

# **EUROPEAN AND EXTERNAL RELATIONS COMMITTEE**

Tuesday 11 March 2008

Session 3

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## EUROPEAN AND EXTERNAL RELATIONS COMMITTEE 6<sup>th</sup> 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)

### COMMITTEE SUBSTITUTES

Jackie Baillie (Dumbarton) (Lab)  
Keith Brown (Ochil) (SNP)  
Jackson Carlaw (West of Scotland) (Con)  
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

\*attended

### THE FOLLOWING GAVE EVIDENCE:

Professor John Briggs (University of Glasgow)  
Dr Maurizio Carbone (University of Glasgow)  
Craig Egnér (Scottish Government Europe, External Affairs and Culture Directorate)  
Linda Fabiani (Minister for Europe, External Affairs and Culture)  
Dr Mozammel Huq (Development Studies Association)  
Patrick Layden (Scottish Government Legal Directorate)  
Professor John Struthers (Development Studies Association)  
Dr Neil Thin (University of Edinburgh)  
Lynne Vallance (Scottish Government Europe, External Affairs and Culture Directorate)

### CLERK TO THE COMMITTEE

Dr Jim Johnston

### ASSISTANT CLERKS

Emma Berry  
Lucy Scharbert

### LOCATION

Committee Room 6



## Scottish Parliament

### European and External Relations Committee

*Tuesday 11 March 2008*

[THE CONVENER *opened the meeting at 10:01*]

### Transposition of European Union Directives Inquiry

**The Convener (Malcolm Chisholm):** We had better start, as we have a long agenda. I welcome everyone to the sixth meeting in this calendar year of the European and External Relations Committee.

The first item relates to our inquiry into the transposition of European Union directives. Before I invite our reporters to report back, I point out that we have been notified of a correction to the evidence provided to the committee by the Scottish Environment Protection Agency on 19 February. In response to a question from Ted Brocklebank, on the mining waste directive, SEPA referred to problems with personnel changes while the directive was being formulated. SEPA has advised us that the statement relates to the waste electrical and electronic equipment directive rather than to the mining waste directive. I thank SEPA for drawing that to our attention.

I invite our reporters for the inquiry into the transposition of EU directives to report back from their fact-finding visits. I will invite Alex Neil, Irene Oldfather and Iain Smith to speak to their reports and then open up the discussion. As there are three substantial items on the agenda, I hope that they will keep their reports fairly brief.

**Alex Neil (Central Scotland) (SNP):** I thank Lucy Scharbert and Iain McIver for all their help arranging the visit and pulling together the report on the thoughts that we had and discussed during the visit.

A number of lessons came out of the visit to the two German Länder: Bavaria and Baden-Württemberg. The first is that, for them, transposition is not a big issue—it is a non-event. They spend their resources on influencing legislation in Europe before it becomes legislation. They do not get heavily involved in transposition, if they are involved at all. Even at the federal level, it is reckoned that transposition is not such a big issue because it is fairly straightforward.

At federal level, the emphasis is on influencing the legislation—to the extent that we were told about a federal minister who could not get the

federal Government to agree to a certain policy, so he went to the Council of Ministers and got it to agree to the policy. When it became European policy, it had to be implemented throughout Germany as it had to be implemented throughout Europe. It is clear that the emphasis is on influencing the legislation.

We have perhaps made a bit of a mountain out of a molehill as far as transposition is concerned, so the quicker we get this report done, the better, and we can concentrate on looking at ways to influence legislation. We can learn some lessons from and make some recommendations based on the German experience. The first is that the Länder have a minister in a post similar to Linda Fabiani's post in the Scottish Government. One minister covers federal and European affairs. Because there is a federal structure, the Länder feel the need to lobby and influence the federal Government. The second chamber of the federal Parliament is effectively a German council of ministers; it is made up of the ministers of the Länder. A lot of emphasis is put on influencing the German position before it goes to Europe and on ensuring that there is regular contact between the Parliament, the Government and the Länder, as well as German members of the European Parliament.

We need to have an early, detailed debate about the matter in relation to what is happening in the House of Commons. As members probably know, new guidelines that the Cabinet Office in London has issued affect how European legislation will be implemented, the role of the House of Commons European Scrutiny Committee and, if the Lisbon treaty goes ahead, the role of this committee. It is certainly relevant to make recommendations based on our experience in Germany—I do not know what came out of the visits Irene Oldfather and Iain Smith made—and to apply them to the new arrangements for transposition and influencing legislation vis-à-vis the House of Commons European Scrutiny Committee as well as the United Kingdom Government.

I have four questions that we need to answer fairly soon. How do we think the new Cabinet Office guidance affects the work of our committee? Are appropriate safeguards in place to ensure that important documents come to the notice of the committee? Does the committee seek sufficient information from the Scottish Government on EU documents before we clear them? In the past year, the House of Commons European Scrutiny Committee deemed 476 documents to be of significant legal or political importance; how many have we examined in the Scottish Parliament? One answer is, "Not a lot."

We should clear the transposition report and get on to the real meaty stuff, which is how we

influence the UK's policy on Europe and European decision making. That is a far bigger cud to chew than transposition.

**The Convener:** That was very helpful. We will not be able to discuss all those issues in the short time that we have for the item today, but we all agree that we need to have a subsequent discussion. All I intend to do today is go through the three reports. Although there will be time for brief comments and questions, we will have to discuss many of the big issues that you raise at a future meeting.

I ask Irene Oldfather to give her brief report.

**Irene Oldfather (Cunninghame South) (Lab):** I am happy to do so, convener. I assume that colleagues have read the report, which is not particularly long and outlines the technical issues.

I, too, thank the clerks and Iain McIver for the work they did preparing the report and arranging the meetings, which were interesting and useful. We were in Spain during an election campaign, so we are also grateful to the people who took the time to meet us, because that is always difficult.

I went into the visit thinking that because devolution in Spain took place in 1978-79, the Catalan Parliament and the Catalan Government would be way ahead of us on these issues. I have to say that I did not come out of our meetings with that firm impression. I honestly feel that in the short time that we have been in operation, the Parliament in particular, as opposed to the Government, has put in place quite robust procedures in relation not only to transposition but to scrutinising the Government and the Executive on European matters.

In the report, we have set out the formal and the informal situation. Some of the arrangements look quite good on paper. I have had meetings with the Catalan European committee before, as it was part of our network of regional parliamentary European committees. The problem is that the personnel involved change. I do not think that one person on the committee had been in NORPEC, so everyone was coming into it new and no one had found their feet in relation to how to ensure that the Catalan Parliament was engaging early.

One question we asked was, "What representation does the Catalan Government have in Brussels?" Like Scotland, the Government has 17 members of staff in Brussels, but the Catalan Parliament has no one there. That is interesting, given that it has been in operation for some time and the Scottish Parliament has been in operation for only nine years, and we have had a representative in Brussels for about four or five years.

The same themes come through almost everywhere you go. One is that people say that the earlier you engage, the better. It was clear from our discussions with the Catalan Government that it was keen to get in on the process early. It mentioned that it has two representatives, who are shared by 17 Spanish autonomous regions, who work in the equivalent of the United Kingdom permanent representation to the European Union. It is their job to represent the regions. Obviously, the 17 regions and the member state have to find ways of reaching agreements and, sometimes, informal mechanisms work best.

We are one step ahead of the game in that we have Brussels representation, but it would be useful if we could use that more effectively and get in earlier in the process.

Some of the relationships between the Catalan Government and the national Government are enshrined in statute. There were discussions about how they got to where they are by taking one step at a time. We could further examine the statutory relationship between the Catalan Government and the federal Government.

Like the German Parliament, the Catalans use their members of the European Parliament quite a bit. It is quite interesting that the minister we met also serves on the Committee of the Regions. The Catalan Government uses that quite a bit more than we do. In Scotland, the Government has decided not to have any representation on the Committee of the Regions.

**Iain Smith (North East Fife) (LD):** My report says most of what it is important to say, so I will be brief. I would like to thank Lucy Scharbert and our European officer for their assistance in arranging the visit to Belgium and for drafting my very well-crafted words in the report.

The key thing to point out is that the constitutional situation in Belgium is different from that in other areas. One of the officials to whom we spoke described it as more of a confederal than a federal situation. The chambers of the regional and, indeed, cultural Parliaments are seen, in a European context, as being at the same level as national Parliaments. In areas in which a regional or cultural Parliament has competence, it has exclusive competence, although there are some areas in which it is unclear who has that exclusive competence and a constitutional court must be used to determine who does.

The Belgian Parliament has virtually no engagement in the legislative process of transposing law until the last stage. Transposition is seen as the responsibility of the regional Government, not the regional Parliament. The process for transposing law from Europe is, however, exactly the same as the process for

introducing any domestic law. The Flemish Government has a number of statutory consultation bodies that are involved in the production of the first draft of a bill, which then goes out for wider consultation. The second draft of the bill goes to the constitutional or administrative court, which determines the competencies, and the third draft goes before the Parliament.

**The Convener:** I thank the reporters and echo their words about the help of the clerks and the Scottish Parliament information centre.

The clerks will produce a paper for next week that will pick up on many of the points that have been made, particularly the general points that Alex Neil made in his presentation. As the minister is due in one minute, we cannot have a substantial discussion at this stage. Does anyone have any brief questions that they would like to ask?

**Alasdair Morgan (South of Scotland) (SNP):** We will just wait until we can have a longer discussion.

**The Convener:** I will suspend the meeting to allow time for the minister to come in. We will start the next part of our meeting at 10:15, as scheduled.

