question, however, you mentioned both the presidency and the G8. The JMC on Europe deals specifically with matters relating to Europe, and it has ministerial attendance. As far as the G8 is concerned, there is obviously contact between Scottish Executive ministers and United Kingdom Government ministers—conversations take place. There is also substantial contact at official level between Scottish Executive officials and United Kingdom Government officials.

The Convener: What messages have been conveyed from the Scottish Executive to the United Kingdom Government about the priorities that the Executive would like to be pursued at the G8 summit?

Mr McCabe: We have stressed climate change. We are very happy with the priorities that the Prime Minister has set out with regard to climate change and Africa, and our First Minister has substantially picked up the agenda on Africa. As I

mentioned, he will visit Malawi later this year. Through other international development work, some of which is carried out by Patricia Ferguson, we will do our best to maintain that contact and seek out ways to assist the development of the countries concerned.

The Convener: In essence, in that case, the Executive is able to influence the agenda where its priorities coincide with the priorities of the United Kingdom Government.

Mr McCabe: Yes, it is able to do that, but I add that if the Executive had priorities outwith those of the United Kingdom Government we would—of course—not be prevented from expressing a view.

Mrs Margaret Ewing (Moray) (SNP): I will pursue the point about the structure of involvement in relation to ministers in Her Majesty's Government. You have said that there are official contacts and informal conversations. How are those minuted? How could people—such as the committee—access indications of what the Scottish Executive lays on the line as being important issues from a Scottish dimension, for the G8 summit?

Mr McCabe: On climate change, for instance, we have a very close working relationship with the Department for Environment, Food and Rural Affairs at official and ministerial levels. The Executive communicates with DEFRA on its review of climate change—we have our own climate change programme here in Scotland—and dialogue on that subject continues at ministerial and official levels. On the Africa initiative, the committee will be speaking to Hilary Benn later this afternoon. Hilary has made it clear publicly on a number of occasions that he welcomes the Scottish contribution to the work in Africa.

The Executive is closely tied to the Foreign and Commonwealth Office on planning for the G8 summit. Scottish Executive officials are regularly meeting FCO officials in London to develop plans for it.

Mrs Ewing: Are the details of those meetings published?

Ian Walford (Scottish Executive Justice Department): Details of meetings and so on are subject to the usual freedom of information rules. There is nothing in particular that has been published on that front. As Mr McCabe says, there is a great deal of to-ing and fro-ing day to day and week to week.

Mrs Ewing: Could the details be published?

Ian Walford: You would have to apply to the Foreign and Commonwealth Office under the usual freedom of information rules as far as its meetings are concerned.

Mr Alasdair Morrison (Western Isles) (Lab): I have a question about access to details, the line of questioning that has been apparent from the outset at this meeting and the typical statements that have been made from a particular party-political perspective. Is not the reality that the run-ups to both the G8 summit and the EU presidency take years of planning and that it is not simply a matter of people rolling up three months before the event and asking to put X, Y and Z on the agenda?

Mr McCabe: In general terms that is true, but I stress that there is no agenda in the Scottish Executive not to reveal details of conversations that we have with the United Kingdom Government. We have been open about the fact that here in Scotland we have our own programme for climate change. It would be strange if we did not make representations to UK ministers in pursuit of that programme and express the hope that not only here in Scotland but in the UK as a whole the Government steps up its effort to make a positive contribution on climate change.

There is no secret about the historic ties between Scotland and countries in the continent of Africa. The First Minister will visit Malawi in May this year. I represent Hamilton South, which includes Blantyre. David Livingstone left there to do the very impressive work that he carried out as a missionary in Africa. Such ties have existed for a very long time. I would not like the impression to be created that there is anything secretive about contact between us and the UK Government. We are pushing at an open door when we speak to the UK Government about the Africa initiative and climate change.

Mr John Home Robertson (East Lothian) (Lab): You referred to climate change on several occasions. Will there be any opportunities, both in the run-up to the G8 summit and during it, to highlight Scotland's good performance on climate change? I cannot think of any other part of the UK, nor of many other countries in the world, where the majority of electricity is generated without emitting carbon dioxide or greenhouse gases. That is the case partly because of what the Executive is doing on renewables and also, very importantly—members would expect me to say this—because practically half of our electricity comes from nuclear power stations, which are not a threat to the environment.

Mr McCabe: A number of different events are taking place. I said earlier that the First Minister will announce details of other events that will take place in April, May and June. On that theme, Perth and Kinross Council will hold a climate change conference in Crieff on 6 June, which is obviously complementary to the summit. I mentioned how impressed we were by the willingness of

organisations—public and private—to join in the effort to ensure that we emphasise the two themes and make the summit a success. This is a good opportunity to say that Perth and Kinross Council is doing its very best to ensure that the summit is successful. It is playing a leading role; the fact that it is holding the climate change conference is a good demonstration of that.

Dennis Canavan (Falkirk West) (Ind): You indicated that there are adequate plans to deal with any threats to disrupt the G8 summit. Could you give us details about the cost of policing? I presume that Tayside police will have exceptional extra costs, but other police forces—Lothian and Borders police in particular, as there will be extra costs for security within and around the capital—will probably also have significant additional costs. I am told that the additional money that has been allocated so far for that purpose is not enough to cover all the additional costs. Who will pay the balance? Will it be the Scottish Executive, the City of Edinburgh Council or the joint police board?

Mr McCabe: First, we have devolved responsibility for policing here in Scotland and we accept that fully. Therefore, when an event requires policing we recognise that we have a part to play in that and a responsibility for that policing. The overall costs of the summit will be met by the Foreign and Commonwealth Office, but clearly policing costs will arise here in Scotland. It has already been confirmed that £20 million has been made available to meet some of the costs. We are delighted with that, but here in Scotland we accept that we will have to cover some additional costs. It is only right and proper that, as an area within the UK that has a devolved Government and devolved responsibilities for policing, we pay our share of the policing costs.

The City of Edinburgh Council has made representations on policing costs for the demonstration and we have asked for a more detailed breakdown of those costs. Perth and Kinross Council has also made representations on costs and, again, we have asked for a detailed breakdown. We will consider the representations and have indicated that we are willing to offer financial assistance.

The Convener: Do you know what the total consequential cost to Scotland is likely to be? You mentioned the offer of £20 million from the United Kingdom Government, but has the Executive settled on an overall estimate?

Mr McCabe: Not yet. Obviously, the operational details of the required response have yet to be finalised. It would be inappropriate to identify an overall sum before the summit because to do so might indicate to some individuals our preparations for the summit and for anything else that might happen to do with the summit.

The Convener: I understand your difficulty in giving all the details, but has the Executive made a commitment to pay the additional costs that other public authorities incur?

Mr McCabe: Yes, but I have not given a commitment to write anyone a blank cheque. I do not think that you would expect me to.

The Convener: That was not what I asked.

Mr McCabe: No, but I am just qualifying my statement. I want to be sure that you understand the assurances that we have given the public authorities. If people have said that they expect to incur additional costs, we have asked for a statement of those costs. We will consider those statements and respond appropriately.

Phil Gallie (South of Scotland) (Con): We all accept that the Prime Minister has concentrated on Africa in particular, but has the Scottish Executive made any representations on wider trading issues or the involvement of the World Bank? Irrespective of the way in which the Prime Minister wishes to guide us, I suspect that there will be other pressures—external and internal—on the G8.

Mr McCabe: I am not sure that I understand what you are trying to get at. Obviously, the World Bank is involved in the G8 summit.

Phil Gallie: There are issues about the World Bank and issues about trading around the world. The G8 will certainly wish to address those issues, so I wonder whether the Scottish Executive has an established position on those matters in its contacts with the UK Government.

Mr McCabe: We have said that we are pleased with the expansion of free trade around the world, and we have said that we would like trade not to disadvantage the developing countries of the world. That is also the point of view that the UK Government will put across. However, although we endorse the development of free trade around the world, we have to ensure that it does not disadvantage some of the more challenged areas of the world.

