

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

Tuesday 19 February 2008

Session 3

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EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

4th Meeting 2008, Session 3

CONVENER

*Malcolm Chisholm (Edinburgh North and Leith) (Lab)

DEPUTY CONVENER

*Alex Neil (Central Scotland) (SNP)

COMMITTEE MEMBERS

*Ted Brocklebank (Mid Scotland and Fife) (Con)

*Alasdair Morgan (South of Scotland) (SNP)

*Irene Oldfather (Cunninghame South) (Lab)

*John Park (Mid Scotland and Fife) (Lab)

*Gil Paterson (West of Scotland) (SNP)

*Iain Smith (North East Fife) (LD)

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Jackie Baillie (Dumbarton) (Lab)

Keith Brown (Ochil) (SNP)

Jackson Carlaw (West of Scotland) (Con)

Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Bill Adamson (Food Standards Agency Scotland)

Calum MacDonald (Scottish Environment Protection Agency)

Rob Morris (Scottish Environment Protection Agency)

CLERK TO THE COMMITTEE

Dr Jim Johnston

ASSISTANT CLERKS

Emma Berry

Lucy Scharbert

LOCATION

Committee Room 1

Scottish Parliament

European and External Relations Committee

Tuesday 19 February 2008

[THE CONVENER *opened the meeting at 10:00*]

Transposition of European Union Directives Inquiry

The Convener (Malcolm Chisholm): Good morning everybody, and welcome to the fourth meeting this year of the European and External Relations Committee.

Item 1 is our inquiry into transposition of European Union directives, which—as people will know—the committee has been undertaking for the past month or so. Today, we will take evidence from the Scottish Environment Protection Agency and the Food Standards Agency Scotland. I welcome Calum MacDonald and Rob Morris from SEPA, and Bill Adamson from the Food Standards Agency Scotland. We will start with an opening statement from each organisation before we move to general questions. Would Calum MacDonald like to start?

Calum MacDonald (Scottish Environment Protection Agency): Thank you. SEPA very much welcomes the opportunity to give evidence to the committee. We provided extensive and detailed evidence to your predecessor committee's inquiry into scrutiny of European legislation and we are delighted to be here again to give evidence to this inquiry. We provided written evidence in advance, which I hope members have found helpful. I welcome the opportunity to make a brief introductory statement to help to set the context and explain SEPA's role in the transposition process.

SEPA is a non-departmental public body—we are accountable to Scottish ministers but are independent of Government in order to ensure that there is proper separation of powers and responsibilities. As such, SEPA has no direct responsibility for transposition, but has an important advisory role.

SEPA has significant experience of implementation of a wide range of environmental legislation on issues such as waste management and protection of the water, land and air environments. Our main role is to protect the environment and human health by regulating activities that can cause harmful pollution, and by monitoring and reporting on the state of Scotland's environment.

Pretty much all the environmental legislation that we implement originates from Europe, and will therefore have been transposed by the United Kingdom, as a member state. The environment is largely a devolved responsibility, so the Scottish Parliament can legislate as it sees fit, as long as its legislation is compatible with European obligations. Proper transposition of European Commission directives is clearly significant to Scotland.

Our written evidence refers to three different ways in which transposition can be done: first, in situations in which Scotland is part of a UK-wide transposition; secondly, in situations in which Scotland transposes in a different way from the rest of the UK; and thirdly, when Scotland has introduced its own legislation but that legislation has been developed alongside, and is subsequently similar or identical to, legislation that is introduced elsewhere in the UK. SEPA has experience of all three scenarios—some of our experiences have been very positive, but some have not.

We therefore welcome the inquiry as a means of stimulating discussion on whether there is scope for improvement in the transposition process as it affects Scotland. We are particularly interested in the idea that Scotland should have its own transposition procedures, and we would like such procedures to cover each of the three scenarios that I have described.

We also welcome the idea that the Scottish Parliament should have a greater role in considering and debating transposition issues. I note the committee's interest in two wider issues that impact on transposition: engagement at European level, and the better regulation agenda. I will comment briefly on each of those. SEPA recognises the importance of engagement in Europe and it is active on that front; for example through secondment of SEPA staff to the European Commission, and our involvement in the two networks for environmental regulators across Europe that we referred to in our written evidence. That engagement in Europe helps us to share best practice and to influence development and proper implementation of European legislation.

SEPA also fully appreciates the importance of the better regulation agenda and has, as is evidenced in the publication back in 2005 of "Promoting and improving the environment through regulation: SEPA's Vision for Regulation", been enthusiastically progressing that agenda for a number of years. We fully intend to continue to put better regulation at the forefront of what we do: indeed, we have recently established a better regulation unit to ensure that we keep up the pace in that respect. My colleague Rob Morris, on my left, is the unit's manager. The principles of better

regulation should be a fundamental consideration in transposition of directives, so we seek wherever possible to encourage that in our advice to those who are more directly involved in the process.

I will make three very brief final points. First, I can see very little evidence that there is gold plating in transposition of environmental legislation. Secondly, a clear distinction should be made between transposition and interpretation. Differences that might arise in the application of legislation are more often a matter of interpretation after the legislation has been put in place than they are a result of something that has happened during the transposition process. Thirdly, given previous witnesses' concerns about section 57(2) of the Scotland Act 1998, we tried to find examples of environmental legislation that has been more strictly interpreted in Scotland as a result of that provision, but we were unable to find any.

SEPA would welcome clear and robust Scottish transposition procedures, and the opportunity for us and other relevant stakeholders to be engaged in the process at the earliest practicable stage. Rob Morris has more detailed day-to-day knowledge of the issues that might arise. I hope that, between us, we can answer your questions.

Bill Adamson (Food Standards Agency Scotland): I also welcome the opportunity to appear before the committee. I gave evidence to the previous committee's inquiry on the issue, and am happy to supplement those comments this morning.

It might be useful to contrast the nature of my organisation with that of SEPA. Rather than being an NDPB, FSA Scotland is a non-ministerial Government department that operates at arm's length from ministers and is governed by a board that has been appointed to act in the public interest. However, as our policy remit on food and feed safety and standards is wholly devolved, we have responsibilities that are equal to those of Westminster and the other devolved Administrations. For the purposes of the inquiry, we should be seen as the Government department in Scotland that has responsibility for policy in this area rather than as an organisation that is separate from the Scottish Government. In fact, in my written submission to the inquiry, I answered on that basis the committee's questions about our experience with the Scottish Government.

On our experience of transposition, most if not all the legislation that applies to us has come from Europe. However, as that legislation now directly applies European regulations and decisions rather than directives, there is slightly less opportunity for policy flexibility during transposition. We have limited experience of directives. If need be I can answer questions on that.