10:14

*Meeting suspended.*

10:15

*On resuming—*

**The Convener:** We have with us the Minister for Europe, External Affairs and Culture, Linda Fabiani, who is here to give evidence as part of our inquiry into the transposition of European Union directives. She is accompanied by Lynn Vallance from the Government's Europe division and Patrick Layden, who is the deputy solicitor with the Government's legal department.

I invite the minister to make a brief opening statement.

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** Thank you for inviting me to contribute to the inquiry into the transposition of EU directives.

The transposition exercise is an important starting point in implementing legislation that is fit for purpose. I am keen to talk about the Scottish Government's transposition procedures and the work that I am doing to improve them, which is just one aspect of the wider work that we are doing to develop an action plan for our European work. I hope that our experience will prove valuable to the committee as it develops its findings.

I will begin by restating the obvious. The development of EU law is of great importance to the Scottish people. It has a major impact on our day-to-day lives as it regulates many of our businesses, industries, goods, services and environments and it overrides national law in many areas. It is therefore vital that the public have confidence that the Scottish Government's process of transposing EU law is transparent and robust and addresses all the relevant areas.

The Government is determined to root out any weak processes that might lead to the inadequate implementation of laws that then place burdens or inconveniences on the Scottish public and their businesses.

The way in which Scotland implements EU law is far from poor. If you look at the internal market scoreboard, you will see that the United Kingdom, as the member state, has one of the top performance ratios in Europe, and a strong reputation for implementation and compliance. Of course, Scotland makes a major contribution to that good performance. However, irrespective of our reputation, there is always room for improvement, and I am sure that the committee's inquiry will come up with some suggestions that I can consider further.

Before the Government took office, we committed ourselves to reforming the way in which Scotland deals with its EU obligations. Among other things, we made a commitment to introduce enhanced internal procedures for implementing European legislation in Scotland and introduce better post-implementation monitoring. I am happy to report that we are well on the way to implementing those commitments.

I have had the opportunity to look at our internal transposition procedures in more detail and assess whether they are fit for purpose. In doing so, I have found that the two main problems are a lack of clear internal processes and a lack of transparency in our processes. I intend to rectify both problems by developing new procedures for transposing EU law in Scotland. They will clarify the Government's various roles and responsibilities, from initial proposal development and negotiation through to implementation of directives and monitoring their effectiveness. They will set out how Scotland feeds in to the process of EU law and how and at what stages we will engage with stakeholders and work with the Scottish Parliament. They will also contribute towards our better regulation agenda by emphasising our commitment to reducing the burden of bureaucracy and regulation on business.

In developing those procedures, we will look to external and internal stakeholders for their views. We will also look at the procedures of relevant EU

member states and regions for examples of best practice. Finally, we will of course carefully consider the findings of this committee's inquiry and consider incorporating into our procedures any relevant recommendations that you make.

For the first time, our procedures will be set out in a publicly available Scotland-specific guidance booklet that will provide our officials with a clear and consistent policy for dealing with new EU laws. It will provide stakeholders in the community with greater clarity and confidence in the Government's approach and a clear understanding of how and when they will be consulted.

The guidance will also assist subject committees that scrutinise the implementation of EU legislation in understanding the process. A draft of the guidance will form the basis of consultation in the summer and I look forward to receiving views on it from key stakeholders, especially this committee. The publication of the guidance towards the end of the year will lead to a marked improvement in the transparency of these processes, which, I understand, many witnesses have criticised.

I am striving for a revised system that will lead to better management, improved consultation, increased clarity and, ideally, better law that will improve the lives of people in Scotland. I am sure that we all share the same ambition.

Along with Lynne Vallance and Patrick Layden, I will do my best to answer the committee's questions.

**The Convener:** Thank you.

The inquiry has focused on the transparency and parliamentary scrutiny of the transposition process. I am sure that members welcome the publication of a transposition guide, but do you support the provision to the Parliament of a transposition memorandum for each directive that, for example, sets out the Government's proposed approach to transposition, a timetable for implementation and details of the consultation that will be undertaken, and that makes it clear whether you are relying on the procedure in section 57(1) of the Scotland Act 1998 and, if so, why?

**Linda Fabiani:** At the moment, we are committed to providing transposition notes when transposing EU directives, which, if I remember rightly, is a practice that began just before the end of the previous parliamentary session. Of course, if the effort to produce a note is disproportionate to its benefit for a reader, it will not be provided. That said, we intend to continue the practice. I also encourage subject committees to flag up instances when a note might be appropriate but has not been provided.

A note will be provided if we judge that it is appropriate or that it adds something. It will not be required if, say, a particular timescale is simply being changed from two years to three years.

**The Convener:** My understanding is that such notes apply only at the point that a particular piece of legislation goes to the Subordinate Legislation Committee. The memorandum that I have suggested would come in at a much earlier stage—before, indeed, consultation takes place—to ensure that members have a clear view about timescales and the extent of consultation. Moreover, what about section 57(1) of the Scotland Act 1998? Will the Scottish Government simply leave such matters to Westminster? If so, why? At the moment, Parliament does not really know whether it can still give a view at that very early stage.

**Linda Fabiani:** The guidance that I have mentioned will set out all those processes. If the committee feels that we should look at the issue in much more detail, it should relay that to us along with the results of its inquiry. We will also welcome the committee's comments on the booklet that we will produce.

**Iain Smith:** This issue is at the crux of concerns about transparency that have been expressed in our inquiry. As witnesses have pointed out, it is often unclear until the last minute exactly how the Scottish Government intends to transpose EU legislation. A number of different routes could be taken. For example, there might be a review of existing legislation, which might show that there is no need to do anything new; primary or secondary legislation might be introduced; or the issue might be left to Westminster to legislate on because of cross-UK issues or because only part of the responsibility is devolved. I have to say that the final option is sometimes the first course of action. The fact that there seems to be no clear indication of who makes decisions—and, indeed, of how and when decisions are made—can affect stakeholders' ability to input into the process. However, it should be said that, with primary legislation, there is more opportunity for the Parliament and stakeholders to be involved.

Does the Scottish Government have clear guidance on how it determines the particular route of transposition, who makes that decision and the point at which stakeholders become involved in the process? Although stakeholders might well have a view on whether certain routes are appropriate, it appears that they do not get a say in the process until the Government has decided which route to take.

**Linda Fabiani:** You are absolutely right: that was indeed the case for eight years and various committee inquiries over that period showed that the perception was one of a lack of clarity. I want



to tackle that perception, which is why, for the first time, there will be guidance that sets out how we will involve stakeholders early in the process and ensure that people can feed in their views. It will provide much more clarity about the Government's processes. I understand that the UK Government has had transposition guidance for some time now. We will look to that for examples of best practice.

The member is right: it is time a Government in Scotland produced guidance that clearly lays out its position on this matter to ensure that we can stand up for Scotland and its interests. I am always willing to take advice from stakeholders, parliamentarians and committee members on how to improve all these procedures. By setting out this guidance for the first time, we can work to improve matters.

Mr Layden wishes to say something about current practice.

**Patrick Layden (Scottish Government Legal Directorate):** With regard to choosing the method of transposition, it is, as Mr Smith said, sometimes difficult to decide whether to use primary or subordinate legislation or to draw on existing law. It is a function of the area in which the directive has been made and the existing state of domestic law.

In deciding the best way of implementing a particular directive, one would, from a technical point of view, simply look around the armoury. I know of occasions when primary legislation has been used, but subordinate legislation is more often used as it is easier to adjust in the drafting process. It allows section 2(2) of the European Communities Act 1972 to be brought in and it is quicker, which ensures that EU obligations can be implemented on time. In transposing the environmental assessment directive, the previous Administration used subordinate legislation first, then incorporated that legislation into an act of the Scottish Parliament.

Because we have to have very frequent discussions on these matters with our Westminster colleagues, we have to rely to some extent on when they get round to thinking about them. As a result of those—I think, sensible—negotiations with Westminster on the best way forward, it is not always possible to say at some fixed early point precisely what route we will take.

**Irene Oldfather:** Is the minister aware of research into transposition that is being carried out at the school of law at the University of Dundee? In their submission to the inquiry, the researchers say:

"If effectiveness is judged by timeliness, then the Scottish Government has transposed later than the other GB

administrations on 8/18 occasions and altogether has transposed late on 17/31 occasions."

I can see from the minister's references to better management and increased clarity that she realises that changes have to be made. While she is producing the new guidance, will she review timeliness?

**Linda Fabiani:** Absolutely. I believe that that comment from the Dundee study refers to the previous Administration. I have taken such points on board. We will always want to improve on timeliness, although I am not knocking every instance of late transposition under the previous Administration—there are sometimes very good reasons why it has happened. Of course we would wish to be timeous in everything we do. I have established internal procedures that I believe will monitor our achievements much better.

**Irene Oldfather:** I believe that the research goes up almost to the present.

Is the minister saying that things have changed since May? What procedures has she put in place to ensure that?

**Alex Neil:** Of course things have changed.

**Alasdair Morgan:** It is like night and day.

**Irene Oldfather:** I am sure that the minister will want to answer the question herself.

**Linda Fabiani:** The most recent report came out in the past few weeks. We are looking at it now.

I believe that our internal procedures for cross-Government working and for ensuring that all portfolios are totally aware of their obligations in that regard are much more robust. We have a much clearer procedure for monitoring such matters internally, from the First Minister through the Cabinet and across all the portfolios.