Phil Gallie: You mentioned a post-event impact study—it will be wise to carry out such a study. What particular areas will you consider?

Mr McCabe: The scope of the study will be quite wide; Mr Walford might be able to give more details. It will clearly be important to consider long-term economic benefits. As with any major operation, we will want to learn from how we planned for the event and from how we responded while it was taking place.

Ian Walford: The study will consider the economic impact in the short term and, mainly, in the long term, as Mr McCabe says. One of the

potential benefits of the summit will be the opportunity for Scotland to put its companies, its products and itself as a tourist destination in the frame. We will want to consider the long-term benefits as well as the short-term financial impact. As Mr McCabe says, we will also consider what other lessons we can learn for large events.

Phil Gallie: The G8 is obviously a major international event. Could any of the lessons that will be learned be useful in, for example, attracting the European championships to Scotland? Will we be able to assess our international pulling power?

Mr McCabe: We already have some experience of handling major international sporting events—for example, open golf championships—although, unfortunately, we do not have a great deal of experience of winning them. If holding the G8 summit helps us to make progress towards winning any of those events, that will be just another spin-off benefit.

14:30

Mr Home Robertson: I have a quick follow-up. Leaving aside sport—which it would be wise to do at this stage—I believe that there must be a possibility that, if the summit runs well at Gleneagles, Scotland could be seen as a potential venue for future international conferences. We all know of small countries around the world—Switzerland is the obvious example, I suppose—that have a long history of holding major events. If the G8 goes well, surely there must be opportunities for building up Scotland's prospects of attracting similar events, whether on the G8's themes of Africa and climate change or on other themes. Does the Executive have that in mind?

Mr McCabe: The fact that the summit is being held here in Scotland underlines the fact that we are recognised as a country that is able to hold such events. It shows that, when many countries look at the way in which our new constitutional arrangements are developing, they regard Scotland as an exciting place of the future, regardless of the number of people who are determined to talk us down. The fact that we can hold the summit is a good indication that we are a country that is on the up and is looking to the future.

It is clear that we would want to build on the experience that we gain. That is why it is so important that the summit is successful, that we are seen as a country that warmly welcomes people and that we do our best to showcase contemporary Scotland and all the best aspects of our country. We want all the people who come here, for whatever reason—whether they are journalists, visitors, delegates or protesters—to leave convinced that this is a place of the future, to

which their children could perhaps think about coming to study or to live and work in. We have opportunities to promote our country on the world stage. If the summit is as successful as events that we have held in the past, that will justify the argument that we should hold other events in the future.

Mr Home Robertson: Perhaps in this building.

Mr McCabe: The number of people who show an interest in the building on a daily basis reflects the growing realisation that it is an iconic structure. Whether at this end of the Royal Mile, at the other end, where Edinburgh Castle sits, or in between, Scotland has many assets that people are extremely impressed by when they come here. I hope that we will use the further asset of the Scottish Parliament building to impress people with Scotland's benefits.

Gordon Jackson (Glasgow Govan) (Lab): Mr Walford, you talked about assessing the economic impact and how companies would benefit in the future. Will you elaborate on what is happening on that side? How are companies being encouraged to plug in? What is the dynamic of that? How do they plug into, and respond to, what is happening? How is that working?

Ian Walford: The Executive's Enterprise, Transport and Lifelong Learning Department has brought together a group of the main business organisations, which includes the Confederation of British Industry Scotland, to consider how any procurement opportunities can be maximised and what the longer-term benefits might be. Scottish Enterprise is heavily involved in the group and the Foreign and Commonwealth Office is represented on it as well. The organisations are working closely together on the group, which has met a number of times. Both short and long-term issues are being considered.

Gordon Jackson: Are major Scottish players plugging into the opportunities that the G8 will offer? Are they really getting involved or is there a certain reticence because they are not sure about the situation?

Ian Walford: Many discussions are still going on about a range of issues, such as sponsorship, procurement and opportunities to help with particular events. At the summit itself, VisitScotland is running the saltire village, which will be an area where companies and others can showcase products. There is a lot of interest and discussions are taking place with a range of companies of all sizes.

The Convener: Have any Scottish companies taken up opportunities for sponsorship of G8 events?

Ian Walford: The sponsorship contracts are awarded jointly by the G8 and the EU presidencies and the matter is being handled by the Foreign and Commonwealth Office, which has retained a sponsorship consultancy company. Moreover, a lot of work is going on through the group that I mentioned, involving the Executive and Scottish Enterprise. Discussions are going on, but because of commercial confidence I cannot say any more about them.

The Convener: The summit is not terribly far away. I would have thought that you would have been able to say whether any Scottish companies have been successful in taking up sponsorship opportunities.

Mr McCabe: That is for the Foreign and Commonwealth Office, which is taking the lead. When it feels able to announce the companies that have been successful in offering sponsorship, it will do so.

The Convener: Let us move on to procurement, on which I have a similar question. Have any Scottish companies successfully tendered for the delivery of services that are to be offered as part of the G8 summit?

Mr McCabe: Scottish companies have been able to tender for any of those services. At the moment, I cannot give you a comprehensive list of those that have been successful, as the Foreign and Commonwealth Office is taking the lead. Nevertheless, we are constantly updated on the position and will be updated in the near future.

Ian Walford: Yes. Announcements will be made by the Foreign and Commonwealth Office, but we are working with it.

The Convener: When do you expect those announcements to be made?

Ian Walford: As you say, the summit is not very far away. Announcements will be made fairly soon. However, as the minister said, the contracts are awarded by the Foreign and Commonwealth Office and I cannot commit to any dates.

The Convener: But a list will be published of the companies that have been successful in the procurement exercise.

Ian Walford: Yes. The process has been carried out in accordance with the rules of the *Official Journal of the European Union*. Tendering has taken place in the proper way and the announcements will be made in the normal way.

The Convener: Okay. As members have no other points to raise on the G8 summit, let us move on to consider the UK presidency of the Council of the EU.

Phil Gallie: We recognise that there are differences of opinion about the way forward in the

EU. During previous presidencies, there has been massive concentration on getting approval for the constitution. How would the Scottish Executive work with the UK Government if, come the next general election, the make-up of the UK Government changed and referendums elsewhere determined that the EU constitution was not going to be approved? Is there a plan B?

Mr McCabe: I do not know whether it is a good use of the committee's time to talk about hypothetical and highly unlikely scenarios. I leave the matter in your hands, convener. We are planning on the basis of the present Government at Westminster continuing. It is not for me to comment on the timing of a general election; that is for the Prime Minister to announce.

The Convener: I felt that it was only fair that you had a chance to reply to that question.

Phil Gallie: I would still like to press ahead. You must accept that, under some circumstances, change can come about and I do not think that everybody around the table is totally reassured that the constitution will get the approval of people throughout Europe. The French referendum is coming up and there will be one in the UK sometime after our presidency of the EU if the present Government continues. The Executive has taken a fairly strong and vigorous position on the constitution and I think that it would be reasonable for it to consider alternatives, in case its wish is not fulfilled.

Mr McCabe: One either holds a principled position or one does not. If our principled position is that the constitution would be in the interests of the people of Scotland, we hold to that position irrespective of what may or may not happen in other places.

The Convener: In your opening remarks, you mentioned that the Executive was fully consulted on the priorities of the UK and Luxembourg presidencies. When the committee visited Brussels a couple of weeks ago, what was striking in all our discussions was the preoccupation of all EU institutions with the current budget debate and the financial framework. It is hoped that those issues will be resolved by 30 June, before the UK presidency. I am asserting that that is the hope of the UK and Luxembourg presidencies, but is that the expectation?

Mr McCabe: We always hope that agreement can be reached as soon as possible on any aspect of EU policy.