Even legislation that directly applies European regulations occasionally contains scope to introduce national provisions, so where appropriate we take the chance to use such flexibility. That said, even though we recognise that occasionally there is a need for different provisions in the four Administrations, as a UK Government department the FSA tries to find solutions to transposition that are consistent throughout the UK.

Although we have responsibility for policy in this area, we occasionally have some interface with the relevant Scottish Government department when its policy area abuts our own. As a result, with regard to cross-compliance, common agricultural policy reforms and other issues that affect the farming sector and aquaculture sectors, we are, as an interested body, often consulted by Scottish Government departments.

We are also usually the lead department for negotiation in Europe, although I know that today the committee wants to concern itself more with the transposition process beyond the negotiation stage. In my written evidence, I give examples of where we can get a useful direct conduit for Scottish stakeholders into that process.

As SEPA does, we embrace the better regulation agenda. In particular, our headquarters are caught up with simplification plans and an exercise to reduce administration burdens, which is a Westminster Cabinet Office-driven initiative post the Hampton report. That means that the benefits of what happens in our policy area on a UK basis will spread to Scotland. Our board has set a 25 per cent administration burden reduction target for 2010. We are trying to work to that agenda.

The Convener: I thank both witnesses for their statements. We will now ask questions.

My first question is to the Food Standards Agency Scotland in particular, although the SEPA representatives may wish to answer it, too. In its evidence, the Food Standards Agency Scotland mentioned negotiation on directives at European level and suggests that the current requirement for the UK Government to say whether the devolved Administrations have been consulted in developing the explanatory memoranda that outline UK Government policy is not working properly, and that more formal procedures might be necessary. We have touched on that issue before. Will you expand on your thinking on that?

Bill Adamson: I am a member of the Food Standards Agency Scotland's European and internal relations committee, which has considered that matter quite closely. I think that committee members are aware that the House of Lords European Union Select Committee has suggested

that there is a need for a statement on consultation of the devolved Administrations to be included in the explanatory memorandum that goes before the Westminster scrutiny committee. As a UK organisation, we almost operate as the lead department in Scotland in our policy area, but other Scottish Government departments—in particular the health, environment and rural departments—usually have an interest in what we are doing. Therefore, we must have a conduit through which we can take views from Scottish Government departments so that those views can be fed into the process and it can be seen that the requirement for consultation of the devolved Administration is being met.

Because there is no specific written procedure, we have in the meantime adopted an informal remit with the Scottish Government's Europe division so that we can try to take soundings from Government departments that have an interest in what we are doing, albeit that we will be the Scottish Government department with the lead interest.

However, there is sometimes a difficulty. A 10-day turnaround period is usually required from the laying of the European white or green paper to the explanatory memorandum's being put before the scrutiny committee at Westminster. As a Government department, we must draft explanatory memoranda, so we are involved in that process. The timescale for getting technical views from other Scottish Government departments on an explanatory memorandum before it goes to Westminster for deliberation can sometimes be tight. We do our best to endeavour to get the views of other departments, but I suspect that the absence of a formal procedure means that Scottish Government colleagues sometimes think that they have not been given due opportunity to consider issues. My written evidence suggests that it would be useful to have a protocol relating to explanatory memoranda and concordats that outlines what the timeframes should be and ensures that the consultation process is more thorough.

The Convener: Thank you. Your comments are helpful. Do the SEPA witnesses want to say something?

Rob Morris (Scottish Environment Protection Agency): We would welcome such procedures. Our situation is slightly different to that of the Food Standards Agency Scotland because our main relationship is with the Scottish Government in ensuring that transposition and transposition mechanisms are appropriate to Scottish circumstances.

The Convener: Irene Oldfather and Iain Smith want to ask questions. Do you want to ask about a

different issue or to pick up on the issue that is being discussed?

Irene Oldfather (Cunninghame South) (Lab): I suppose that my question is on a related issue.

I thank the witnesses for their written submissions, which are helpful. In its submission, the Food Standards Agency Scotland said that it

"has found some difficulty in engaging with the Scottish Government's technical processes".

The agency specifically mentioned that it had

"not been able to gain access to the electronic Scottish Statutory Instrument (SSI) tracker system".

Why is access to such systems important? You have mentioned the tight timetables that you face. How would such access improve transposition? What can we do to assist you in that? I have a different question for SEPA.

10:15

Bill Adamson: I would not want to give the impression that things are not working, because we have mechanisms that work in the process.

One of the objectives of the SSI electronic tracker system is good governance. There was an attempt to streamline the process in the interests of efficiency. The idea is that the lead Government department and its lawyers will ensure that the tracker system is updated to show what stage the transposition process—consultation stage, draft instrument stage, regulatory impact assessment stage and so on—has reached. The idea is to help to project plan the transposition process. That is what we work to.

In a sense, I have the role of the responsible manager for that process in the FSA Scotland, which means that I ensure that the instrument system is up to date. However, that has to be done manually, because we do not have access to the electronic system. Reports are derived from the electronic tracking system and sent to our office. I check those, make manual amendments and send them back to be processed electronically. If we had access to the system, we could keep the system more up to date without the need for double handling. The way things are done at the moment creates an additional administrative burden for us.

To be fair, that system and the European transposition system are housed in the Scottish Government's intranet system and I can understand why the Government might be reluctant to give us full access to its intranet. However, we are working with the Scottish Government to get a form of direct access to parts of those electronic systems so that we can upload information and keep them up to date ourselves

rather than having to go through the more bureaucratic administrative process.

Irene Oldfather: I would have thought that, in these days of high technology, we would have found a way around the problem that you have described. I am sympathetic to the points that you made. It would be good if the committee could be of assistance in this matter. Do you feel that the barriers to accessing the Government's systems are in place for security reasons?

Bill Adamson: I think that issues involving data security are the cause of the reluctance to allow us access to the system. However, as you suggest, there must in this day and age be an electronic fix that would allow us limited access to specific systems.

We are meant to be planning our transposition process so that there are no bottlenecks and so that the parliamentary system is not overloaded at key times. Clearly, if we cannot view the rest of the tracker system, we have to rely on our colleagues in the Scottish Government legal department to keep us apprised of the situation, which means that I cannot perform an overseeing role or discuss common commencement dates with colleagues at FSA headquarters.

Irene Oldfather: That sounds like an administrative issue, but I think that it also impinges on efforts to develop efficient ways of doing things. Have you discussed this with the Government?

Bill Adamson: As I said, we had some initial discussions. At one stage, we thought that the issue would be resolved quite quickly, but the data protection and security issues proved to be more difficult than we had thought. To be fair, however, we have official working relationships with people in the Government and will discuss the matter further. I am hopeful that we will resolve the issue in the near future. Anything that the committee could do to assist in that would be welcome.