**Irene Oldfather:** We will examine that closely and will no doubt report on it in our final report.

10:30

**Ted Brocklebank (Mid Scotland and Fife) (Con):** When the Scottish Environment Protection Agency gave evidence, it suggested that in certain cases in which the Scottish Government had chosen to exercise section 57(1) of the Scotland Act 1998, SEPA had been left to represent Scottish interests during the UK transposition process with little assistance from the Scottish Government. Why would that have been the case?

**Linda Fabiani:** I would have to know which cases SEPA was talking about and when they occurred before I could answer that question in any detail. Whether that was the case or whether it was SEPA's perception that it was the case, the issue should be examined.

SEPA is a Scottish Government body that exists to represent Scottish interests. As a Government body and a stakeholder in the process, it should be working with the Government's strategy, and speaking to appropriate ministers to ensure that it acts transparently, with the Government and in the best interests of Scotland.

**Ted Brocklebank:** Criticism was also voiced by Scottish Water, which in its submission said:

"across all subject areas, directives are handled by a number of different departments within the Scottish Government and there is no single point of contact ... where an interested party may ascertain which forthcoming EU Directives will be implemented and the timetable for transposition."

Does the minister agree that it would be useful to have a single point of contact in the Scottish Government?

**Linda Fabiani:** When I served on the European and External Relations Committee, I heard many witnesses say that there was patchiness in handling of such matters by the previous Administration. The Scottish Government believes in all departments working together closely and in a cross-cutting manner across all portfolios.

As I have said to the committee before, there is a point of contact for matters European—the European division. However, it is vital that we mainstream handling of European issues across the Government so that everyone takes ownership of them. What comes out of Europe affects every aspect of Scottish life, so it is relevant to everyone who works in government. The internal procedures that we have put in place will mean that people will find that the position is much clearer and that the service is much more joined up than was previously the case. As Europe minister, one of my roles is to ensure that that is the case.

**John Park (Mid Scotland and Fife) (Lab):** How far ahead are you in making final decisions on what the guidance will look like? Have you gone 70 to 80 per cent of the way towards doing that? I would like to know to what extent the committee can exert influence as we move forward.

What stakeholder engagement has there been on the development of new procedures? To whom have you spoken and what feedback have they given you? I am interested in whether it is similar to the feedback that we have received.

Lastly, can you give an example of how internal procedures have changed or can you generalise on how things are operating differently?

**Linda Fabiani:** I will pass that question over to Lynne Vallance, because she has day-to-day engagement with other officers. We are fairly far down the road in developing draft guidance. I want to consult properly over the summer, with a view

to full publication of the guidance towards the end of the year.

As a minister, I am always open to being influenced by Parliament. On the work in question, the committee has most influence and is extremely important. The committee's inquiry will be completed in plenty of time for us to take on board any recommendations that we feel should be taken on board. It might also be useful to ask Lynne Vallance, for example, to tell you about our plans on the guidance, when you have completed your inquiry.

I invite Lynne Vallance to say more about stakeholder engagement. It is not for me to pass judgment on what the previous Administration did. Lynne can tell you what measures we have put in place recently that will enhance our work in this area.

**Lynne Vallance (Scottish Government Europe, External Affairs and Culture Directorate):** As the minister said, we intend to consult on the guidance over the summer. As regards our internal processes, we have already created a new Government database that is much more user friendly for officials and which holds all the relevant information that is needed to allow us to track and monitor transposition of each directive. In addition, we have been working with officials and lawyers on drafting the guidance. We want to be confident that the guidance for officials is clear and transparent so that there is consistency across all Government departments on implementation of directives.

As regards stakeholder engagement, we are working with the Government's regulatory reform group, with which we will sit down next month specifically to talk through the changes that we are making to the processes and the guidance that we will publish in the summer. We will seek the group's input on what the final guidance will look like.

**John Park:** You have not done any stakeholder engagement so far; you will be doing that in the future. You have been doing internal work.

**Lynne Vallance:** We have been working with officials, who have been talking to their policy stakeholders. Now that we have a draft of the guidance, the next step is to work with the regulatory reform group.

**Alasdair Morgan:** I have a comment and a question. In her opening remarks, the minister said that we had a strong reputation for implementation and compliance, but the problem is that that does not win us much kudos with voters or with organisations. I do not think that addressing the University of Dundee's complaint about late implementation will get the Government many votes, but never mind.

Ted Brocklebank mentioned section 57(1) of the Scotland Act 1998, but NFU Scotland's point was about section 57(2), which it feels means that the Scottish Government is required to

"implement EU legislation in full without any deviation from its wording"—[*Official Report, European and External Relations Committee*, 8 January 2008; c 269.]

The implication is that the UK Government is not bound quite so strictly, and that Scotland could therefore be at a disadvantage. What do you say to that?

**Linda Fabiani:** Many issues arise in the context of the differential implementation argument, but the best thing for me to do is to pass over to our legal bod, who deals with such matters day and daily.

**Patrick Layden:** The short answer is that we are not at a disadvantage in comparison with the UK Government. Our obligation is to implement EU obligations on time and in full, which is precisely the same obligation that UK ministers have. All that section 57(2) of the Scotland Act 1998 says is that we cannot do anything that is incompatible with Community law—but neither can the UK Government.

What is compatible with Community law depends on the nature of the Community instrument. If it is a regulation, we might not need internal legislation, except in relation to offences. Regulations are applicable and enforceable and come into immediate force without our having to do anything more.

With a directive, the obligation on member states and on the Scottish Government is to secure the result that is required by the directive. Within the scope of the directive, how it does that is up to the Administration in question, so it is possible for different Governments in the EU to implement a directive in different ways, provided that the end result is what is required by the directive. In such cases, we sometimes enact legislation that is different from legislation that the UK enacts and from that which other member states enact. That is fine, provided that it secures the result that is required by the European directive. In that sense, we are in the same position as the UK Government.

**Alasdair Morgan:** Thank you. I will settle for that.

**The Convener:** Thank you. That was clear and helpful.

We touched on section 57(1), but we did not discuss it directly. Would it be useful to have specific criteria to determine when it is appropriate to use section 57(1)? Some witnesses told us that it is sometimes appropriate to let the UK do the transposition, but Parliament sometimes feels that

it is not involved and that it does not know when transposition is happening. It certainly does not know what the criteria are. Can we make progress on that?

**Linda Fabiani:** Officials in the Europe division communicate and discuss options daily with their UK counterparts. There is often common cause between the UK Government and the Scottish Government about what has to happen. Section 57(1) allows the UK Government to continue to implement law, but few directives are implemented in that way. We are considering the matter and we hope to address it in a section of the guidance so that people are clear about what section 57(1) means. Perhaps we will give some examples of where it is best used.

We have no problem with working with the UK Government on implementation, where that approach suits Scotland. Our first question is always, "What suits Scotland best?" That will always be the main criterion that we use.

**Iain Smith:** To put it bluntly, under the legislative consent motion procedure, if the UK Parliament intends to legislate on a devolved matter, it requires the consent of the Scottish Parliament, but that does not appear to apply in relation to European legislation. Would it be helpful if the Scottish Parliament was required to agree to a legislative consent motion when you propose to use section 57(1)?

**Linda Fabiani:** I am not prepared to answer yes or no to that straight away. On the surface, that does not strike me as a sensible way to go forward.

I repeat that, generally, we have good relationships with the UK at both official and ministerial levels in relation to the way in which we implement European directives. Of course there are issues, but things are starting to get better. There was a breakthrough last week when it was accepted that the devolved legislatures are equal partners around the table of the joint ministerial committee on Europe. We agreed ways of moving forward with the UK and the other devolved legislatures and we have that forum to discuss such issues. The mechanisms exist to enable us to say what is best for Scotland.

Although the Scottish Government disagrees with the UK at times—for example, on the representation of Scotland at fisheries councils—we do not want to put any more mechanisms in place that could interrupt that relationship.

That said, if the committee, representing Parliament, believed that Scotland was being done down in some way because Parliament did not have the right to take a view on a matter, and if you wanted the Government of Scotland to

consider that, we would be more than happy to do so.

**The Convener:** The question of the role of Parliament arises, as it does in relation to several other issues. I am sure that that will be reflected in our report. Transposition of EU directives is a concrete example. Because of the way in which things have worked out in the past on European issues, Parliament has perhaps not been as involved as it might have been.

**Alex Neil:** Transposition is the tail end of the process of European legislation. We know from our research and study visits that in Germany and other countries, at state and substate levels, influencing the legislation is much more important than transposition. You are reviewing transposition, but are you simultaneously reviewing how we can influence legislation earlier? We heard a good example in Bavaria. The people we spoke to there had seen an early draft of the services directive. They reckon that, if the directive had been implemented in its original draft form, 41 legislative changes would require to have been made at Land level. We were told that, as a result of their influence, about three changes were required, all of which were to the benefit of Bavaria, whereas most of the others would have been to its detriment. The people to whom we spoke told us that they did that work both directly, with the European Parliament, and through the German federal Government.

10:45

Is the new Scottish Government looking at how—albeit in this temporarily devolved situation—it can bring greater influence to bear on European legislation at a much earlier stage? If we managed to do that, we would also make the transposition process a bit easier.

**Linda Fabiani:** Absolutely. That is crucial. Certainly, the committee has been on about that for a long time, including in the previous session of Parliament. It is crucial that Parliament, through the European and External Relations Committee and its subject committees, gets in there early, as is the case for the Government—indeed, we are already doing that. Deciding on priorities is the first stage in the process of transposing directives, after which we should publish the documents, take views from stakeholders, and discuss the Scottish case with the UK Government, if it differs from that of the UK.