The Convener: Equally striking was the fact that the principal budget heading that appeared to be under pressure was structural funds, which are fundamental to a number of public sector programmes in Scotland and on which this committee has expressed its views. Can you

outline the Scottish Executive's input to the UK presidency preparations on the financial framework, the budget and any potential impact on structural funds?

Mr McCabe: We are contributing to the plans for the presidency in three ways. First, we are represented on the UK presidency co-ordinators group by our Europe division. We have attended every meeting of the group since it was set up in January 2004. Secondly, we are part of the new presidency planning group, which replaces the Grant/Darroch meetings from March. We are represented on that group by David Crawley, who, as you know, is the new head of the Brussels office. Thirdly, we are represented at ministerial level on the joint ministerial committee on Europe, to which I referred earlier. Through those three channels, we make our views known and we contribute to the overall planning for the presidency.

The Convener: Has the EU budget been discussed at those different levels?

Mr McCabe: Mr Simons will comment on the discussions, particularly at official level.

Tim Simons (Scottish Executive Finance and Central Services Department): The budget was discussed at some of the Grant/Darroch meetings, which preceded the presidency planning group meetings, but it has not as yet been discussed at the joint ministerial committee on Europe.

The Convener: Is the Grant/Darroch group made up of officials?

Tim Simons: Yes.

The Convener: What view has been expressed at that group by Scottish Executive officials on the budget debate and the potential impact on structural funds?

Tim Simons: I am not the expert on the future financing negotiations—that is for colleagues of mine in the finance group—but, to my knowledge, the Scottish Executive supports the UK position on the future financing negotiations, which is broadly to restrict the EU budget to 1 per cent of gross national income.

Mr McCabe: The UK Government and the Scottish Executive have made it clear that we are committed to regional development, whether that is funded through structural funds or the resources that come to the Scottish Executive. We are committed to the continuation of the kind of regional development that has been possible through the application of structural funds.

The Convener: What consideration has been given to the view that was expressed by most organisations in their evidence to us that they had no confidence that, if the budget were to be

restricted to 1 per cent of GNI, the UK Government would deliver the type of support for regional policy that you have suggested is required?

Mr McCabe: I cannot speak for other organisations and I do not know what evidence they predicated their views on. From a Scottish Executive perspective, we have every confidence that the UK Government will retain a commitment to regional development throughout the length and breadth of the United Kingdom.

The Convener: Those were the issues that we wanted to discuss in relation to the G8 and the UK EU presidency, Mr McCabe, so thank you for your attendance today. We will see you again at 4 o'clock in relation to the Sewel motion on the European Union Bill.

I suspend the meeting until 3.15 pm.

14:45

Meeting suspended.

15:15

On resuming—

The Convener: I welcome our next witness by video link, Hilary Benn MP, the Secretary of State for International Development. Can you hear us?

The Secretary of State for International Development (Hilary Benn): I can indeed.

The Convener: This is John Swinney, convener of the European and External Relations Committee of the Scottish Parliament. I am joined by Dennis Canavan MSP, Phil Gallie MSP, John Home Robertson MSP, Margaret Ewing MSP and Alasdair Morrison MSP. It is a pleasure to have you with the committee today. I ask you to make your opening statement to the committee; we will proceed to questions thereafter.

Hilary Benn: Thank you for giving me the opportunity to join the committee in what I hope will be a lively and interesting discussion about the development challenge that we face in 2005, particularly in the run-up to the Gleneagles summit in July. As I am sure you are all only too well aware, 2005 is a unique year for development. Five years on from the adoption of the millennium development goals and with 10 years to go to the date that the world set for making progress in lifting children out of poverty, in ensuring that all children go to school, in reducing infant and maternal mortality and in halving the proportion of the world's population who live in absolute poverty, we know that we are not making enough progress.

That is particularly true in Africa, which is why the Commission for Africa report, which came out a couple of weeks ago, is so important. We all face the challenge of determining what we will do. How will we take advantage of this unique year for development to help to change the lives of billions of our fellow human beings? That is the task. The Gleneagles summit will be an important moment during the year, as will the millennium summit in New York in the autumn and the world trade talks in December.

With those words of introduction, I am looking forward to the questions and our discussion this afternoon.

The Convener: Thank you. You made the point, with which we all agree, that not enough progress has been made towards achieving the millennium development goals. What is the Government hoping to achieve from the Gleneagles summit that will intensify that process? What will make a quantum difference to the steps that the UK Government has taken so far?

Hilary Benn: We are looking for three things. One is on the question of the volume of aid. Jeffrey Sachs's report was published at the beginning of the year and we now have what the Commission for Africa report says about the need for additional aid for general development throughout the world, but particularly in Africa, where least progress has been made. Therefore, we are talking about increasing the volume of aid, but the issue is also the quality and predictability of that aid. If a finance minister, a health minister or an education minister in a developing country wants to get children to school, to employ doctors and nurses or to put people on antiretroviral treatment for the rest of their lives, they need to know whether the money will be there to enable them to do that now, in six months and in the years ahead.

That brings us to the second issue, which is debt relief. As you know, Britain is now leading the world with our new multilateral debt relief initiative, which we launched on 1 January. We are currently paying 10 per cent of the cost of the debt owed to the World Bank and the African Development Bank by the poorest nations in the world. One of the great benefits of debt relief is that it provides predictable finance. If someone is no longer having to service part of their debt, they know that they can rely on that money to spend on other things this year, next year and the year after.

The third issue is trade. Unless we can open up the trade system and make it fairer, enabling developing countries to trade their way out of poverty, we will deny those countries the most important means—through contributing to economic growth and economic development—of making a real change to the lives of their citizens.

Those are the three priorities for the G8 presidency and for the summit. However, as the Commission for Africa report makes clear, in some countries we will not see the benefits of any progress that is made on the first of those priorities if there is no peace and stability, if people continue to fight one another, if there is a problem with corruption or if there is a lack of good governance in its broadest sense, which is one of the weaknesses from which Africa and some developing countries elsewhere have suffered.

The Convener: Is it possible to quantify the difference that you hope to make as a result of the G8 discussions and in what you have described as a unique year for development? What quantum difference are you hoping to make to the development issue as a result of decisions that are taken this year?

Hilary Benn: In the end, that depends on what other countries choose to do, as well as on what the UK is doing. For our part, since the current Government was elected in 1997, we have doubled the aid budget. We have also launched the new multilateral debt relief initiative and there is the proposal for the international finance facility. A doubling of aid to Africa, which is a recommendation of the Commission for Africa report, would be an important outcome. Agreement on multilateral debt relief would represent real progress, as would a strong political commitment from rich, developed countries at the world trade talks in Hong Kong in December to make decisions that will help to open up world trade so that the system is much fairer for, and will make a real difference to, developing countries.

In the case of Europe, there was a commitment in the framework agreement last July to set an end date for export subsidies. That is the first time that Europe has made such a commitment, which I welcome. However, we have to turn that into progress at the world trade talks on market access and on tariffs, because those are the issues on which developing countries want progress if they are to take advantage of greater opportunities for trade in the world market.

The Convener: My final question relates to the involvement of the Scottish Executive in the development issue. We heard last week from Patricia Ferguson, the Minister for Tourism, Culture and Sport, about the Scottish Executive's commitment to international development issues, for which she has responsibility. Her priorities are widely shared in the committee. What is the general view of the UK Government on the involvement—with wide political support—of the Scottish Executive in international development issues, even though the matter is primarily reserved?

Hilary Benn: As you point out, international development is a reserved matter, but I very much welcome the Scottish Executive's international development policy, the commitment of money and the expression of interest from all parties in the Parliament. Towards the end of last year, I had the opportunity to address the Scottish Parliament's cross-party international development group. From the number of questions asked and from the people whom I talked to, I know that there is great passion on the subject in Scotland, as there is in all parts of the United Kingdom.