Irene Oldfather: There must be something that we can do to assist. As the FSA is the lead agency in this regard, I cannot understand why data protection issues cannot be overcome.

Alasdair Morgan (South of Scotland) (SNP): How long has this been an issue?

Bill Adamson: It is quite a new issue, because the Scottish Government's SSI tracker system was introduced only in the middle of last year. Previously, systems were in place to try to map the process, but the principle of the tracker system is that it should ensure that the transposition process is more efficient and streamlined. Of course, the process involves EU law as well as directives, and, as I said earlier, the FSA deals mostly with regulations and not directives. The fact

that it is not only EU legislation that goes through the tracker system should mean that it is easier to manage the process.

Alasdair Morgan: The issue, however, is not access to the tracker system. Is the problem that your having access to the tracker system would give you access to other information?

Bill Adamson: That is partly the problem. It would be more efficient for us to update the information ourselves so that we could give to Parliament and the Scottish Government the proper information about our process. I do not want you to think that that is not happening, however; it is, but by a more convoluted administrative route.

Alasdair Morgan: Clearly there are no data protection issues with the tracker system itself, as it does not contain personal data.

Bill Adamson: That is correct. It is a matter of where it is held within the Scottish Government intranet system.

Alasdair Morgan: What is the manual interface? Who do you actually get the information from and give it to?

Bill Adamson: The Scottish Government office that is responsible for overseeing the tracker system will send us—

Alasdair Morgan: Which department is that?

Bill Adamson: I think that responsibility for that sits within the corporate services side of things—it is probably in the permanent secretary's office. We also engage with the Scottish Government legal division, which updates the system. We provide information to it, and it populates the system with data. We are responsible for overseeing that and for ensuring that we are efficient in keeping the tracker up to date.

Alasdair Morgan: Who told you that you could not have electronic access to the system?

Bill Adamson: That came, I think, from whoever has oversight of the intranet.

Alasdair Morgan: Who is that?

Bill Adamson: I am sorry—I do not have the person's name

Alasdair Morgan: Could you perhaps get that for us?

Bill Adamson *indicated agreement.*

Alasdair Morgan: Thank you.

Irene Oldfather: This relates to paragraph 3.1.1 of your written submission, and the convener touched on this point. You mention the balance between "much needed flexibility" but you also mention "the potential for inconsistencies" in

setting out of more formal procedures. Could you say more about issues around where the balance should lie?

Rob Morris: Are you talking about transposition procedures within the Scottish Government?

Irene Oldfather: Yes.

Rob Morris: At our level of working, we want a transposition plan that firmly identifies the requirements that will be placed on both the regulated sectors and the regulator. We want a clear description of the way in which negotiations will be handled and the timescales over which they will take place.

Earlier, my colleague referred to a European network that we are involved in, which is called the environmental protection agency network. The EPA network has developed a list of questions that Governments could use for European legislation and the means for transposing it. We can provide that paper to the committee later. It is called "Barriers to Good Environmental Regulation". The intention of the network, which involves the heads of agencies in 34 countries, is to express concerns about transposition. The paper might be a useful reference for the committee.

We have fed into that process, and it is the kind of process that we would like to have at a procedural level within Government. It is obviously for Governments to decide what to agree to in the end. As a regulator, we feel that outcomes will be better if such issues are tackled early on.

Irene Oldfather: There is a danger in not having sufficient flexibility when setting up models. What you are describing sounds like good practice, and the committee is interested in your experience in dealing with colleagues and networks. Does that provide the flexibility that allows differential implementation where that is necessary?

Rob Morris: That is integral to the approach that is being suggested. "Barriers to Good Environmental Regulation" has been fed into the European Commission for its information. It is about the better regulation agenda, but has the potential to be used at national level—and certainly in the Scottish context.

A subsidiary document has been produced by the EU network for implementation and enforcement of environmental law—the IMPEL network—to which we referred in our written evidence. It sits alongside "Barriers to Good Environmental Regulation" and works very well from the point of view of final implementation.

Iain Smith (North East Fife) (LD): I will follow up on the discussion about the decision-making process on how to transpose particular pieces of legislation. The written evidence from both

agencies suggests that different routes are available. We have the UK-wide route, the devolved route or a mix of both, and there is also the choice of primary or secondary legislation. However, there appears to be no clear way in which decisions are reached on which route is to be taken, and it is not clear how stakeholders are involved in discussions on that. SEPA's evidence states that, in one case,

"Once the decision had been taken to apply a national regime, the Scottish Government input became more limited".

Who makes the decisions about which is the right route and how are they taken? How are stakeholders consulted? Can anyone throw light on that? To date, it has seemed as if solutions emerge out of a mist.

Rob Morris: It is difficult to pinpoint where the decisions are made and, sometimes, when. In our experience, UK-wide transposition most often occurs in relation to trading schemes. Our written submission gives the example of the emissions trading directive; it made sense to operate that nationally, because it involved trading and tradeable elements. That is the only example that we can think of—from the legislation with which we have dealt—of a decision to have UK-wide transposition. However, it is not apparent how the decision was arrived at. That model of regulation just seemed best suited to the directive. We were closely involved in the process: we worked closely with Whitehall on behalf of the Scottish Government on how the UK regime would work in practice. To be honest, I cannot think of many other examples from our experience in which UK-wide transposition has occurred. There are many more examples of the other two models that we describe in our written submission.

Bill Adamson: As I said, we do not deal with many cases of transposition per se, but those with which we have dealt have been done on a nation by nation basis. The European directive on ceramics, which set standards for ceramic materials that are used in articles that will come into contact with food, is one case in which we were involved in transposition. The Scottish flavour of the consultation on the directive added value to the final UK decision. That directive requires manufacturers of ceramic materials to get a certificate stating that the materials are food safe. Linked to that is the need for testing to demonstrate that contaminants that might cause problems are at safe levels.

The Department of Trade and Industry led for the UK in the negotiations but, as a food safety matter was involved, the Food Standards Agency in Scotland and Northern Ireland carried out consultation processes. Our consultation document used the wording of the directive in

describing what needed to be done—it stated simply that a certificate was necessary. The feedback from the small business community in ceramics included concerns that the wording might imply that every single item would need to be tested and have a certificate, which was thought to be disproportionate. We agreed with that and did not think that that was the Commission's intention. We went back to the Commission to confirm that that was not its intention and then changed the wording of the statutory instrument to make it clear that only a random sample had to be tested.