Of course, as we know, Parliament and the Government always have the option of going straight to Europe: we can exert influence through our MEPs. Generally, where the issue affects Scotland, our MEPs come together regardless of party affiliation to try to influence the outcome as

best they can. We can also go straight to the European Commission. As a Government, we have had many direct discussions with the Commission.

In implementing all of this, it is crucial that stakeholders are involved early in the process. Within the guidance, we are working on that. We want everyone to be able to make their views known early and to hear what is happening. That will benefit us all. I think that people will welcome it.

**Alex Neil:** The Bavarian Land has nearly 50 people who work more or less full time in Brussels, and Baden-Württemberg has more than 30 people. Obviously, Scotland has a presence in Brussels, but our representation in Brussels may need to be strengthened, particularly when we compare it with that of our competitor regions. It is blatantly evident that those representatives are in Brussels to take people out to lunch—people were open and honest about that. They are there to ensure that their region influences European legislation, even at the stage of an idea that is being floated by Brussels bureaucrats. I am thinking of applying for one of those jobs. From what we heard, it is clear that the investment is worth while. Will you review the Scottish Government's presence in Brussels to see whether it needs to be strengthened?

**Linda Fabiani:** Lynne Vallance has reliably informed me that our Brussels office started out with 11 people and that we now have 12—or 11 and a half. I am trying to strengthen our presence there, but these things take time. I came away from my first visit to the Brussels office thinking that staff in Brussels and Scotland did not work together enough. I am not saying that the people in the Europe division were not doing that but—as I said earlier—we need to ensure that we mainstream our work across departments. We are starting to see more joint working in energy and agriculture, for example. People are working together across the water, so to speak. There is also much more ministerial engagement than was the case in the past.

Scotland House is a great benefit. It gives us a physical presence in Brussels: Scotland Europa, the Scottish Government and Scottish Parliament all have offices there. We are increasing our engagement. Whether the staff complement—and the budget for lunches—will be increased will be subject to an on-going monitoring exercise for the head of the civil service, in conjunction with others.

**Gil Paterson (West of Scotland) (SNP):** Transposition impacts seriously on law, businesses and individuals. Is more time needed to scrutinise the detail of legislation rather than the process, and should the committee be involved in that?

**Linda Fabiani:** That question comes up every so often, and it takes us back to the question of what the committee is for. That is a discussion for the committee. The House of Commons European Scrutiny Committee is a scrutiny committee, and it also has a scrutiny reserve, which this Scottish Parliament committee does not have.

I spoke about working across the Government, and one of the joys of the Parliament is surely that we work together across the Parliament. I believe that the subject committees have a lot of responsibility in transposition. It is obviously for the subject committees to work that out, in conjunction with this committee, but I remember from my time on the previous session's committee the view that subject committees should take some responsibility for such things as the impact of transposed legislation on their subject areas. It is very much for the committees to work out.

**Irene Oldfather:** The minister comes to the discussion from a unique perspective, having been in jobs on both sides of the committee table. Do you have a view on the role of the committee? You spoke about the importance of mainstreaming and co-ordination on Europe within Government. Do you feel that there is a parallel role for the committee?

I had another question, but I have forgotten what it was.

**The Convener:** We will go with that question to begin with.

**Linda Fabiani:** This is an entirely personal view that comes from my time as committee convener. I think that the committee is extremely interesting to work on, but it is very much what its members decide to make it. There is an overarching aspect to its work. Considering the amount of legislation that comes out of Europe, the committee cannot possibly deal with it all in any great detail, so it has to take an overarching, co-ordinating role that fires out issues to other committees.

The relationships that we started to build up in the previous session with the House of Commons European Scrutiny Committee and the House of Lords European Union Select Committee are also important, especially considering what is happening in respect of subsidiarity. It is important always to be on the ball. That is a great role for the committee.

The committee should also stand up for Scotland, and there are other issues that it should be examining. For example, the previous session's committee went straight to the Commission with stakeholder events, views and submissions on the maritime strategy. To me, that is an extremely important role for the committee. However, as I said, it is up to the committee, its members and Parliament to decide on its role.

**Irene Oldfather:** I have remembered my second question.

**Linda Fabiani:** I knew that I was speaking for too long.

**Irene Oldfather:** The question is on the scrutiny reserve. You may recall that, when we debated Europe in the Parliament a few years ago, we put to the then minister Jim Wallace the idea of Scotland's having some kind of scrutiny reserve. You have mentioned it today, so are you giving it consideration?

**Linda Fabiani:** What I am considering is what the best option for Scotland is. Relationships should be built up not just with and among the committees here and at Westminster, but at Government level. I am pleased that the chair of the Commons committee and I are working closely on how to ensure that Scotland's point of view is taken into account when the Westminster committee examines what comes before it. We are currently carrying out a wee pilot scheme to ensure that that happens on all occasions, because there have been times when Westminster has proposed something and, without having consulted us, let it be implicit that Scotland does not have a problem with it.

**Irene Oldfather:** How can the European and External Relations Committee be involved in that process? Should it be involved? We do not know about a pilot, but perhaps we could influence it or contribute to it through our discussions with stakeholders.

**Linda Fabiani:** Again, it is for the committee to decide what it wants to do. The committee will be considering the subsidiarity principle to ensure that Scotland takes maximum advantage of and benefits from it. That might well be something for the committee to discuss at that point. It should be remembered that the European and External Relations Committee can go straight to the European Union as well.

**The Convener:** Will you provide us with details of the pilot scheme that you mentioned? If you cannot do so now, you could send them to the committee.

**Linda Fabiani:** I should clarify that. When I said it was a pilot scheme, it is not that we have set up something hugely formal. Michael Connarty and I got together to talk about the potential for Scotland to be missed out, and about the implication that Scotland has been consulted when it has not. We said that we would keep records of how often that happens, and then meet again to discuss it and strengthen the situation where appropriate. I have not therefore set up anything formal.

I suggest—perhaps it has happened already—that the convener of the European and External

Relations Committee and the convener of the European Scrutiny Committee in the House of Commons could get together to talk about such issues, which are so important.

**The Convener:** We have certainly had meetings, but we had not heard of what you referred to as the “pilot”, so thank you for clarifying that.

Does anyone have a final question?

**Irene Oldfather:** In relation to that final point, it would be helpful for us to know about such things. The committee could have a role in the discussions and could contribute. For example, on many occasions, even in the loose terms of the minister’s “pilot”, it has been highlighted that Scotland has not been consulted on relevant issues. If we are to do a proper job of scrutinising the Government and contributing to policy development, we also need to know about things like the minister’s pilot.

How can we facilitate that exchange of information? Perhaps we can task the clerks with working with officials on that.

**Linda Fabiani:** Explanatory memoranda are issued to Westminster. It would probably be most useful for the committee to make a direct input to Westminster on transposition: we could perhaps come back to the issue and compare notes, having ensured that Scotland’s interests have been served.

**The Convener:** We have another substantial agenda item to deal with. I thank the minister and her officials and suspend the meeting for a five-minute break before we go on to discuss the EU priorities and objectives of the Scottish Government.

10:58

*Meeting suspended.*

11:05

*On resuming—*

## Scottish Government European Priorities

**The Convener:** The next item on our agenda is again to take evidence from the Minister for Europe, External Affairs and Culture, this time on the Scottish Government’s EU priorities. We welcome for this item Lynne Vallance and Craig Egner, who is from the Scottish Government’s EU office. I invite Linda Fabiani to make a brief opening statement before we proceed to questions.

**Linda Fabiani:** Thank you for inviting me to talk to the committee about our revision of our long-term EU political objectives and current EU priorities. As the committee knows, I intend to review the table of priorities on a six-monthly basis.

Much has happened in the months since I first presented the priorities to the committee on 18 September last year. It is right that the priorities are reviewed regularly, to ensure that the Government continues to focus on those EU policy issues that are of greatest importance to Scotland. I stress that I see the table of EU priorities as a work in progress. I am happy to consider amending the table at any time, if a proposal that is emerging from Brussels merits inclusion. My key aim is to ensure that we have a table of priorities that includes all the issues that are of greatest importance to Scotland here and now. To achieve that, I will continue to work closely with the committee and stakeholders. I will consider any suggestions from members for additions to the current list.

We agree with Mr Neil that it is imperative that we identify issues of particular relevance to Scottish interests, so that we can influence the policy development and negotiation stages at the earliest possible opportunity. That point is closely linked to the transposition process, to which Mr Neil’s earlier observation related. Timely and effective transposition will be much more easily achieved if we have already ensured that Scottish circumstances are taken into account at the negotiation stage.

I turn to the revisions that the Cabinet has just agreed. There is a slight revision to the terminology of the key EU political objectives. In the interests of simplicity, we have renamed them “long-term EU political objectives”, because that is exactly what they are. We will pursue those objectives within the European Union over the coming years. We have reduced the number of objectives to five, removing the EU reform treaty from the list. We have not done so because we no

longer consider the treaty a priority. On the contrary, there is important work to be done to make the most of the new subsidiarity safeguards. Earlier today, I heard that over the coming months the committee will consider the Parliament's role in that regard. However, the primary policy effect of the treaty on Scotland will be the extension of the codecision procedure to justice and home affairs. Because justice and home affairs is another of our key political objectives, it makes sense that we should remove the duplication.