We were consulted about the development of the Scottish Executive's policy, which I welcome unreservedly, above all for the following reason: the task that we are all engaged in, wherever we live in the UK or elsewhere in the world, of trying to change for the better the lives of our fellow human beings is one on which we need all the help that we can get. I very much welcome the interest and the commitment of the Scottish Executive, MSPs, non-governmental organisations and others in Scotland—such as the Network of International Development Organisations in Scotland, representatives of which I met during my visit towards the latter part of last year—because that is a sign that they are considering practical ways in which Scotland can contribute to a task that is of concern to every one of us.

Dennis Canavan: I wish you well in your efforts, Mr Benn, but how optimistic are you that the G8 countries will reach consensus on an action plan that will include action on aid, trade and debt to assist people in developing countries? Have there been any pre-meetings with G8 partners in which you have had the opportunity to encourage or persuade them to accept your point of view? If so, what response has there been?

Hilary Benn: I am sure that you know that a wide range of discussions is taking place all the time through the sherpa network, which represents all the G8 countries. At the ministerial level, there was a meeting of ministers with responsibility for the environment and development in Derbyshire at the end of last week. Financing for development and debt relief in particular was discussed at the G7 meeting of finance ministers that was chaired by Gordon Brown in London about a month ago. Some countries have expressed support for increased aid volume through what they do and more countries are setting themselves timetables to reach the United Nations 0.7 per cent target—as you know, the UK Government did exactly that as part of the comprehensive spending review settlement last July. That was a huge step forward and was the first time that any Government in the history of the UK had set a date for achieving that target.

The chancellor has proposed to raise additional development finance now, when we need it, through the international finance facility, for which France and Italy have expressed support, as Gerhard Schröder did at Davos. We have received support from Sweden for the pilot project that we want to launch to get more children and adults vaccinated and immunised.

There is a range of views on debt relief. Some people are not persuaded that there should be a blanket approach to multilateral debt relief for the poorest countries and some countries would like progress on a case-by-case basis.

Therefore, the straight answer to your question is that a lot of dialogue is taking place. In all honesty, none of us can say what the outcome of the discussions will be, but I assure you that, by putting Africa on the agenda and making it one of the priorities for the G8 summit, and having established the Commission for Africa, the British Government is putting a lot of political weight behind the process to persuade and encourage others to do more.

Three years ago, the Monterey financing for development conference was successful in getting countries—including the United States of America and countries in Europe—to commit more money for development. In Europe, we are currently discussing setting a new EU aid target, which I hope will contribute to the process of persuading people that we should make a big push forward at Gleneagles in July and that we should seize the opportunities that we have this year.

Dennis Canavan: Gordon Brown has hinted that, even if the US Government opts out of an agreement with the other G8 countries, it might still be possible for the other countries to proceed. However, how meaningful would assistance be to people in developing countries if the US opted out?

Hilary Benn: By definition, any progress is meaningful. One of the great merits of the international finance facility in particular is that it does not require every country to sign up to it in order for it to be launched and to raise additional finance for development now. We are working hard to persuade our partners to back the idea, but we could go with a coalition of the willing. As I say, not every country is required to support it.

We must also recognise that, in the end, the mechanism that is used for raising additional finance matters less than the idea that additional development finance should be provided. If countries decide that they will use another route to provide additional money for development, we should welcome the fact that they are prepared to do more. After a decade in which finance for development declined throughout the world, a

sharp increase in such finance is now occurring and we are nearly back to where we were before—indeed, we have overtaken where we were previously in some areas.

That shows a greater recognition on the part of the donor countries that this is a challenge to which we must respond, because it is not acceptable that so many of our fellow human beings do not have the things that we take for granted. Here we are on world water day reflecting on the fact that 1.2 billion of our fellow human beings do not have access to clean water and 2.6 billion do not have access to sanitation. That is a good reason why we need to make faster progress. We are working hard with our colleagues to enable change to happen. Any progress will be welcome, but we want big progress to be made this year.

15:30

Dennis Canavan: I have a final quick question. Will the G8 respond to Kofi Annan's proposals for reform of the United Nations, particularly in relation to the implications for international development?

Hilary Benn: Undoubtedly the G8, and indeed all countries, will discuss that. The main place where the discussion will take place is at the millennium summit in New York in September.

I very much welcome a number of aspects of the paper that Kofi Annan published yesterday, such as the support that he expressed for the international finance facility for the UN 0.7 per cent target and the welcome that he gave to some of my proposals for reform of the international humanitarian system on the basis of my experience in Darfur and what happened in the wake of the tsunami on boxing day last year. We should all welcome our having a more effective international system for helping our fellow human beings when they are in trouble. The report that Kofi Annan produced is important and it will be the subject of discussion in all forums—the EU, the G8 and the millennium summit in September.

Mrs Ewing: Thank you for sending the delegation that recently visited South Africa and Malawi a copy of the Commission for Africa report. It is a substantial tome and well worth reading, and I thoroughly recommend it. I believe that our report is winging its way to you as we speak. Obviously, we in Scotland are concerned about the issue; you spoke about the passion here. How do you see the G8 summit ensuring that the 0.7 per cent target for international aid is reached? Some countries have reached and indeed exceeded that target, particularly the northern European countries, but we are still lagging behind.

One of the things that I noticed on my visit—I do not claim to be an expert—was that the African states are beginning to think about a southern hemisphere system of trade. They were looking to the Asian Pacific areas rather than to the northern hemisphere. Would it be beneficial if we could in some way involve Africa in bringing representatives to the G8 summit in order that they can explain what they see as the problems in trade imbalance and how we can resolve them?

Hilary Benn: Thank you for what you said about the Commission for Africa report. I look forward very much to reading the report of your visit.

The fact that an increasing number of countries have now set timetables to achieve the 0.7 per cent target represents progress. The club of those that have already achieved that is growing and we will join it in due course. That is a sign of progress and hope and it shows the increased interest in development—increased public attention, letters, lobbying and so on—which is reflected by all the political parties and demonstrates our capacity to progress.

Trade is an extremely important issue. In part, it is about the opportunities that we open up to developing countries by changing world trade rules to make them fairer. However, as you will have seen, the Commission for Africa report has strong points to make about the capacity and potential in Africa to develop trade within the region. The process has begun in some parts of Africa with the development of, in effect, common markets. The process has been long and slow. One of the problems that African countries face is that they are small, their economies are small and it is difficult to get economies of scale. By joining other countries in developing economic integration, they have a chance to create bigger markets that will, in turn, encourage more economic development.

A second important issue for Africa is the cost of transport, which is phenomenally expensive. In the commission report, the point is made that it costs \$1,500 to transport a car from Japan to Abidjan, but that it costs \$5,000 to transport the same car from Abidjan on the west coast of Africa to Addis Ababa. That one statistic makes the point about the high cost of transport, which acts as a disincentive to economic development in Africa.

You asked about African representation at the G8. A number of African leaders will have the opportunity to join the G8 summit, as they did last year at Sea Island. It will be important to hear their views and voices on the challenges that their countries and continent face. I hope that their voices will be heard loudly in the run-up to the Gleneagles summit, because it is important that Africa says what it thinks. In particular, it is important that Africa continues to demonstrate the

leadership that it is now giving and to take responsibility for progress on the continent, through peace and security work, good governance and the Africa peer review mechanism, which is an extremely significant development.

Phil Gallie: Earlier, you referred to some of the objectives that you rightly have for Africa. You mentioned sanitation, and I suspect that you were also thinking of education and health. Do you envisage the application of debt relief to the African countries being linked in any way to those issues? If so, how does that fit in with the self-determination of each country?

Hilary Benn: I see an important link between debt relief and progress on health, education, water and sanitation. Along with other countries, we have been trying to move the debate about debt relief on from what the heavily indebted poor countries initiative has achieved. So far, \$70 billion-worth of debt relief has been delivered by that initiative. Fifteen years ago, there was no debt relief for developing countries, so real progress has been made. Politics has shifted that issue, because people would not take for an answer the statement, "We are really sorry. It is a big problem, but we cannot do anything about it." People campaigned and lobbied, including at previous G8 summits, to make progress.