That change derived from consultation of Scottish stakeholders. Similar views had not been expressed in England and Wales because the companies there were larger and did not have the same concerns. However, our solution was considered to be sensible and compliant with better regulation principles. The Westminster instrument eventually used the same form of words—about a random sample—that was used in the Scottish instrument. That is an example of a different approach being taken in Scotland, although we ended up with separate instruments that said the same thing for the purposes of that regulation. Despite the fact that we are a UK organisation, we almost de facto have Scottish instruments.

10:30

In directly applying European regulations, we have still to provide for the enforcement and sanctions provisions, so there are instruments that are related to the European legislation, and there will usually be Scottish, Welsh and Northern Irish—when the Parliament there is up and running—instruments. On one occasion, for the general food law proposal, we used a Great Britain instrument for technical reasons rather than because of any policy divergence. That was linked to the definition of food in European legislation; it was considered from a legal perspective to be wider than the scope of the Scotland Act 1998's definition of reserved and devolved matters. We considered that it would be safer to use a GB instrument and then to tackle the issue of seeking extra powers for Scottish ministers from Westminster to cover the scope of the definition. That all sounds very complicated—it was, but in essence it was just about the technicality of the definition of a word. In the circumstances, it was decided that it would be appropriate and safer to use a GB instrument rather than separate Scottish, Welsh and Northern Irish ones.

Apart from that case, every time we have been involved in a process of transposition or giving effect to EU law, there has been a Scottish instrument.

The Convener: Okay. Iain Smith is next.

Iain Smith: I have a question on a slightly different area.

The Convener: Perhaps we should move on because Gil Paterson has been waiting for a long time. We will come back to Iain Smith and anyone else afterwards.

Gil Paterson (West of Scotland) (SNP): First, I declare an interest as my question may seem to be associated with the business that I still own. However, as I develop it, you will see that there is no direct benefit to me.

My question is about the equity of implementation and gold plating. In the past in our industry, legislation on the release of organic compounds into the atmosphere was fairly regularly implemented throughout the UK. However, our industry found that other countries in Europe at the very least dragged their feet and, in some cases, did not comply at all. Is SEPA concerned about whether new regulations will be implemented throughout Europe?

Calum MacDonald: That is a tough one. Over the years, questions have been asked about the level playing field. Our approach is to play with a straight bat and try to interpret the legislation that comes from Europe in as straightforward a manner as we can. We try to do the job properly. Certainly, there have been accusations that other European countries approach the situation in a different way, but I am not sure that there is much solid evidence on that.

Rob Morris: We engage with the European networks in order to work with other regulators across the European Community. For example, the IMPEL network establishes projects to look at how directives are being implemented in different countries and to learn from that experience. It is in such fora that we learn most about what is happening. An awful lot is said about the level playing field and anecdotes can be trotted out about how we compare but, as a regulator, we find that working with other environmental protection agencies is the key way to benchmark our approach against that of others.

It is a significant challenge to prevent the non-implementation of directives, as you can imagine. Directives set the goals and the broad framework to which we should work, but the choices about how that is done lie with the Government and the regulatory bodies. We must also engage with stakeholders and key users—the recipients of regulation—because working with other regulators will give only so much information. For some of the directives that we are responsible for implementing, we establish—sometimes with Government and sometimes without—working groups with the industry to work out what the

practical impacts will be and, as implementation proceeds, to learn how things can adjust and change and whether there are concerns about legislation being overburdensome or restrictive compared to legislation elsewhere. It is often within that dialogue that we achieve most.

The way to get to the bottom of the issue is through working at two levels, with stakeholders and other agencies.

Gil Paterson: Are things still operating in that fashion? Is there differential implementation and, if so, should we be concerned about that? Obviously, regulation costs money. There is no advantage or disadvantage in our industry in the UK because regulation has been fairly well administered across the board, but we compete with other countries. There is concern that, if costs are driven up here but not abroad, our industry is at a disadvantage.

Is the level of regulation reducing or is it the same? Should we talk about it more than we do at present?

Rob Morris: It is healthy to keep talking about it. We should consider the signals that are coming from Europe on the better regulation agenda in particular, and the initiatives that the Commission is launching in relation to small and medium-sized enterprises to try to address the concerns that exist among small businesses about the challenge of regulation and the need to remain competitive.

At the European level, there is an embedding of the need to simplify, the need to reduce burdens and the need to examine particular directives at the review stage and consider whether it is appropriate to introduce, say, minimum thresholds or de minimis levels below which regulation is not the answer. Perhaps what is needed to improve practices from an environmental point of view is more proactive advice, compliance assistance, collaborative approaches among the industry, trade body initiatives and so on. We are seeing more within the Commission that picks up on that signal.

If sectors have particular concerns that there is an uneven playing field, they are right to raise them, to pose a challenge and to come up with the evidence.

Ted Brocklebank (Mid Scotland and Fife) (Con): We heard from Mr Adamson about how the transposition process allows the tailoring of Scottish solutions to Scottish problems in the Food Standards Agency. I ask Rob Morris to expand on the examples of good practice that SEPA gives in its paper as well as on the examples of bad practice where the process has not worked as well.

Rob Morris: An example in our written evidence is the end-of-life vehicles directive, which was to establish a national network of centres a minimum distance apart. That would not work in Scotland because we have remote and rural areas. Although our legislation is broadly consistent at a UK level, it was agreed through negotiation, agreement and active discussion that an approach that was tailored to Scottish circumstances was required in deciding where people should take their end-of-life vehicles. That is a good example of how Scottish circumstances have been catered for in discussions.

Ted Brocklebank: In your submission, you give transposition of the mining waste directive as an example of a case in which things did not go as well. You state that the transposition

"appears to take little account of Scottish options or interests"

and that

"By default the consultation offered only one option for Scotland."

It seems that Scotland was not well served on that occasion.

Rob Morris: That is true. Transposition was led at a UK level by the Department of Trade and Industry. I do not have all the detailed information to hand, but I understand that there were a number of personnel changes in the department while the directive was being formulated and the discussions and negotiations at the UK level were at a critical stage. That, in itself, is a point for the committee to consider. In the absence of full procedures, changes to the individuals in departments in particular policy areas can mean significant shifts in either position or understanding.

The mining waste directive failed to pick up on Scottish needs and issues. We were left with only one option, which was not a satisfactory situation. Two of the options that were envisaged for delivery of the directive related to the environmental permitting programme for England and Wales, for which Scotland has no equivalent.

Ted Brocklebank: Will you expand on what you said about

"examples of good practice of effective, collaborative and transparent transposition within other EU legislative regions"?

You referred to collaboration involving Denmark and Sweden.

Rob Morris: They came about largely through the network of heads of environment protection agencies, in which 34 countries are involved. The network gives SEPA the opportunity to interact with other regulatory bodies, to arrange exchange visits and to have focused discussions on issues.