I turn to the table of current EU priorities that members have before them. Members will note that five priorities have been removed from the list, mainly because negotiations have been finalised. Those priorities are: the Scotland rural development programme; the marine strategy directive; EU institutional reform; recognition and supervision of suspended sentences and alternative sanctions; and the European qualifications framework. Members will see that three priorities have been added: the animal health strategy; the framework decision on the enforcement of in absentia judgments; and e-justice. As is now the practice, our table of current EU priorities will be published on our website and widely disseminated to stakeholders. I am keen to hear what people think about the direction that the Government is taking on European Union matters.

I am pleased with the engagement that the Government has enjoyed with the committee and stakeholders to date. We have made good progress on raising Scotland's voice in Europe, but we can still do more. I am encouraging ministerial colleagues to increase their engagement in European matters. The action plan on European engagement that we are putting together will set out our plans for building on the constructive relationships that we have forged so far. I look forward to presenting the action plan to the committee at the end of next month.

However, it is not only the Government that can help to improve Scotland's place in Europe, and I welcome the work of the committee in assisting in the process. I know that some committee members have already been to Brussels and Germany, and that Mr Neil has been in Bavaria. That all serves to raise Scotland's voice in Europe, which is a goal of great importance to me.

I am happy to answer any questions. If committee members seek detailed responses on policy, I will happily engage with my ministerial colleagues and report back. I am pleased to have Lynne Vallance here to assist me, and particularly pleased to have Craig Egner here too. He has come over from our Brussels office, and I think that this is the first time that an official from that office has addressed the European and External

Relations Committee. That is a mark of how much more closely we are working together.

**The Convener:** When you came to the committee in September and spoke about your priorities and objectives, it was agreed, I think, to revise the document to provide a greater emphasis on delivery and on measurement of progress in relation to the priorities. The committee therefore welcomes the inclusion of two new questions on monitoring and measurement. However, it is disappointing that the content of many of the dossiers, especially in relation to the actions of the Scottish Government, is substantively the same as the content of the dossiers that were submitted in September.

I will give an example. We will not ask you about the detail of the common agricultural policy health check, but we note that the wording is identical to that used in the previous dossier, almost to the last word. In future, it might be useful to have a more succinct document, but one that provides a detailed update on progress and, crucially, which describes the steps taken by the Scottish Government in delivering on that particular priority.

It would also be useful to have an explanation of substantive changes, especially when issues such as the Lisbon treaty have been removed from the list—although I accept that you touched on that point briefly in your opening remarks. It would also be helpful to have some indication of the effectiveness of the Scottish Government's role in relation to the priorities that have been removed.

**Linda Fabiani:** Often, the fiches will not show many changes. We all acknowledge that things in Europe do not move fast. If I come to the committee every six months, it is likely that many things will not have changed in the intervening period.

I hear what you say, but we have to remember that the fiches are disseminated to all our stakeholders and are put on the website as well. There is information for lots of people. If you are saying that the committee would like more detailed information at some point, we would be willing to consider providing that, whether by letter or by some other means.

I forget what your final point was.

**The Convener:** I highlighted a more general issue. I wanted to focus on the steps taken by the Scottish Government in delivering the priorities. With respect, we feel that we could have obtained much of the information from the parliamentary officer in Brussels or from somebody in a similar position. In this area as in others, we are frustrated that we are not learning much about what the Scottish Government is actually doing and saying. That point will come up again in relation to various topics over the next hour. That was my key point.

**Linda Fabiani:** I will raise a key point in response. More information is coming to the Parliament from this Government than was ever offered by any previous Administration. This is a work in progress. We are working towards achieving transparency and clarity with stakeholders and parliamentarians. We are not yet a year into this Government but already we have made huge strides. Your comments will be taken on board, but the committee has to take on board that the willingness to engage shown by this Government has never been shown before.

11:15

**Iain Smith:** I hope that the minister will recognise that these are intended as constructive comments to improve the process and its transparency and to ensure that the committee is able properly to scrutinise the Government. I echo the convener's point that it would be helpful if we could have a summary of the key actions that have been taken by the Scottish Government in the six months since the previous report and the key issues that are anticipated in the next six months, so that we have something to check progress against.

You said that five priorities have been removed because they have been completed. It would be useful if, when priorities are removed from the list, we could see a closing report that said whether the Government had achieved the objectives that were set. We know how priorities will be monitored and measured, but we do not have a report that tells us whether the objectives—Scotland's objectives, as well as the Government's—have been met.

**Linda Fabiani:** Your final point is hugely constructive. I see no reason why we could not give you a couple of lines about why a priority has been removed. Equally, the next time that I report to the committee, it might also be worth our giving members a couple of succinct lines on why something else has been taken on board, as well as the general narrative.

I am aware that, while negotiations are on-going—whether they involve discussions with the United Kingdom Government, the Commission, the European Parliament or stakeholders—it is not always appropriate to put everything into the public domain. Anyone can accept that reasonable position, given that we are working for the benefit of the country and its stakeholders.

We constantly keep in mind the issue of how much information we can give, because transparency is extremely important to us. However, it must be borne in mind that it is not always possible or, indeed, sensible to publish details of on-going negotiations. That is especially

true in relation to giving advance notice of what the Government intends to do.

**Iain Smith:** I am not talking about the details of negotiations; I am talking about getting an indication of the action that has been taken. I would like to know what meetings there have been with which people, or the date on which the Council of Ministers will be looking at an issue and so on. For example, has anything happened in the past six months with regard to the dossier on CAP reform? As the convener said, there is virtually no change on that from one paper to the next, and it would be useful to have some indication of what has happened in the previous six months and the likely level of progress in the next six months.

**Linda Fabiani:** I hear what you say. However, we are not an independent European state, which means that we have to work with the UK Government on a lot of these issues and, sometimes, the UK Government works pretty slowly as well.

**Iain Smith:** Certainly.

**John Park:** Minister, last September, you talked to the committee about the development of a European strategy. Can you give us an update on that? We expected to see something in that regard early this year. How does that strategy relate to the wider work that you are doing to develop other international strategies? How does it link into the guidance that you will produce on the transposition of EU directives?

**Linda Fabiani:** Mr Park is right to note that all those issues hang together very well. Our action plan on European engagement is part of our international strategy. I have been invited to come back to the committee—at the end of April, I think—to talk about such matters.

I will ask Lynn Vallance to talk about the European engagement action plan.

**Lynn Vallance:** We are currently working on the action plan. The minister will talk to the committee about it on 29 April as part of her presentation on the international framework. The action plan will set out the Government's objectives in relation to Europe and the relationships that it intends to build with stakeholders, the committee, the UK Government, the devolved Administrations and the EU institutions in order to deliver those objectives. It will also cover the bilateral relationships that the Government intends to develop.

On how we intend to engage with stakeholders, the first step, obviously, is the Cabinet clearing the document before the minister presents it to the committee at the end of April. The idea is that there will then be a summer programme of events in which the minister, other members of the Cabinet and officials will engage with policy



stakeholders and the general public to promote the ideas in the action plan. They will look for comments and seek support. The action plan will be finalised towards the end of the year and will then be published. Obviously, the committee will have a big role to play in the quite wide consultation exercise that will take place, which we envisage will last several months over the summer period.

**John Park:** So there has been no stakeholder engagement yet. You are progressing matters internally.

**Lynne Vallance:** That is right.

**John Park:** We hear things through the grapevine. I think that a similar approach has been taken with the China strategy and that there has been wider stakeholder engagement with that. You are not following the same process, but there will be wider stakeholder engagement once the formal strategy is launched.

**Linda Fabiani:** You are right. We had a stakeholder event for the China strategy, and I recently held a stakeholder event for the international strategy. The thing about the Europe action plan is that a specific parliamentary committee deals with European matters. We have defined the structures that we must go through, and different groups have been set up, so there are obvious people to speak to and take into account before we go out to wider stakeholders. We have thought through our approach and reckon that what the European and External Relations Committee and our European Parliament colleagues come back with will be important. We will go wider and try to pull everything together.

**Alex Neil:** I have a wider question. What is meant by "a priority"? I will give an example. That the strategic energy review is a priority is understandable—I do not think that any of us would dispute that review's importance to Scotland. However, the proposed European small business act is not a priority at the moment. What difference does it make if something is a priority? What does something get if it is a priority that it will not get if it is not a priority? What are the criteria for deciding whether an issue is a priority?

**Linda Fabiani:** Earlier, committee members talked about the need for considering the things that are coming out of Europe right at the beginning. We have a Government office in Europe and officers in Scotland who look closely at Europe's intentions. We study those intentions and decide what the main priority themes are for Scotland to consider.

You mentioned the proposed European small business act. That comes under the better regulation agenda, which is a priority under our

wealthier and fairer objective. I am always keen to point out that the Government sees things as priorities, and we submit proposals to the Cabinet with our view of what our broad-reaching priorities should be. However, if the committee, for example, thinks that we have missed an extremely important issue, it should let us know, and we will take it on board.

Members may remember that, during the past six months, I added to our priorities a justice and home affairs issue. The Cabinet Secretary for Justice's officials said, "We think this is important. We'd like it to be a priority." Obviously, everything that comes out of Europe that affects Scotland is a priority for Scotland. There are broad headings, but you can be confident that that does not mean that we do not take notice of anything else. Everything that comes out of Europe is scrutinised.

Perhaps Craig Egner can say something about how the process works in the Government's office in Brussels and how information is relayed to Lynne Vallance's office in Scotland, for example.

**Craig Egner (Scottish Government Europe, External Affairs and Culture Directorate):** In the end, judgment calls are involved—we are not talking about an exact science—and, ultimately, the priorities of the presidency of the day drive the development of our priorities. Those priorities tend to come under fairly broad strategic headings, under which there will be quite a lot of issues. For example, the proposed small business act has been mentioned, and another area is fisheries. Internal and external fish negotiations involve many issues in addition to the setting of catch and effort limits at the end of the year—a lot is going on in fisheries. It should not be assumed that the Government is not addressing such issues.