It is important that people see the product of debt relief being used for progress on health, education and other issues. That helps me in the United Kingdom and colleagues in other countries to win the argument for doing more on aid. We are strong supporters of developing countries' being in the lead in the process. That is why, where we can, we are moving increasingly towards direct budget support, which involves our backing the judgment and decisions of developing country Governments in setting priorities for making progress.

We must deal with the fact that poverty reduction and strategy plans give great priority to health and education, but not to water. However, we all know that clean water is fundamental in reducing the number of children who die of diarrhoeal diseases and in getting girls, in particular, into school. Girls spend a lot of time fetching and carrying water, and if they are doing that they cannot go to school. Earlier today I made a speech at the Royal Geographical Society, in which I indicated that, over the next three years, the Department for International Development will double its spending on water in Africa. We will focus on a number of the countries in which we have development programmes and will be much more forward in our discussions with developing country partners to ensure that water and sanitation get the priority that the local

communities with which I have spoken—for example, in Tanzania and Ghana—want them to have. Those communities say with one voice, “We want clean water.”

Your question goes to the heart of the fact that there will always be some tension between developing country ownership and our being able to demonstrate how our aid is making a difference on the issues about which people care.

Phil Gallie: Thank you for that clear answer. I want to vary the theme slightly and to look to the future. Debt relief is all important at present. How do you see aid to the countries that we are discussing being provided in the future? Will they lose the facility to obtain loans? Will we simply provide development aid to them? What can be expected in the longer term?

Hilary Benn: In the short, medium and longer term, I hope that we will see increased development finance, given that the Sachs report, the Commission for Africa report and other studies have clearly shown that there is capacity to absorb more aid.

The UK's development programme for 2005-06 aims to spend 90 per cent of bilateral assistance on the world's poorest, or low-income, countries. We took that decision because, although middle-income countries—those with a gross domestic product per head greater than about \$750—contain 30 per cent of the world's poor, they currently receive more than 40 per cent of the world's aid. We decided to go for 90 per cent of bilateral aid expenditure in low-income countries in an attempt to deal with that imbalance in the international system.

Let me mention another big challenge. Although some relatively stable developing countries have Government capacity but simply lack resources to make progress—from a development point of view, those are easier places in which to work—a large number of the world's poor live in fragile countries that are emerging from conflict. We need to be involved in those countries as well, even though they are more difficult.

The paper on security and development that we published yesterday makes the fundamental point that, as development organisations, we need to be interested in security and dealing with conflict. Without peace and stability, there will be no progress on development. One need only look at Darfur in Sudan to see that. If we provided debt relief, trade and aid overnight to Darfur, there would still be no development while fighting continues.

Working in more difficult places and countries is a big challenge, but we must rise to it. Such work is not without risk—we must be honest about that—but we would miss a lot of poor people if we

did not take on the challenge that is presented by supporting those countries as well as the countries that are on their way, such as Tanzania, Ghana and Mozambique, where stability is turning into tangible progress.

Mr Home Robertson: Previous G8 meetings have tended to look like groups of powerful politicians—

Hilary Benn: I have lost sound at my end. I do not know whether you can hear me, but I cannot hear you.

Mr Home Robertson: Secretary of state, can you hear me? I shall try another microphone. Can you hear me now?

The Convener: We look for guidance from our sound engineer.

Mr Home Robertson: Surely I have not been gagged at this stage of my career.

Mr Morrison: You should not take it personally.

Mrs Ewing: He has been cut off in his prime.

Mr Home Robertson: Not again. I blame it on the Holyrood project.

Convener, how much time have we got with the secretary of state?

The Convener: I understand that he has a commitment at 4 o'clock. As there seems to be no sound contact, I suspend the meeting while we try to restore the link.

15:43

Meeting suspended.

16:00

On resuming—

The Convener: We lost our videoconference link with Hilary Benn, but I place on record the committee's appreciation of the Secretary of State for International Development's high-quality input during that fascinating evidence-taking session.

European Union Bill

16:01

The Convener: With us for item 2, we have Mr McCabe again. He has had quite an afternoon with the committee.

I invite the minister to introduce his colleagues and to make any opening remarks on the European Union Bill.

The committee has before it the bill and the briefing papers from the United Kingdom Government and the Scottish Executive.

Mr McCabe: Good afternoon, once again. I am joined by Lynda Towers and Alastair Wilson. I thank you for giving me the opportunity to come to the committee to say a few words about the European Union Bill. As the committee will be aware, it was introduced to the House of Commons on 25 January. On 26 January, I wrote to the committee to say that the bill had, in essence, two main purposes. First, it makes provision for a referendum on the treaty establishing a constitution for Europe, which was signed by heads of state and Government on 29 October last year. Secondly, assuming that the treaty is ratified, it will give effect to it in UK law.

Most of the areas that the bill relates to are reserved to the Westminster Parliament, but a small number of provisions impact on devolved competences, because they affect the powers of Scottish ministers or the Scottish Parliament. They are set out in the Sewel memorandum that accompanied my letter to the convener and are, essentially, technical in nature.

Clause 4 of the bill grants powers to ministers to make subordinate legislation for the purposes of implementing the treaty. That power is granted to Scottish ministers as well as UK ministers.

Clause 5 grants powers to ministers to implement any agreement reached under the common foreign and security policy. That power is also given to Scottish ministers. We do not expect it to be used often, because the common foreign and security policy is generally reserved, but there might be occasions when an agreement that is reached under that policy—a sanction, for example—touches on a devolved competence, which is why powers are also granted to Scottish ministers.

The bill also widens the powers available to ministers when implementing European Union obligations, which will give them welcome additional flexibility. Finally, the bill grants ministers the powers to create new criminal offences with a maximum term of imprisonment of

up to 10 years when they need them to implement an EU obligation.

In each case, Scottish ministers are granted comparable powers to those given to UK ministers. The effect of the bill is to preserve the current balance of powers between Scottish ministers and UK ministers under the devolution settlement.

When the committee has had the chance to consider the content of the bill, the Executive will lodge a Sewel motion to invite the consent of the Parliament to having the UK Parliament legislate in the areas that affect devolved competence. The text of the motion is set out in the Sewel memorandum.

I will do my best to answer any questions the committee might have.

The Convener: Clause 3 of the bill contains statements on subsidiarity. In the draft treaty establishing a constitution for Europe, specific provision is made for the Parliaments of member states to notify “parliaments with legislative powers” of issues that emerge from legislative proposals in the EU, about which a Parliament that has legislative powers might be concerned in the context of the principle of subsidiarity. The provision is expressly set out in the draft constitutional treaty, but there is no such provision in the bill. What is your view on that?

Mr McCabe: The provision is part of the constitutional treaty and it would not necessarily be relevant to transfer it to the bill. The treaty would place an obligation on the Government of the UK, as a member state, to consult regions with devolved legislative competence, and the UK Government made it clear in evidence to the House of Lords and in the paper that Peter Hain presented that it is content to do so. In answer to a parliamentary question, I said that I had had discussions with the Minister for Europe on the matter, at which he confirmed that the UK Government is keen for devolved Parliaments to have involvement and to develop the mechanisms that would ensure that such involvement worked.

The Convener: I do not think that I am splitting hairs but, in part IV of the constitutional treaty, article 5 of the protocol on the application of the principles of subsidiarity and proportionality states:

“It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.”

That does not read as though it were placing an express obligation on national Parliaments; it reads more as if it were presenting an opportunity or giving advice. I would have thought that, to guarantee that the bill is robust for all time, a reference in the bill to the commitment that Mr MacShane gave, which you mentioned in

committee and during question time in the Scottish Parliament—I looked back at the *Official Report* of the meeting—would reinforce Mr MacShane's view that the UK Government would recommend that Parliament consult directly the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly, if it was operational.