The example of Swedish and Danish collaboration arose from staff visiting Sweden and Denmark, spending time there trying to understand what those countries are putting in place, and returning to exchange information with colleagues in-house and with the Scottish Government. Those examples prepared us well and laid a good foundation for our approach to the implementation of the water framework directive. We hold up that implementation as an example of Scotland deciding to go its own way. We worked closely with stakeholders and the Government to get a distinctively designed Scottish legal framework for implementing the directive.

Ted Brocklebank: Perhaps you will remind us what part the “Swedish farmers revolt” played in that.

Rob Morris: I was the officer who went to Sweden at the time, which was 10 years or so ago. The initiative was led by the Swedish feed and fertiliser sector. Obviously, in selling compounded feed and fertiliser to livestock farmers, the sector has close and regular contact with farmers. The feed and fertiliser sector could see that the Baltic Sea had become eutrophic and that that was having an adverse effect not only on the marine ecology and fisheries but on the Swedish population's recreational enjoyment of the Baltic coast. The sector thought that one of the best ways to educate farmers was to engage them in a proactive campaign to reduce the amount of nutrients that they were feeding to animals and to improve the use of fertilisers. Under that voluntary initiative, the sector used its sales reps and networks to promote changes in practice ahead of regulation. It was a valuable lesson to see a sector grasp an issue at an early stage and play a valuable role in educating land managers.

John Park (Mid Scotland and Fife) (Lab): Over the past few years, I have found some of the debate on red tape and regulation frustrating and unhelpful. Instead of discussing better regulation, the debate has been polarised between the arguments for more or less regulation. I am pleased that more discussion of better regulation has formed part of today's debate, which has covered actions that are being taken at European level and in Scotland.

Yesterday, we saw the publication of more evidence on the cost of regulation. It reminded me of the level of involvement that organisations have to have in the process if they are to understand where we are going in all of this. The financial cost of regulation must be weighed up against other aspects, such as social, environmental and safety costs.

You gave the committee examples of how your organisations have engaged with stakeholders early in the process. Can an argument be made

for a uniform process across Scotland under which stakeholders can engage more effectively either with your organisations, which play unique roles in the transposition process, or, more directly, with the Scottish Government? If so, what might the process look like? If not, should there be engagement on a case-by-case-basis?

10:45

Calum MacDonald: I stress that this is a personal view, but I feel that there should be a hybrid. I am not sure that we could continue to enjoy the benefits of flexibility if we took a completely rigid, one-approach-for-all position. We need a balance. We would definitely benefit from procedures that pushed us towards having more involvement from stakeholders, but it probably would not work to have just one approach for all the different pieces of legislation.

Bill Adamson: The Food Standards Agency Scotland has consultation guidelines for use with both the Westminster Government and the Scottish Government. We try to follow those guidelines and pick up the best parts of both. That means that we spend quite a bit of time in consultation—both at the negotiation stage of proposals and, when appropriate, at the transposition stage.

I share my colleague Mr MacDonald's view that we can occasionally be accused of overconsulting. That can be a difficulty. Certain pieces of legislation will not excite many people at all; people may not want to hear much about them because they may be technical and not involve much engagement. We have to be smart about ensuring that, for each particular case, everyone who is interested and has something to say is given the best opportunity to contribute.

The role of our organisation in Scotland is to highlight the areas where a specific Scottish stakeholder interest may exist in a particular piece of legislation. We have to ensure that contributions from stakeholders can be fed into the process at the negotiation stage. When necessary, there also has to be flexibility when the legislation is implemented.

In discussions of gold plating, the issue of regulatory creep has arisen; sometimes it is the guidance that comes on the back of legislation that can lead to disproportionate application. We have spent time working on that process and involving stakeholders. In a recent example to do with Community law, traceability provisions were required throughout the food chain. We believed that the Commission's guidance gold plated what the European regulation was saying, so we spent time with the industry trying to make it clear that the UK guidance was more aligned with the

regulation than the Commission's guidance. The legislation was directly applicable, but the guidance on the implementation of the regulation was equally important. We therefore fully engaged with stakeholders to try to reduce the administrative burden on them. As I have said, our organisation has set a target so we have to achieve that target in some way.

Iain Smith: We have spoken about gold plating and the regulatory burden. In paragraph 3.4.5 of its written evidence, SEPA gives an example of what it regards as "effective engagement with industry". The example relates to the controls for abstraction of water that were introduced in 2006 under the water framework directive. However, farmers in my area have suggested to me that they do not think that there was effective engagement. They feel that the regulations are overbureaucratic and that they have brought in a uniform system that is not appropriate because water abstraction needs are different in different places, in different years and at different times of year. Last year, there was no need for water abstraction on most farms, but everyone had to pay a fixed fee. It is generally believed that the fee regime is in place simply to pay for the cost of the bureaucrats introduced by SEPA to implement the scheme. It is not believed that the scheme has been introduced to deal with an actual problem.

How can you ensure that engagement is effective? How can you minimise the bureaucratic burden? How can you ensure that any fees go towards meeting a genuine need and not towards simply covering the cost of implementing the regime that you have introduced?

Rob Morris: There were some excellent points there. We thought that we had engaged effectively with the sector over a two or three-year period—for example, by having representative bodies on joint working groups of stakeholders for a prolonged period. That involved thinking through the design of the regulation and of the charging scheme. Everybody was made aware that SEPA is required by ministers to recover its costs. The process was very proactive. For the water framework directive, quite a wide range of stakeholder interests was involved in the discussions and farming interests were engaged from the outset.

Our submission alludes to the fact that, even with such engagement, it can be difficult for representative bodies to ensure that—as well as the costs, which will always be a concern for farmers and people in other sectors and will always need to be justified—the practical effects of such regulations are taken into account. The concerns of farmers and vegetable growers about how the regulations would apply to mobile irrigators came to light only at the last minute.

Some of those irrigators, which can be physically moved around the countryside, can use the equivalent of the daily water requirements of 6,000 people. We need only eight of those irrigators to be used in a small catchment during dry weather—last year was a wet year—for rivers to dry up utterly. Without management of the resource, there might be nothing left for the fishermen and other recreational users and there might be nothing left to sustain the ecology. We engaged with stakeholders in what we felt was the right way, but we learned the lesson afterwards that we and the sector need to do more to understand what the regulations are all about.

On the need to justify the charges, I absolutely agree. We have an on-going stakeholder group—the water framework directive users group—on which farmers are represented. Things are changing as we learn from the implementation of regulations. We have introduced a system of waiving fees for farmers who do not irrigate in a year provided that they tell us before the end of this month. That has been very popular and uptake—

Iain Smith: If I may interrupt, I should point out that that is a problem for farmers. They are being asked to state by the end of February whether they will irrigate at some point during the year. Frankly, the weather forecast for tomorrow is not always accurate, let alone the forecast for the whole summer. Last year, farmers did not need to irrigate at all because it was so wet, but who knows what the weather will be this year? Farmers are concerned that they are being asked to predict the unpredictable.