We try to float our objectives fairly early on in the process with a number of stakeholders in Brussels and with local authority representatives, the Parliament's office and MEPs there. We are always looking to improve and streamline the process and are open to suggestions about how we could do that. We also work closely with the Scottish Government's Europe division back in Edinburgh on those matters. It is an iterative process rather than an exact science, which is why we value the opportunity today to consult the committee on the issues that we have identified.

**Alex Neil:** So there are no set criteria against which you measure what should and should not be a priority. For example, the action plan on urban transport is not a priority, yet we are about to spend probably billions of pounds on urban transport in Scotland, particularly in Glasgow and on the trams in Edinburgh. Can you take me through the process that does not make that action plan a priority?

**Linda Fabiani:** If you feel that that is a big priority, put it to us and we will speak to the appropriate minister who oversees that area. You all have input into the process.

**Alex Neil:** I am not saying that it is a priority; what I am trying to get at is the process and the methodology that are used to decide what is and is not a priority. I am trying to get an understanding of whether it is a political call by the relevant minister that one issue is a priority and another one is not, which would be perfectly understandable, or whether the process is more—I do not want to use the word scientific—logical than that.

**Linda Fabiani:** We get input from officials, both in Brussels and in Edinburgh, who discuss the effect that the issues will have on Scotland. That is always up there. The judgment call is about how an issue affects Scotland. That approach informs all our priorities; it also helps to focus ministers' and officials' minds on moving forward. Otherwise, we would just say, "Look what comes out of Europe—there is so much."

We also speak to a number of stakeholders. Members should bear in mind the fact that the dossiers on the Scottish Government's EU priorities will all go on the website. We know that many European stakeholders take notice of those priorities. They are not slow in coming back to us to say that we should make a particular issue an EU priority, and we would then look at that.

**Ted Brocklebank:** I will ask the minister one or two questions about fisheries and aquaculture. Not only is that area a priority but making progress on it is one of the Government's long-term political objectives. That causes you some problems, because although it is a Scottish Government priority, it is clearly not a UK Government priority.

The Government's revised objectives state that you

"wish to see withdrawal or dismantling of the CFP".

I concur with the statement that the common fisheries policy has

"led to damage to our key fish stocks and marine environment"

and all the rest of it, but how can you practically dismantle the CFP? Realistically, you cannot withdraw from it because that is not within the competence of the Scottish Government.

**Iain Smith:** He has noticed.

**Linda Fabiani:** It is no surprise that Mr Brocklebank has asked that question. Everyone is aware that this Government feels strongly about the issue. It is also clear to me that adoption of the Lisbon treaty, with the CFP entrenched within it, is another move to make it more difficult to dismantle

the CFP. However, we will always work towards our aim. Richard Lochhead works very hard in the interests of Scotland in that regard.

If you want more detail on how all that is done, I am happy to ask Richard Lochhead, who is the appropriate cabinet secretary, to give you that. If you want detail on the day-to-day stuff that we are doing in Brussels in relation to fisheries, I am happy to hand over to Craig Egnor for that.

11:30

**Ted Brocklebank:** In the 34 years since Edward Heath took us into the common fisheries policy—let me get that out in the open before somebody else says it—we have failed lamentably to dismantle the CFP or to tackle the business of withdrawing from it. Despite what Iain Smith said, it would be totally possible for a UK Government to do that. Can you or one of your officials explain how the situation will improve over the next 34 years, given that it is not in the interests of Spain, France, Ireland and so many others to dismantle the CFP?

**Linda Fabiani:** We have to remember that it is not just Scotland that is upset with the common fisheries policy. Richard Lochhead is spearheading the setting up of an expert group of like-minded member states so that we can try to influence the Commission collectively to change the common fisheries policy. That work is on-going; it is an absolute and long-term priority for this Government. We will always work towards it, and we welcome any support that we can get in that regard.

**Ted Brocklebank:** My final point is more to do with aquaculture than sea fisheries. You will know of the vexed question of the dumping of salmon on the market by Norway. You will also know that a minimum import price was set some years ago. However, we are now right back down to that minimum price and dumping is clearly going on. Will you give us more information about the role that our negotiators are playing in that area?

**Linda Fabiani:** There has been ministerial contact with the trade commissioner about that, but I will pass over to Craig Egnor for the details, on which he has been working closely.

**Craig Egnor:** There is no dispute that this is a major issue for Scotland. The Scottish Government and the Department for Business, Enterprise and Regulatory Reform—formerly the Department of Trade and Industry—have been talking to the Commission about the matter at regular intervals. Two things are going on. As you probably know, Norway brought a complaint against the EU to a World Trade Organization panel, and some members of the panel found in Norway's favour. In the first instance, the

Commission will have to look at amending the measures that are in place.

Alongside that, the Commission is undertaking an internal review of the minimum import price. It is asking two fundamental questions in that process: whether dumping is still going on; and whether dumping would recur if it got rid of the minimum import price. That is where we are. Dumping might not be going on at the moment, but the UK Government believes that if the minimum import price were to be removed, it most certainly would recur, given the build-up in Norwegian production that we are seeing at the moment and what is, in our view, the absence of market opportunities elsewhere. There are expanding markets in China and the United States, of course, but the big question is whether they could mop up the surplus, were extra production to come online.

All I can say is that we are continuing to talk to the Commission about the situation, stressing our view that dumping would recur and therefore that the minimum import price should remain. We have brought the Irish Government and the Irish salmon farming industry in with us. We are working hard to produce a case for the Commission that shows clearly that, given the build-up in Norwegian production, the only thing that can happen as a consequence of removing the minimum import price is that the market will be flooded and product will be sold below the cost of production, which is the definition of dumping. It is a big problem. As the minister said, there has been ministerial contact with the Commission, and I guarantee that there will be more. We continue to work very hard on behalf of the Scottish and Irish industries.

**The Convener:** That is very helpful, but it leads us to question why that information is not in the dossier. The aquaculture dossier is almost exactly the same as it was six months ago. That illustrates the point that I made earlier, which is that we feel that it would be useful to have such information in the dossier, which is of particular interest to us and no doubt, to the wider public.

**Irene Oldfather:** I want to follow through on that theme. The linkages between the Government's objectives and the EU priorities are not clear. We are not clear about whether you are looking at the European Commission's annual policy strategy or legislative work programme or about what the committee's input has been. I want to be constructive. I know that the minister has consistently offered to work in partnership with the committee, but I do not see reflected any of the evidence that we have taken or the correspondence that we have had with the minister over the past few months on the Lisbon treaty or the EU budget review, for example. I appreciate that the minister has explained that the

implications of the Lisbon treaty will be on justice and home affairs, but it would be helpful if we had a clear analysis of what the Government thinks will be the effects of the Lisbon treaty on us in the Scottish Parliament. Regional Governments and Parliaments throughout Europe are having such discussions at the moment. Despite what the Government says about taking account of the views of stakeholders, including the views of this committee, I do not see the linkages between our agenda and the Government's agenda.

I have two other points to make on subject areas. The Government has provided a paper on the European institute of technology, but the position is similar to the one with the paper on the common agricultural policy, to which I think Alex Neil referred. I do not have the previous paper in front of me, but the current one looks remarkably like the one that we saw six months ago. The European institute of technology is important to Scotland. The dossiers ask "How will this priority be monitored?" However, the content of the dossiers is almost the same for every single priority—they just use different wording. There are references throughout to liaison with UK colleagues, Whitehall and the Commission. We are falling short. Other than the dialogue between you and us, we have no way of putting things right. We have to be forthright about how we would like to proceed in a constructive way. The papers before us today do not take me any further forward than I was six months ago. We know that the European Parliament will discuss the European institute of technology this week.

I will let the minister take on board those points.

**Linda Fabiani:** I can be blunt as well. This is the second time that I have come to the committee with more information than the committee was ever given in the eight years of the two previous Administrations. I am here to ask for input. The dossiers are not yet published on the internet and will not be published until we have got the committee's input. As I said, this is an on-going process. The will is there from the Government and I know that the will is there from the committee. I acknowledge that the committee wants to have input, but the committee must acknowledge that we are coming forward with a degree of information that is new in respect of how the Parliament works with its Government on European priorities.

On the Lisbon treaty and subsidiarity, I have already said that I am happy to support the committee in taking matters to Westminster. Members have said that there has not been a great deal of progress, but let us not forget that we are under constitutional constraints here. We are not the Government of a nation state of Europe that can make decisions and act quickly. We have

to work with the UK Government on all these issues, because the UK is the member state. The UK Government does not always respond to us timeously. It does not see Scotland as the absolute priority, which is how this Government and the committee see Scotland. That must be taken on board. Yes, I am happy to work together, but I am not that happy that, given the degree of information that we are providing—we are providing much more than was ever provided before—I am sitting here being told that we are not doing enough. There has to be constructiveness on both sides.

**Irene Oldfather:** I can respond to that only by saying that I have been on this committee for a long time and the fact is that we established the system of discussing EU priorities about four years ago. It has certainly been in place for some time.

The crux of the matter is how we can get better involvement. Although the Government says that it wants to take account of the committee as a stakeholder, there is no evidence of that in the priorities before us. We have had correspondence with you on certain issues—for example, the Treaty of Lisbon and the EU budget review—that have been removed from the list of priorities. Let us set the UK to one side for a moment. One of our jobs is to scrutinise the Government, but despite the fact that we have been in dialogue with you on certain matters of interest, they have been taken off the list of priorities. I am not clear about the linkages, and I am certainly not clear about our involvement as a stakeholder and as the committee responsible for scrutinising for you on such matters.