Mr McCabe: I do not think that specific parts of the constitutional treaty are replicated in the bill. However, clause 3(2) places a duty on the UK Government to lay before the UK Parliament a statement about whether, in the responsible minister's opinion, a European legislative proposal

"complies with the principle of subsidiarity."

As I have said on at least two occasions the UK Government has made it clear that it wants to comply with that duty and that there is a case for developing mechanisms that will allow the principle of subsidiarity to be applied.

The Convener: I hear what you say, but notwithstanding the committee's earlier discussion about hypothetical scenarios, I suggest that a legitimate hypothetical scenario in relation to legislation would be one in which the political colour of the Administration in London changes—just as the political colour of the Administration in Edinburgh might change. The bill must be robust for all scenarios. My reading of the constitutional treaty is that it does not place an obligation on the UK Parliament to consult the Scottish Parliament. The provision creates an opportunity but not an absolute, mandatory obligation to consult. To protect the interests of the Scottish Parliament, it would be fair to amend the bill to that effect. I refer in particular to clause 3(2), which provides for a six-week period in which

"the responsible Minister must lay before Parliament a statement about whether, in his opinion, the draft legislative act complies with the principle of subsidiarity."

Alastair Wilson (Scottish Executive Finance and Central Services Department): The European Union Bill refers specifically to the provision in the treaty that gives explicit responsibility to national Parliaments for ensuring compliance with the subsidiarity principle. As you have suggested, that is the obligation on the national Parliament. As the minister has already made clear, the UK Government has helpfully assured us that it believes that Westminster should closely involve the devolved Scottish Parliament in the workings of the subsidiarity mechanism. Obviously, it is for the Scottish Parliament to agree with Westminster the specific mechanisms to ensure that that happens within the tight six-week period. I know that officials have already been in touch. Executive officials have also had helpful discussions with officials of the Parliament, which is a welcome development.

Separately, in evidence to the House of Lords European Union Committee and, as the minister mentioned, in the paper that the then Minister for Europe, Peter Hain, gave to the convention on the future of Europe, the UK Government has given assurances that we will be involved and has committed itself to liaising with the devolved Administration—the Scottish Executive—at an early stage in the preparation of the memorandums of subsidiarity that I mentioned. That will ensure that we are able to make our input within the six-week period. That period is tight, but mechanisms are already being prepared to ensure that we can participate properly.

The Convener: With the greatest respect, I am talking about a parliamentary channel. I do not want to confuse that issue with Executive involvement in the process. I quite understand and accept the assurances that have been given at ministerial level, but I am concerned about the parliamentary aspects. If a Sewel motion is laid before Parliament, we have an opportunity to say to the UK Government whether we are happy for legislation to be taken forward on the proposed basis. It would be remiss of the Parliament if it did not take every step to entrench in the legislation the parliamentary channel that has been offered. I am making a very clear distinction between the Executive and the Parliament, and that distinction is further reinforced by the fact that this piece of legislation must be dispassionate if it is to last for all time and outlive individual ministers' commitments. As the minister is aware, such commitments are good only up until the moment when another minister rescinds them. We require a firm view from the Executive on that matter if we are to get this legislation right. Will the minister comment further on that point?

Mr McCabe: You make a fair point. I fully understand that, although we have received assurances from the existing Westminster Government, Governments can change. I will investigate the matter further, seek to clarify the position and find a form of words that gives the reassurance that the committee wants.

The Convener: For the sake of absolute clarity, I believe that it would help if there were a change to the bill itself. After all, the content of some of the issues to which clause 3 would relate—and therefore the justification for legislating on them—is equally as significant as the commitments to subsidiarity that I am concerned about.

Mr McCabe: I cannot make commitments on behalf of the UK Government on matters that are clearly reserved. However, I understand your point and will investigate it further.

Dennis Canavan: In your letter to the committee dated 26 January, you say, "We believe that"—

The Convener: Mr Canavan, let me just stop you for a moment. Do any other members want to pursue the issue that has just been discussed? I want to close that one off before we move on.

Phil Gallie: I very much welcome the minister's comments. Indeed, I made the same points about Mr MacShane's comments to the minister in the chamber. There is no obligation whatever on national Governments to pass down such matters. Both articles 2 and 6 of the protocol on subsidiarity—protocol 2—to the constitutional treaty make it clear that there is an element of responsibility without any commitment. The minister's comment today acknowledges that and I welcome it.

16:15

Mr Home Robertson: I offer an alternative. I want to acknowledge the unanimity among committee members on this issue. A legitimate concern exists and I welcome the minister's acknowledgement of that. Getting the drafting of the bill changed would be ideal, but it might be difficult. Another way of attacking the issue might be through the concordat between the Executive's Finance and Central Services Department and its counterpart at Westminster.

Mr McCabe: As I have said, I am not able to express an opinion on the various options that might be available, but I give you a commitment that I will explore them.

Dennis Canavan: In your letter to the committee of 26 January, you state:

"We believe that it would not be administratively sensible to make separate statutory provision by way of an Act of the Scottish Parliament to make changes that are, essentially, technical in nature."

Surely, the question is not whether that would be administratively sensible but whether it would be legislatively sensible. Parliament is not an administrative machine; we are a legislative body. If the Sewel motion is agreed to, it will deny the Parliament the opportunity to scrutinise the passage of legislation regarding the powers of Scottish ministers and the accountability of Scottish ministers to the Parliament. Will you consider that point, too, in your further consideration of the matter?

Mr McCabe: Unfortunately, I do not think that I will. I do not agree with your view that we are denying the committee the opportunity to scrutinise. We can have a separate debate on the pros and cons of the whole Sewel convention, but on occasion, it provides the Parliament with the opportunity to concentrate on the priorities that it has set for itself. It gives us the opportunity to look at the legislation that is passing through the Westminster Parliament that will have an effect on

the Scottish Parliament, and it reassures us that, although the Westminster Parliament could legislate on our behalf, it is allowing us time and space to concentrate on other priorities that we have set for ourselves in our devolved Parliament.

Dennis Canavan: If the Parliament were to agree to the Sewel motion, it would not have the opportunity to discuss the matters that are contained in the bill that is being debated at Westminster.

Mr McCabe: I thought that that is what we are doing at the moment.

Dennis Canavan: We are simply a committee of the Parliament. I am arguing that the whole Parliament should have the opportunity to discuss these matters.

The Convener: With due respect to Mr McCabe's position, I understand that there will be a discussion in the Parliamentary Bureau—as a former Minister for Parliamentary Business, Mr McCabe can confirm this—about how the issue is handled in the chamber. This is the committee's opportunity to make whatever judgments we want to make about how much evidence we want to take on the European Union Bill and its associated Sewel motion. It is up to the Parliamentary Bureau to decide how the issue is handled in the chamber. Does that clarify things?

Dennis Canavan: Yes, but will the minister confirm that the bill, as drafted, would give Scottish ministers the power to use subordinate legislation—in other words, to make regulations—to implement certain aspects of the treaty without giving the Scottish Parliament a full opportunity to scrutinise that secondary legislation?

Mr McCabe: That would depend on the nature of the Scottish statutory instrument that was produced. If it was subject to the affirmative procedure, a committee of the Parliament would scrutinise it before it was passed. The same would happen if it was subject to the negative procedure. A negative instrument would be laid, which would give a committee the chance to look at it.

The Convener: In the context of the European Union Bill, is there any proposal to change the method by which we undertake our scrutiny of subordinate legislation in the Parliament?

Mr McCabe: No, there is not.

The Convener: If you could clarify that point, that might help Mr Canavan.

Mr McCabe: The bill rationalises the process in a way that saves us making changes to both European and domestic law, but SSIs, which are scrutinised by the Parliament, are still required.