Rob Morris: The representative body for farmers agreed the initiative as being a good thing. It should be reasonable because farmers rotate their crops in a fairly known way. In other words, they know when they will grow tatties and when they will grow carrots. Quite a few farmers understand when they will grow things during the year. For farmers who plan ahead for contracts—as quite a few of them do—the scheme is helpful. Such farmers know at the beginning of the year what crops they will grow and whether they will need to incur charges. The initiative has been quite popular and many farmers have subscribed to it.

That does not get away from the fact that particular years can be wet or dry. We are in negotiations with the representative bodies on what mechanism we could use to adjust the position for farmers who have not irrigated. Perhaps if a metering device on the irrigator can provide evidence to prove that the farmer has not irrigated, charges could be waived. Obviously, that issue is more about implementation than transposition, but we are actively discussing the

matter with NFU Scotland and we feel that we will have answers to those kinds of concerns pretty soon.

Alasdair Morgan: The FSA's written submission states—as has been mentioned in oral evidence today—that it is committed to a target of “reducing administrative burdens of regulation by 25%”.

How will that be measured?

Bill Adamson: The Westminster Government decided to use what is known as a standard cost model, which I think is based on a Dutch methodology, to identify the information obligation of particular pieces of legislation. Obviously, there are policy implications, but the target refers to the administrative burden that is related to information requirements. Do not ask me about the technicalities of the cost model—it includes some quite technical economic information—but the model involves setting a level for what is thought to be the normal information burden involved in day-to-day operations and for the additional burden that it is thought a particular piece of legislation will introduce. The figure is calculated based on the sector that will be exposed to the information obligation. We then need to try to ensure that, across the piece proportionately, we reduce the information obligation by 25 per cent from the baseline figure that was set. That has caused us some difficulty because, if Europe decides to introduce new legislation after the baseline is set, the extra obligation gets added to the baseline so that the amount of reduction required is automatically increased. We will struggle to meet the 25 per cent target, but at least we are working in the right direction. We hope that we can demonstrate that we have done all that we possibly can.

It is clear that there can be only a certain amount of flexibility and that some aspects of the requirement are not negotiable, but we have been trying to do certain things. For example, the consolidation of hygiene legislation a few years ago contained a requirement for all businesses to have food management systems based on the hazard analysis critical control point principles. The legislation contained the idea of implementing a management system that would require things to be recorded and written down, which could be characterised as an administrative burden. The organisation throughout the UK produced guidance for the industry to try to reduce that administrative burden to a minimum by providing some prepared work and information for the industry to minimise the amount of recording required. Had the industry gone for a full-blown application of the new system, it would have cost X amount, but work was done by consultants to demonstrate that, by following the guidance produced by our organisation, the burden would

be reduced. There was still an admin burden, but it was less than it would have been had the businesses gone for what might be perceived as the gold standard of the requirement.

Alasdair Morgan: The measuring seems to be an administrative burden on its own. Did I pick up what you said earlier to mean that, although the administrative burden might increase, you might meet your reduction targets?

Bill Adamson: No. Our difficulty is that although we are talking about percentages, the actual figure that we have to achieve is an amount of money. The 25 per cent reduction was calculated from the baseline figure at the start of the accounting period. However, we are in a moving environment with new legislation being introduced that might carry additional burdens. We are not allowed to remove those additional burdens from the calculation, so we still have to reduce to our original figure. In percentage terms, we would probably have to achieve a 60 or 70 per cent reduction to reach the figure that was set initially.

Alasdair Morgan: I understand. If, by 2010, you can say, “Wow! Tremendous—we’ve actually reduced by 26.13 per cent rather than 25 per cent,” will organisations such as the Scottish Chambers of Commerce and the NFU and all the other people who complain about regulation agree with that, or will they say, “Rubbish! Our burden has gone up”?

Bill Adamson: I cannot second-guess what their thoughts will be.

Alasdair Morgan: Have they signed up to the methodology?

Bill Adamson: I should explain that the Cabinet Office direction to UK Government departments is based on the methodology that was agreed at Westminster. Those responsible for better regulation in Scotland in the Scottish Government have not come up with what the measurement should be in Scotland. However, as a UK organisation, we will develop initiatives that will apply in Scotland too, so it is arguable that Scottish business will benefit indirectly from that overall reduction, although we do not have the same challenge to meet the target.

We are having conversations with the enterprise department about whether the Scottish Government will set a target to reduce the administrative burden. If it is calculated differently, there would be an obligation in Scotland for Scottish businesses to meet whatever Scottish Government target is set. We hope that the requirement to meet the Westminster target will already pay benefits. If the methodology of the calculation in Scotland is different, it might cause

us some problems in making comparisons with what we have already done.

Alasdair Morgan: I am almost sorry I asked you.

Alex Neil (Central Scotland) (SNP): I would like to follow up on that subject. In most organisations, the old 80:20 rule applies whereby, in this case, something like 20 per cent of the regulations make up for 80 per cent of the administrative burden and cost, although it might not work out exactly like that. Would it not be much simpler, more straightforward and more easily understood if you were to concentrate on the 20 per cent that cost the 80 per cent, rather than all the paraphernalia that you have just described?

11:00

Bill Adamson: To make a relatively large saving, as we have to do, you need to concentrate on the pieces of legislation that are seen to have the largest cost in the first place. Of course, we have information about that from the regulatory impact assessments that have been done in the past. Our simplification plan concentrates on the most burdensome pieces of legislation. To that extent, I guess that it is working. However, it is unfortunate that we still have a complicated calculation system for making savings. We have had to concentrate on the pieces of legislation that have the largest burden; if we had not done that, there is no way that we would have got close to meeting the percentage saving target, however the calculation was done.

Alex Neil: What is SEPA's approach? I hope that it is a lot simpler.

Rob Morris: I am thankful that we are not tied to the standard costs model, although we are trialling it in the context of a research study to see whether it can be made to work. The study relates to agriculture, so it might be of relevance to the Rural Affairs and Environment Committee's inquiry into agricultural regulation, which it will undertake in the spring.

This all relates to the philosophy, culture and behaviour within our organisation and our approach to the model of regulation. We are pursuing a discussion to try to evolve a similar-looking regulatory model across the large number of regimes that we enforce, which reflects a pyramid approach into which a risk-based proportionate approach is built. In respect of the water framework directive, only 3 per cent of activities are subject to licensing; 97 per cent are either subject to registration—a simple on-line registration in most circumstances—or general binding rules. Those tiers of regulation—general binding rules, registration and licensing—and that

model of regulation are what we are pursuing in discussions with Government. If we can get a similar feel and look in the legislation that we are responsible for enforcing in water, waste, land and so on, we will be heading towards a risk-based and proportionate model of regulation, as opposed to setting arbitrary targets that can be met by various means.