**Linda Fabiani:** Since our previous appearance before the committee, we have already made changes to the fiches and added two new sections. Perhaps when we check the *Official Report* of today's meeting we might add more information. I think that I have already conceded Iain Smith's point that we could give a few lines about why we have dropped certain issues. If, after I leave, in its discussion of the matter either in private or in public, in the *Official Report*, the committee reaches a view that it could hold the Government to account or we could all work together much better if this or that were done, I will be more than happy to take what it says on board.

**The Convener:** On 18 September 2007, Alex Neil asked you about the very point that Irene Oldfather has just raised about the analysis of the Lisbon treaty's impact on Scotland, and you dealt with the issue in your letter to the committee dated 26 November 2007. Interestingly, you said:

"I ... confirm that there has been significant analysis of the implications of the Treaty for Scotland. It would not be appropriate for all the details of this analysis to be provided

to the Committee, as much of the analysis has been undertaken as policy consideration."

I suppose that that might be one reason why we cannot find out what your thoughts are, but are you seriously suggesting that although "all the details" of your analysis of the treaty's impact on Scotland cannot be provided, we cannot get any information at all about it?

**Linda Fabiani:** I said in my introduction that as a result of the extension of the co-decision procedure, the treaty has implications mainly for justice and home affairs, which is one of our long-term objectives. I feel that we have given the committee a reason why the issue is no longer on our list of priorities. All the justice and home affairs measures under that heading now form part of our justice and home affairs priorities.

The EU budget review, which Irene Oldfather mentioned, is another of our long-term political objectives. It is not that nothing is being done or that no information is being relayed on these issues.

**The Convener:** On justice and home affairs, in our letter dated 5 November 2007, we specifically asked you about

"The nature and extent of the Scottish Government contribution to the UK Government's position on the EU Reform Treaty as set out in the White Paper and Explanatory Memorandum, especially in relation to the safeguards on Justice".

Despite your two subsequent responses, we are still none the wiser about your discussions with the UK Government on the issue. Indeed, in your response to our letter dated 17 December 2007, you stated that you had gone

"into the most appropriate level of detail on the issues"

that we raised. I must say that the letter that you referred to, which was raised at last week's meeting, caused the committee great concern.

I suppose that we are approaching the same topic from different points of view, but our fundamental problem is how we can scrutinise what the Government is doing if we do not have any detail on these key and substantive European issues. I take your point about what happened in the past but, with respect, it was your job as convener of the previous European and External Relation Committee to hold the previous Government to account and it is our job to hold the present Government to account. We have a problem with the transparency of the Government's position on many of these issues and simply have no way of knowing what the Government is saying and doing behind the scenes.

11:45

**Alex Neil:** Before Linda Fabiani answers, I have a comment. We need to understand each others' needs. There is a clear distinction to be made. When the Scottish Government is in negotiations with the UK Government I, as a committee member, would not expect all the information to be made available, because the Scottish Government must protect its negotiating position. For example, I would not have expected the Government to be too forthcoming with information on the impact of the Lisbon treaty in relation to energy and the marine environment during the period of negotiation. However, now that that negotiation is finished, I expect to see the analysis of the impact that the Government anticipates as a result of the Lisbon treaty on energy and the marine environment and on other matters.

Confusion may be arising because there is a difference between providing information during a period of negotiation and providing it after that. In the run-up to the decision on the Lisbon treaty, which took place last week in the House of Commons, I would not have expected the Government to disclose its hand. However, now that the treaty has in effect been agreed to by the House of Commons, and assuming that the Irish do not scupper it—although I hope that they do—I expect the Government to make available information such as the analysis of the impact on energy and the marine environment. That is a fair distinction.

**Linda Fabiani:** That is absolutely right and it is along the lines of what I was going to say. At the time of the letter that the convener mentioned, we were still pushing the UK Government to have a referendum on the Lisbon treaty, as it promised in its manifesto. There was a lot going on. I was attending JMCE meetings for talks on the treaty. As Alex Neil said, the decision on the treaty was pushed through in the House of Commons only last week.

At any given point, I may be constrained in what I can say when asked about such matters. We should also bear in mind the fact that legal advice is often taken on such matters and that it is a feature of our code that the content of legal advice is not commented on. Therefore, it is not reasonable for the committee to expect that the Government will relay every single detail of what it does so that that can be scrutinised. That certainly did not happen in the past—as convener of the European and External Relations Committee in the previous session of Parliament and having had to hold the previous Administration to account, I can vouch for that.

We have moved on and are in a new situation. I have said that I am happy to give information and have a degree of transparency that I feel did not

exist before. We should progress in that spirit. My concession is that everything that is said will be taken on board, but the committee must make the concession that it is not always possible for us to give all the information at the time when it is asked for. That is sometimes because of the constraints of working with the UK Government, which we do constructively in the majority of cases, and sometimes because legal advice cannot be passed on.

**The Convener:** There were two points, and you have not really answered Alex Neil's second point. Can you give us more information about the impact assessment now?

**Linda Fabiani:** We will go away and consider what you have said. As I said, we always take notice of what a parliamentary committee says. We will look at the *Official Report* of the meeting to see what has been said and make our decision accordingly.

**The Convener:** On the other point, about the earlier stage of the process, the Government was willing to make clear its position on the fisheries aspect of the EU reform treaty, even though, no doubt, it was discussing that with the UK Government. Therefore, it is not immediately apparent why something could not have been said about justice and home affairs. Even if what you say is true, you must understand the difficulty that the situation causes the committee and the Parliament. How can we hold you to account if we do not know what your position is? Do we not have a right to try to influence that position at an earlier stage, as well as a right to hold you to account after everything has been dealt with?

**Linda Fabiani:** Of course you have a right to try to influence. We worked hand in hand with the UK Government on the justice and home affairs issues for the Lisbon treaty. There were issues that affected Scotland and we wanted to ensure that the UK Government took those issues on board. We worked closely with the UK Government and it took positions in private—as a Government can—that I would not dream of putting into the public domain. That is as it should be. All those considerations must be taken on board when it comes to timing the relaying of information that will end up in the public domain.

If you want to write to me to ask for more detail, as minister I will make the judgment on what level of detail it is appropriate to provide once matters such as how we work with our partners have been taken into account. I think that that is eminently fair.

**The Convener:** We will reflect on that. With due respect, I hesitated to write to you again because we waited two months for a reply to our most recent letter and when I got the reply, it more or

less said, "You've already got the appropriate level of detail." I was very shocked by that, and if you read the *Official Report* of last week's meeting, you will find that it is fair to say that some of my colleagues shared my concerns.

The issue is on-going. We touched on it in our questioning on the transposition of directives. We accept that you do a lot of work with the UK Government. In one of your answers, you said that you were in discussion with the European Scrutiny Committee at Westminster, but we feel that the issue for us and, more generally, for the Scottish Parliament is where we fit into the discussion of the issues.

I do not claim that the situation was any different in the past—it may well be that we are talking about an institutional or cultural problem that has spread from one Administration to the next. I am quite happy to admit that that might be the case. However, from where I am sitting, it seems that the committee has a particular problem in holding the Scottish Government to account on European issues, because of the difficulty of getting all the relevant information.

**Linda Fabiani:** I want to make two points. First, let me make it clear that my discussions with the parliamentary committee at Westminster had nothing to do with my discussions with the UK Government, nor were they any indication that that committee is able to hold us to account—that is not its job. Our discussions were on an entirely different subject—they were purely about operational matters in relation to transposition.

As far as your most recent letter is concerned, please accept my apologies for the time that it took to respond to it, which I acknowledge was a fault. However, many letters have been exchanged and that is the only one that I have heard any complaint about. I think that our record in responding to letters—with that one exception—stands up to scrutiny.

**Irene Oldfather:** Given that the minister has asked for our views on priorities, there are two subject areas that I ask her to reflect on. When the committee took evidence from Professor Bachtler on the EU budget recently, he suggested that the adoption of a more strategic approach to accessing research and development funding would be beneficial to Scotland. Does the minister have a view on that?

My second point is about the EU solidarity fund and flood relief for Wales, Northern Ireland, East Midlands, West Midlands, Yorkshire and the Humber and South West England, which the European Parliament is likely to agree to this week. I am not aware that solidarity funding has been applied for to deal with flooding in this country. Given that the minister is keen to offer

Scotland's perspective and to stand up for Scotland, did she give any consideration to making such an application?

**Linda Fabiani:** Research and development is one of our three priorities in the EU budget review. As a Government, we are examining the issue closely because we need to obtain the benefits that come from investment in that area. Interestingly, R and D was one of the issues that came up at the international stakeholder event that John Park asked about, and one of the inquiries that the committee did in the second session of Parliament highlighted its importance.

On flooding, I will be straight—I do not know the answer. I will get on to Mr Swinney, who has portfolio responsibility for that area, and will respond to you quickly—certainly in less than two months, the convener will be pleased to learn. I will be happy to give further consideration to the details of the EU solidarity fund.

**The Convener:** We have no further questions, so I thank you and your colleagues very much. That was a useful and frank exchange that will allow us to make progress in the future.

I suspend the meeting briefly while our next witnesses take their seats.