Dennis Canavan: What discretion would Scottish ministers have with regard to the type of

SSI used and to the choice of whether the affirmative procedure or the negative procedure is used?

Lynda Towers (Scottish Executive Legal and Parliamentary Services): It would depend on the circumstances of the legislation under which instruments were being made.

Dennis Canavan: In other words, you are asking us to buy a pig in a poke. We do not even know what opportunity we will have at a future date to scrutinise the orders concerned. We do not know whether they will be subject to the affirmative or negative procedure, for example.

Mr McCabe: That is a particularly unkind description, Mr Canavan, if you do not mind me saying so. We are not asking you to do that at all. The same procedures that apply to every other SSI will apply to the SSIs relative to the bill.

The Convener: Have you exhausted that line of questioning, Mr Canavan?

Mr Morrison: I hope he has.

The Convener: Well, there is room for plenty more.

Phil Gallie: I was intending to pursue the point with Mr McCabe along similar lines. What is the Scottish Executive's view of the way in which the bill has been presented, given the immensity of the implications of accepting the European constitution? Did Scottish ministers feel—as did many of their colleagues in England, including Austin Mitchell—that it might have been better to deal with part 3, on a referendum, alone at this stage and to work towards implementation of the constitution after a positive result in the referendum has been achieved, if it ever is?

Mr McCabe: I do not think that it would be appropriate for members of the Westminster Parliament to make undue comment on the way in which we handle legislation in the Scottish Parliament. Equally, it is not necessarily appropriate for me to comment on the way in which people at the Westminster Parliament decide to progress particular pieces of legislation.

Phil Gallie: But this is a United Kingdom bill that very much affects Scotland. If we pass powers to Westminster at this point and if Westminster passes the bill, the constitutional treaty in its entirety virtually becomes the law of Scotland, without any debate in the Scottish Parliament. Is that right? Should not there be a debate on the treaty's contents before we approve a bill that sets out the way forward for its implementation?

Mr McCabe: As a former member of the Westminster Parliament, you will be more aware than me, even, of which matters are devolved and which matters are reserved. You are well aware

that this is a reserved matter, and that it is for the United Kingdom Government to consider how it proceeds using the necessary processes in the House of Commons.

Phil Gallie: If that is the case, why do we need a Sewel motion?

Mr McCabe: Because we in this country are in the very fortunate position of having a devolved Government. In certain instances, before the United Kingdom Government legislates on issues that cover people here in Scotland, it seeks the permission of the Scottish Parliament. That is one of the benefits of devolution.

Phil Gallie: You have said that this is a UK matter. If you look at article 117 of the constitutional treaty, you will recognise a number of areas that are purely Scottish matters, such as culture, tourism, many aspects of education, youth and sport. Those are Scottish matters—they have been devolved—yet we seem to be giving up the ghost on them.

Mr Home Robertson: There is going to be a referendum.

Mr McCabe: I do not think that we are giving up the ghost, Mr Gallie. That is another unfortunate description. Perhaps it is just that kind of afternoon.

Phil Gallie: Okay—I will drop that, convener.

Mr Home Robertson: Can we have that in writing?

The Convener: Mr Gallie has perhaps reinforced a point that we discussed earlier: where there are devolved issues such as culture and sport, we must have the right mechanism in place to ensure that the parliamentary interest is protected. For me, that is the central point that we need to address.

I refer the minister to part 2 of the bill, on the common foreign and security policy. I note that clause 5(3) proposes that

"The powers conferred by this section ... include power to create new criminal offences"

in relation to the common foreign and security policy. Later in the section, I note that

"The powers of the Secretary of State under this section ... shall also be exercisable by the Scottish Ministers".

In what circumstances would either the Scottish ministers or the secretary of state act under those powers?

Mr McCabe: I will ask Lynda Towers to respond to the question.

Lynda Towers: Common foreign and security policy is primarily reserved. It tends to deal with issues such as terrorism that come under

Westminster's authority. It is possible that there will be instances when the Scottish ministers, in particular the Lord Advocate, will wish to exercise authority in a particular area. I am thinking of instances that relate to security that come to Scottish ministers through the European route. In those instances, the Lord Advocate could impose sanctions such as the freezing of bank accounts.

In circumstances such as that, the Scottish ministers and not the secretary of state would exercise their powers under the CFSP. However, the provision is intended to be a concurrent jurisdiction power, similar to the existing powers under the Scotland Act 1998 for the implementation of European legislation.

It is envisaged that Scottish ministers would exercise the powers, but that, in some instances, the use of the powers would have to be instantaneous. In those instances, ministers at the Westminster Parliament could exercise the powers if it were not possible for Scottish ministers to do so instantaneously or if there were a good reason why the powers should be so exercised.

As I said, it is envisaged that the provision will act as a concurrent jurisdiction power similar to the existing powers under the Scotland Act 1998 for the implementation of European legislation.

The Convener: Okay. If the approach in the bill is similar to the concurrent approach that is taken to the implementation of EU legislation, is it also similar in respect of the balance of powers that sees Scottish ministers acting in devolved areas of responsibility and the secretary of state acting in reserved areas?

Lynda Towers: Indeed.

The Convener: So there will be no change to the dynamic of that relationship as a result of the bill.

Lynda Towers: No.

The Convener: You mentioned that actions might require to be taken very quickly. In what circumstances would Scottish ministers be notified that the secretary of state would exercise powers? By what mechanism would the Scottish Parliament be advised of the actions that had been taken?

Lynda Towers: An order of some kind would require to be made to implement the powers in Scotland. The Scottish Parliament would be subject to notification of the order. I imagine that it is likely that such a power would be exercised through Westminster departments. It is more likely that the information would come through the departments that have responsibility for foreign and security matters. I assume that the relevant department would advise Scottish ministers that a particular order might be required. Scottish ministers would draft the order and it would come

before the Scottish Parliament in accordance with the Parliament's usual procedures.

The Convener: What is the forum for resolving such issues? Would it be a joint ministerial committee that considers home affairs or judicial issues?

Lynda Towers: This is not that kind of power. The minister down south with responsibility for terrorism might say that a particular power requires to be exercised in Scotland. He would advise the Scottish ministers, who could exercise their powers under the provisions in clause 5. The Executive does not envisage that any complicated arrangement or a particular committee would be needed to deal with the powers. The CFSP could relate to a number of different circumstances. The provisions in the bill will allow Scottish ministers to exercise powers where it would be appropriate to do so within their devolved competence.

The Convener: So, as things stand, a United Kingdom minister who receives information that requires him or her to make an order that relates to powers that are held by Scottish ministers has the ability today to take that action. What the bill does is to extend the powers into common foreign and security policy.

Lynda Towers: Yes.

The Convener: Right.

16:30

Mr Morrison: I want to follow up that point. You specifically mentioned terrorism, and there will obviously be occasions when both Scottish ministers and UK ministers will have to act quickly and discreetly, without being subject to the type of parliamentary scrutiny that we would expect in other areas of devolved or reserved work.

Lynda Towers: The provision describes how it is envisaged that the process will apply to those particular orders. It would be open to the Scottish Parliament to decide how particular orders are processed.

Dennis Canavan: Would it? I am not sure about that. Schedule 2 refers to the possibility of

"an Order in Council made ... on the recommendation of the First Minister of the Scottish Executive".

There is no mention at all of the First Minister even asking for the approval of the Scottish Parliament. As I understand it, the First Minister is one of the few members—possibly the only member—of the Scottish Parliament who is also a member of the Privy Council, so he will go down to the Privy Council, without any parliamentary approval, to sign us up to this, that or the next thing. That is absolute nonsense and makes a mockery of the Scottish Parliament.

Lynda Towers: That is not the context in which I made my comment. The Scottish Parliament would decide how to pass its legislation—as it is doing at present through its review of the regulatory framework. Things will be done in accordance with whatever procedures are set down for SSIs in the Scottish Parliament.