We understand that there is a European context to this. Given our experience in working in European networks, we know that quite a few countries followed the same sort of line by setting themselves a target to reduce the administrative burdens of regulation by 25 per cent by 2010 and that they are struggling to work out precisely how to achieve that. We prefer to get the design of regulation right and proportionate, rather than necessarily setting individual targets.

Alex Neil: A group of us were in Germany last week, talking to a couple of Länder Governments and Parliaments about transposition. The message that came out loud and clear was that transposition is not a big issue for them. A much bigger issue is how we influence directives, decisions and regulations in Europe before we get to the point at which they are agreed and have to be transposed. Where in your sphere of influence do you think that we need to up our game in Scotland in trying to influence the decisions of Europe before they are made? That will determine how much you have to transpose and how you have to transpose it.

Calum MacDonald: I agree that the development of the directives themselves is much more significant than what we can achieve at the transposition stage. The transposition stage is still important, but much more can be achieved by getting the directive right in the first place. There is certainly scope for Scotland to play a bigger role in that area.

Alex Neil: Does SEPA have somebody who keeps an eye on what is going on in Europe so that you can notify the Government and try to influence things? Will you talk us through some examples in which something has been germinating in Europe, in a commissioner's office, and you have tried to influence it either directly or through the Scottish Government or UK Government?

Calum MacDonald: There is a good current example of that. The integrated pollution control directive is being reviewed within the European Commission. SEPA has seconded a technical expert to the Commission, so we have a direct line into the development of the review. That is one example of what you referred to, and there are others.

Alex Neil: Is that person working directly with European Union officers? He does not go through some network of European or UK officialdom, or whatever, does he?

Calum MacDonald: He works in the Commission as our secondee for the development of the review and will do so for two years.

Alex Neil: Right. He will obviously try to influence the review in Scotland's favour.

Calum MacDonald: Absolutely. That is why we agreed to the secondment.

Alex Neil: Good. Does the Food Standards Agency Scotland have anything similar?

Bill Adamson: Yes. We lead the negotiations in Europe on our area of policy. Traditionally, headquarters staff undertake that role. However, if there is a Scottish-specific issue, there have been occasions on which the office in Scotland has taken the lead.

On the agency's performance in influencing in Europe, we are looking closely at that internally and trying to decide what alliances need to be built with other member states. A current example involves the consolidated review of food labelling that is about to take place, on which a proposal is coming from the Commissioner. There is specific interest in that in Scotland and Ireland on such aspects as the links to country of origin and the status of foodstuffs. We have been feeding into the negotiation process that our HQ colleagues are taking forward to try to ensure that there is enough flexibility to ensure that the regulations will permit what we want to happen on a UK basis, while considering the individual constituent parts of the UK, too.

We feel that we need to do more work informally to try to align ourselves with other member states that have similar views to ours on getting through proposals and necessary amendments. We meet at the standing committee that discusses such matters, and we are on the Commission working groups that review regulations, which gives us a direct line in. However, we have realised that we need to spend a bit more time on that aspect. There is also the question of using MEPs more when there is parliamentary involvement in co-decision processes. We are trying to build on that and use the MEPs more effectively.

On an individual level, the organisation currently has two or three secondees in Europe, who are useful in providing intelligence to us about the direction of travel of Europe. That has been a useful thing to do, and we are trying to enhance that and build on it. We have set up a specific committee to look at European and international matters to try to improve our performance in that area.

The Convener: The session has been extremely useful. I thank all three of you for taking the time to come along and share your views with us.

European Commission Legislative and Work Programme

11:08

The Convener: Agenda item 2 is consideration of a paper from the clerk on the European Commission's legislative and work programme, and the committee's consultation. In the usual way, I ask for comments.

Irene Oldfather: The European Commission will produce its policy strategy document next month. The legislative and work programme is a kind of early warning, but the policy strategy document tends to be a bit more informative. We are agreeing this matter just a few weeks before the policy strategy document is produced. Might there be an opportunity to review the situation before we break for the summer recess, to take account of any developments that may happen over the next few weeks?

The second point that occurs to me—I am sure that this is just an oversight on the European officer's part—is that when the committee last discussed the matter, I raised a couple of areas that I thought it would be helpful for us to look at because there was a Scottish parliamentary interest. One of those issues was a Council recommendation on health-care associated infections; the second was the potential for protecting children on internet and new media issues. Might there be an opportunity in the work programme to keep a watching brief on those two issues?

The third point that occurs to me is that the European Commission consultation on cohesion policy ended on 31 January, just a couple of weeks ago. It is highly likely that the Scottish Government has made a submission to that consultation; occasionally, the European and External Relations Committee has made submissions to such consultations. The key themes listed in the paper include "Structural/Reform issues" and "Economic and Social Issues", but there is no specific mention of reform of the EU budget. It would be helpful for us to find out, first, whether the Scottish Government has made a submission to the consultation on cohesion policy, and secondly, whether the UK Government has made a submission. If they have, we could examine the documents as part of our consideration of reform of the EU budget or as a separate issue.

The Convener: We have asked those questions and are awaiting a reply from the Scottish Government. We will deal with the matter as part of our consideration of the EU budget, to which you referred. The paper highlights the key policy

themes, but it should include a section that highlights other relevant issues, as you suggest.

Alex Neil: Generally, I agree with what Irene Oldfather has said. Last week I was in Germany, where I heard about what two of the Länder are doing. The approach that the committee is taking is not nearly proactive enough. I am happy for the committee to agree to the recommendations in the paper that is before us, but we need to have a more general discussion about how we will try to influence European regulations, directives and legislation at a much earlier stage. Frankly, we are not at the races on that. We need to have a wider-ranging discussion that will include the policy strategy that is to be issued and to which Irene Oldfather referred. This is not a one-off event, but a continuous process.

We are not proactive enough on the matter with the other committees, the Government, our MEPs and our other representatives in Brussels. I would like us to have a discussion soon about how the committee can become much more proactive in co-ordinating and mobilising opinion in Scotland on what is coming up in Brussels, with a view to getting in our tuppenceworth. It is clear that the 16 German Länder are way ahead of us on that. I suspect that the same applies to similar provincial Governments in other countries. We need to catch up.

The Convener: I agree. The approach that is set out in the paper is an attempt to start looking forward. All members will agree with Alex Neil that we need to go further.