Dennis Canavan: Yes, but the European Union Bill also sets out the possibility of orders in council being made simply on the recommendation of the First Minister. I refer you to schedule 2 on page 18 of the bill.

Lynda Towers: But that applies equally to any statutory instrument made under the relevant provision by Scottish ministers. It would be for Scottish ministers to decide on the appropriate way to proceed.

Dennis Canavan: Yes—the ministers, but not the Scottish Parliament.

Lynda Towers: Not if the ministers decided that they were not proceeding by statutory instrument. However, they would have to account to Parliament for that.

Dennis Canavan: I feel very strongly that such things should be debated in the first instance by the Scottish Parliament.

The Convener: I want to be clear about this. In answer to earlier questions, you said that the subordinate legislation process that is envisaged under this bill would entail no change to our existing arrangements for the treatment of subordinate legislation. Therefore, I assumed that ministers could not act outwith the existing arrangements. It now appears that they can.

Lynda Towers: There is existing power for Scottish ministers to ask, in specific circumstances, for an order in council to be made, so things would not be any different. At present, there are circumstances in which the First Minister could ask for an order in council to be made.

The Convener: In what circumstances would the First Minister ask for that?

Mr McCabe: We would report retrospectively to Parliament. The occasions on which that would happen would obviously be exceptional, and we could all speculate about circumstances that could crop up. However, if we looked back over the past five years, we would see that it has happened very few times, if at all. That perhaps gives the committee a guide.

If the First Minister or Scottish ministers saw a need to use powers in this way, it would only be in very exceptional circumstances and we would still be required to report to Parliament retrospectively—either through the committee or through whatever mechanism was suitable.

Phil Gallie: Which of parts 1, 2, 3 and 4 of the bill actually require the clearance of the Scottish Parliament? In other words, which parts require the backing of a Sewel motion?

Mr McCabe: I referred to clauses 4 and 5, which grant ministers specific powers. Parts 1 to 3 are a bit too detailed for me to pinpoint an aspect at the moment, but we could write to you about that.

Phil Gallie: I am interested in part 3 in particular, because nobody around the table would want the referendum to be halted, although we might well feel that other parts of the bill are not to Scotland's advantage—that is my belief. I would like guidance on part 3 and assurance that our rejecting the Sewel motion would not prevent the bill from proceeding to provide for the referendum question.

Mr McCabe: I understand that part 3 is reserved.

The Convener: In its entirety?

Mr McCabe: The possible exception is a small provision on a legal challenge to the referendum result. A petition for judicial review could be received in a Scottish court. I give the caveat that if any other such small provisions are relevant, we will tell you. You will understand that we are not in a position to go through provisions line by line at the moment.

The Convener: I will draw the discussion to a conclusion. We have discussed a couple of significant issues. One is the method by which Parliament's interest in relation to subsidiarity is assured in the bill and the other is the point that Mr Gallie made about the implications of whether parts of the bill relate to devolved or reserved matters. To allow the committee to conclude its investigations into the bill properly, it would help to have the Government's response to those points before the Sewel motion is debated in the Parliament. I ask the Executive to reflect on that.

Mr McCabe: I understand that desire and will do my best to comply with it. We will respond in early course.

The Convener: I thank Mr McCabe and his colleagues for their participation.

Sift

16:37

The Convener: Agenda item 3 is the paper that we receive regularly that sifts European Union legislative proposals. I will draw several documents to the committee's attention. The first is the Commission's "Annual Policy Strategy for 2006", which is the first formal element of the Commission's policy planning for the next year. It sets out policy priorities, identifies key legislative and other initiatives and adopts the budgetary framework for handling them. The document is broad and relates to the interests of a variety of parliamentary committees, so do we agree that it should be shared with other parliamentary committees as suggested?

Members indicated agreement.

The Convener: The next paper is a proposal for a regulation of the European Parliament and the Council to establish an institute for gender equality, which is accompanied by an annex that evaluates the proposal. The recommendation is that we pass that to the Equal Opportunities Committee for it to reflect on as part of its continuing responsibilities. Is that agreed?

Members indicated agreement.

The Convener: The third document is a consultation paper that considers the complications that can arise in settling the succession of people who have partners who are citizens of another member state. It examines the need to adopt harmonised European rules on testate and intestate succession. That will be of particular interest to the justice committees, to which I recommend passing the document. Is that agreed?

Members indicated agreement.

European Union Legislation (Transposition and Implementation)

16:39

The Convener: Item 4 is a report on the Executive's progress on the transposition and implementation of EU legislation in Scotland. We receive such a report bimonthly from the Executive. Members will note that the legislation is grouped into three self-explanatory categories: completed, on-going and late. The second page of my accompanying note contains recommendations on the report. I draw members' attention to the fact that the Subordinate Legislation Committee is examining the regulatory framework in Scotland, an issue that was covered in the discussion that we just had with Mr McCabe. The material may be of relevance to that committee's inquiry. Do members have any comments?

Phil Gallie: The point that registers with me once again is the high level of transposition in Scotland, which contrasts with the level in countries such as France, Germany and Italy.

The Convener: We have a tradition of obeying the law.

Phil Gallie: Unfortunately, others do not.

The Convener: We cannot condemn the Executive for obeying the law, although we could condemn it on many other matters.

Phil Gallie: I am complimenting the Executive, given the failure of other countries in the European Union.

The Convener: I am sure that the Executive will take great heart from your warm words.

Convener's Report

16:41

The Convener: The final item is the convener's report. Two letters have been received that are relevant to the committee. The first, which is from Ross Finnie, the Minister for Environment and Rural Development, is a response to the committee's discussions on the legal opinion that we received from Ailsa Heine on the dispute between the Scottish Environment Protection Agency and Scottish Power over the burning of sewage sludge pellets as fuel at Longannet power station. The minister sets out the motivation for SEPA's involvement in the action—the agency was following guidance from ministers on the implementation of regulations. The letter also comments that the issue remains live in the courts, because Lord Reed has yet to judge on certain issues. I understand that the judgment will be made towards the end of April. The minister makes other remarks in relation to Scottish Power and Lafarge, which may be of relevance to Mr Home Robertson's constituency, into the bargain. The letter gives us the background to the actions, but notes that, as the issue is with the courts, the Executive can do little to adjudicate on it at the moment.

Phil Gallie: I note the minister's comments. The definition of waste is all important. The court's judgment was no surprise to the Executive. However, there is a lot of concern in the country about the disposal of sewage sludge to assist with forestry development—a strong argument can be made that the practice is simply a means of disposing of waste. I wonder why the Executive has prompted SEPA to tackle the issue of the burning of sewage sludge pellets at Longannet, when it is not acting on the issue of land disposal of sewage sludge, which can be determined only as waste.

The Convener: I am happy to write to the minister about that on behalf of the committee. The issue of consistency must be addressed—we must ask why the Government encouraged SEPA to act on one issue but not on another related issue. I am a bit staggered that action is being taken on the matter at all. I am afraid that I find it a bit difficult to get my head round the problem with what Scottish Power is doing. Phil Gallie raises the issue of the spreading of sewage sludge. If I had to choose, I would be much keener for us to burn waste pellets than to spread sewage sludge. As the Government is being a bit inconsistent, we can ask for clarification on that point.

Phil Gallie: Yes, please.

The Convener: We have also received a letter from the Minister for Tourism, Culture and Sport, Patricia Ferguson, who appeared before the committee last week. The minister wrote to me promptly to set the record straight on points that she made about the allocation of international development aid. We note the minister's comments and we will bear them in mind in the consideration of our report on the inquiry into the G8 summit and the UK presidency of the Council of the EU.

That concludes the meeting. We will meet again on 12 April, when the committee will consider the first draft of its report on that inquiry. We will also consider the draft terms of reference for our inquiry into the fresh talent initiative.

Meeting closed at 16:45.

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