Irene Oldfather: In the past, the committee made an annual visit to Brussels. I am the last person to suggest visits abroad, but January-February is the run-up to the publication of the Commission's policy strategy, which takes place in March. Unlike the civil service here, the Commission civil service is very open, and often people will say that they expect a measure to be included in the policy strategy. We used to get early intelligence about what might come up and what the big issues and key themes would be. We have a heavy workload in relation to our inquiry into the transposition of directives, but I agree with Alex Neil that the more that we can do to get in early and to look ahead, instead of responding, the better we will serve the rest of the Parliament.

Dr Jim Johnston (Clerk): The suggestions that have been made are fine. One key issue is the role of the European officer. We can ask the European officer to provide the committee with a briefing on the annual policy strategy, which Irene Oldfather mentioned, once it has been introduced. That will allow the committee to engage further with the process. The document that has been presented to members today will be taken forward by the European officer, who will provide regular

updates through the *Brussels Bulletin* and, when requested, on specific issues. Hopefully, there will be a dialogue. It is important to emphasise that a key aspect of the process is to mainstream the scrutiny of European issues. We expect that the subject committees will take forward many of those issues. They have been consulted on that point, and the paper will be referred and flagged up to them.

11:15

Alex Neil: I do not disagree with a word that Jim Johnston has said, but although it is fine for the European officer to brief us on the APS once it has come out, we should try to influence it while it is being developed. That is where we are missing a trick. In the early stages of the process, we are not talking to the people in Brussels who draw up such policies. If we get a briefing after the APS is done and dusted, it is too late for us to influence it.

Ted Brocklebank: As someone who has a particular interest in fisheries, I am delighted that the issue has followed me from the Environment and Rural Development Committee on to the agenda of the European and External Relations Committee. Alex Neil's point is particularly true as regards the development of policy on issues such as maritime spatial planning strategy, intercoastal zone management and discards. We should be proactive in much of such work and should not simply wait to see what the Commission proposes.

The Convener: Various points have been made that can be taken on board. The paper certainly provides a good foundation, but we will make a few additions to it. On that basis, are members content to agree to the recommendations?

Members *indicated agreement.*

Alex Neil: Will we schedule a discussion on the issue that I raised?

The Convener: Yes.

Dr Johnston: We will bring back a further paper on that.

International Development

11:16

The Convener: Agenda item 3 is our inquiry into international development, which will be a big focus of interest over the next two or three months. Members have a paper that provides a useful summary of the written evidence that we have received, which might be helpful for tomorrow's parliamentary debate on Malawi, among other things. It includes a proposed schedule for oral evidence. I have already suggested that it might be useful to have an evidence session that is devoted exclusively to the development non-governmental organisations, given their key role and the large number of such organisations that might want to give a view. The change in the schedule that I have suggested is that we could hear just from the development NGOs on 18 March and that the academic perspective, which is also important, could become the second item in the extra meeting with the minister on 11 March. That is my proposal, subject to members' views. Do members have comments on the paper?

Iain Smith: In addition to hearing from David Martin of the European Parliament's Committee on International Trade, would it be worth inviting Malcolm Bruce, who is the chairman of the House of Commons Select Committee on International Development, to give evidence? He has given an indication that he would be willing to do so, if the committee wanted him to. That would give us a UK perspective on how Scottish international development fits into the wider picture. He has met us informally but would be willing to give evidence.

The Convener: We have received an invitation to go down to Westminster to have a meeting with him on 22 April. I do not know how that relates to your proposal.

Iain Smith: I was not aware of that invitation.

Dr Johnston: My understanding is that the chairman of Westminster's Select Committee on International Development has formally invited a delegation to have an informal meeting with him in London. That invitation has been circulated, but you might not have seen it yet.

Ted Brocklebank: At a recent meeting of the cross-party group in the Scottish Parliament on Malawi that I attended, John McAllion gave a highly interesting address on international trade. Some of what he said was extremely disturbing. It would be useful if we could fit in evidence from someone like John McAllion, either on 13 May or in another evidence session.

The Convener: Is the suggestion that David Martin will talk about public procurement and fair trade on 13 May, or will that be dealt with separately?

Dr Johnston: We can invite John McAllion to that session.

The Convener: Was the idea that David Martin would speak about those issues or that he would deal with more general issues?

Dr Johnston: David Martin is being invited to discuss trade and the EU.

The Convener: John McAllion could probably come to the same session.

Dr Johnston: Yes.

Irene Oldfather: I have a suggestion. I do not know whether Colin Cameron's membership of the cross-party group on Malawi means that he is already involved but, as Malawi's consular officer in Scotland, he should be included in the discussions.

The Convener: Okay. We can fit him in somewhere.

John Park: I have a comment on the previous point about awareness raising, which is important in relation to the work that the committee—and the Scottish Government—is doing. I seek clarification regarding the 18 March meeting, when we will cover the academic perspective. Will we talk about some of the experiences that we heard of in the round-table sessions regarding what is happening in schools in Scotland and the links that are being developed?

The Convener: I think that we will talk about the university side at that meeting. Will the later session on 29 April on education and health links cover education in Scotland, or just education in developing countries? What happens in schools is certainly an important dimension.

John Park: Will that be covered in education and health links?

Dr Johnston: Yes—we will look to do both.

Alex Neil: The one MSP who is heavily involved on the education front in Malawi, through the Clinton Hunter development initiative, is Jack McConnell, who will become the ambassador to Malawi next year. It seems sensible to ask whether he would be prepared to have a chat with the committee about the work that he has been doing. As he initiated the Malawi connection and he will be the ambassador, it would seem a bit daft not to give him the opportunity to talk about his experience of Malawi and what is going on—particularly on the education front, in which I understand he is heavily involved.

The Convener: That is very generous, Alex. We have heard a few extra suggestions that the clerks can take on board. Are members content with those additions?

Members indicated agreement.

Services Directive (Correspondence)

11:21

The Convener: Our last agenda item is consideration of correspondence from the Minister for Europe, External Affairs and Culture on the services directive. Do members have any comments on the correspondence or the clerk's paper? The central recommendation is that we have an oral evidence session in April, following written evidence, on this important directive.

Alex Neil: The directive was highlighted to us in either Bavaria or Baden-Württemberg—it had, as a Land, substantially influenced the directive in its original draft form. It had been reckoned that the Land would need to make 40 changes to the legislation at its level, but in the end only two or three changes were required, as a result of the changes that it managed to secure. The services directive was a very good example of Länder getting in early and being able to influence the legislation before it got anywhere near being a draft directive. Sorry—we are pre-empting a report there.

The Convener: I see that no-one else wants to comment—are members content?

Members *indicated agreement.*

The Convener: Thank you very much—there is a lot of good work on the go.

Meeting closed at 11:23.

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