11:54

*Meeting suspended.*

11:58

*On resuming—*

## International Development Inquiry

**The Convener:** Our final agenda item is evidence taking from our second panel of witnesses in our inquiry into international development. Although we kicked off the process last week, we had a round-table discussion on the subject some time ago, at which at least one of today's witnesses was present.

I welcome to the meeting Dr Neil Thin from the University of Edinburgh, Dr Mozammel Huq and Professor John Struthers from the Scotland study group of the Development Studies Association, Professor John Briggs of the University of Glasgow's centre for international development and Dr Maurizio Carbone from the University of Glasgow. You make a highly distinguished panel and we are very pleased that you have come to give evidence to us.

Let us move straight to questions. I will get the ball rolling with a general one. Does the panel have a view on how a Scottish international development policy can maximise what it can achieve, given what we recognise is its limited budget? We will let Professor Struthers start as he has been here before and so is used to it.

12:00

**Professor John Struthers (Development Studies Association):** I feel compelled to open on this because I have been here before. The issue that came up when I was here in October that should probably exercise the committee is the degree of focus that the strategy has. Given the limited nature of the budget, the issue will be whether you focus on a particular geographical area, a particular set of themes or do both to some extent. As people are aware, the Parliament has had a number of years' contact with Malawi. One of the questions that came up the last time I gave evidence on this is whether we should continue to focus the bulk of the funds on Malawi.

The other issues that I will raise concern the nature of the various stakeholders' involvement. We represent the academic community. At the previous committee meeting, you had other stakeholders, particularly non-governmental organisations. The Development Studies Association is not an advocacy group; it is essentially a research body, as I think we made clear in our written submission to the committee. That is probably also true of the other contributors.

I suggest that the main question on the overall thrust of the policy is whether there will be a

geographical focus and/or a thematic focus. In the notes that you sent us for the meeting, you suggested that a geographical focus and a thematic focus are two of the key issues. There is a suggestion that there might be a thematic focus on education, health or civil governance. There should be a thematic focus, but I do not have a strong view on a geographical focus. That may come out as the discussion unfolds.

**The Convener:** This is a good opportunity to let all the witnesses make an opening statement on their view on that general question. We will start with Dr Thin and go round the rest of the witnesses.

**Dr Neil Thin (University of Edinburgh):** Thank you for the chance to come back and talk to you again.

We all have before us the summaries of the submissions from a range of stakeholders. They indicate strong consensus in a lot of areas. Before we get into the content of those submissions—most of which I have strong sympathies with and most of which echo the sentiments that were expressed at the meeting that I was at in August—I will make one point about stakeholder representation.

John Struthers pointed out that you are hearing from academics, not the full range of stakeholders. Although the submissions represent quite a healthy range of organisations, I was a little disappointed that there is so little representation beyond civil society organisations. In most of the discussions that I have had since the policy was first devised three years ago, the people to whom I have talked have agreed in principle that, if there is to be a strategy or policy, it needs to get beyond small projects and civil society. Although the stakeholder submissions are sensible and show consensus, they do not reflect strongly enough Scotland's strengths in business and finance, which, as we must not forget, have a far bigger impact on poverty and world development than charitable organisations.

The other background point that we should bear in mind is that, in financial terms, the budget is a small fraction—perhaps a tenth of 1 per cent—of the United Kingdom aid budget. We all know that but must not forget it. We need to have due humility when we think about what can be achieved, so focus is crucial.

**Dr Mozammel Huq (Development Studies Association):** As John Struthers and Neil Thin have mentioned, a few things are important: the geographical focus and the nature of the thematic focus. With John and a few others, I have been closely involved in developing studies north of the border. North of the border, our objective will obviously be to raise the Scottish profile.

Until now, the geographic focus has been on sub-Saharan Africa—on Malawi, to be exact. I come originally from Bangladesh, which had a connection with Dundee because of tea; through James Finlay, the tea in Bangladesh is of Scottish origin. If the focus is not taken out of Malawi, there will be concern, but members will discuss that once the budget has been raised—it is small, as Neil Thin said.

On the thematic focus, it is nice that the Parliament has extended its support to people like us. In our submission, we have listed suggestions. Can we play a part in helping bright, poor students from third-world countries? Can we involve our Scottish academics in playing roles and making presentations at national and international conferences? Through established links with other countries, can Scotland play a role and raise the Scottish profile? I am sure that the committee will consider that in reaching its conclusions.

**Professor John Briggs (University of Glasgow):** The point has been made about focus, focus, focus. I am sure that members are more than aware of that. On the two questions—they raise the two key issues—we need to be careful about the thematic focus. I always worry that, in international development, the thematic agenda is too often defined from up here in the north. Rather than our saying that the focus is on health, the environment or governance, much greater dialogue is needed with partners in the global south. In my experience, too much of development policy has been defined in the north, so the right questions have not always been asked of recipient countries.

If we proceeded in the way that I suggest, that would raise the question of where the target countries are. I do much work in Malawi and Rwanda. Those countries are relatively small and feel comfortable. It has really intrigued me when people have told me numerous times that they feel comfortable working with partners in Scotland because of the scale issue. That is important to bear in mind, but that is not special pleading for Malawi or Rwanda—far from it. All I am doing is raising such issues.

It is interesting that, in work elsewhere in Africa—including bigger countries such as Tanzania and South Africa—when people are asked about donors and donor agencies, the Scandinavian countries, which are smaller countries, get favourable press time and again. The Department for International Development is often seen as too big a partner. With the limited budget that is available in Scotland, we can do something on such matters. We have positive press in some smaller countries.

The focus needs to be established. It needs to be on a bit more than Malawi, although we must

focus on particular countries. However, the most important point is that I would like to think that the committee will think about partnerships with people in the global south and about working with them so that they identify the agenda, after which we can see how we in Scotland can help through partnerships in the university sector, the civil sector and the business sector.

**Dr Maurizio Carbone (University of Glasgow):** My expertise is relations with the European Union, so I might talk about that. I am new to Scotland, so perhaps I see things differently. I understand the concentration on Malawi. I completely support the idea of a focus, considering the limited budget.

The main point that I would like to raise is the distinction, which has been made recently in the literature, between aid darlings and aid orphans. Aid darlings are countries that receive aid from many donors and that may even face issues of aid dependency and absorption capacity—whether the countries can absorb all the aid they receive. The issue is not only absorption capacity, but co-ordination. I hope that we can come back to that during our discussion.

I am new to Scotland, but I understand and support the links with Malawi because I visited Malawi when I worked for the European Commission. I evaluated the programme that was being run there by the European Union and Malawi. I would like to consider all the countries that may be aid orphans. I understand that the budget is limited, but I will concentrate on countries that receive much less aid—the forgotten states. I hope that we can return to that, too.

My second point is about the thematic agenda. I see that it includes health and education. That is fine, but just as there are aid darlings and aid orphans, there are sector darlings and sector orphans. The same principle applies. I would like to ask whether health and education are the primary concerns or whether Scotland has a comparative advantage in other sectors—maybe in agriculture or rural development—that would be useful if it could be exploited through the transfer of knowledge and know-how. I support strongly what John Briggs said about partnership. Often, the development paradigm between north and south may be different.

I will stop there, but I would like to come back in during the discussion.

**The Convener:** Okay. Thank you. Those were all useful opening statements.

**Irene Oldfather:** You have all expressed a view on the geographic focus. I want to widen the discussion a little. With a limited budget, we must direct resources clearly. The committee has been taking evidence on that. Several submissions have



highlighted the value of links—community to community or school to school—between organisations in Scotland and organisations in southern countries. Others have expressed concerns that those links do not bring equal benefits to both communities. What is the panel's view on such links? We have heard about projects that link schools that are not just about raising awareness, but have practical implications through the installation of water supplies and so on. Does the panel feel that such links are appropriate? Does any panel member have personal experience of that kind of school or community link?

**The Convener:** As with all questions, you can all choose to answer if you wish, but if you choose not to answer that is equally acceptable.

**Professor Struthers:** I do not have any direct experience of school-to-school links, but that is a good level at which to establish community links. The little experience that I have convinces me that there is a high degree of commitment and enthusiasm at that level. School children and teachers are often very committed to their local communities and there is an excellent opportunity through the curriculum, especially at secondary school level, to incorporate the sort of infrastructure developments that you are talking about—for example the provision of water, which is an important issue for us all at the moment. If you were looking for a vehicle through which to allocate at least some of the budget, that would be a highly appropriate thing to do.

**Iain Smith:** I was interested to hear Dr Thin's opening remarks about the need to look beyond small projects and civil society. I was going to ask what he meant by that, but he then expanded a little on the involvement of business and finance. How should business and finance get involved? What changes do we need to make to the Scottish Government's international strategy to encourage the business and financial sectors to get involved?

12:15

**Dr Thin:** It comes back to how we understand focus. Geographical focus is one thing, but there are two primary issues that we must bear in mind. First, what is Scotland's comparative advantage in improving conditions around the world, specifically in reducing poverty? Secondly, what is the Scottish Parliament's and the Scottish Government's comparative advantage, through the Government's international policy, in making Scottish organisations link up better so that they can work better in the south?

I can provide no convenient soundbites or examples of exactly how a wider range of organisations can be involved, but the greatest

good that the policy could do would be to facilitate partnerships that ought to, but do not, exist. One idea would be for the strategy to link up big, Scotland-based financial institutions that have an impact on poverty in the south with civil society organisations in Scotland and, through them, grass-roots organisations in poorer countries. That would improve financial institutions' understanding of the nature of their impact and enable them to make changes. Such changes would make a much bigger difference than small projects can make and would have an impact far beyond the impact that a £9 million per year scheme can generate.

We can maximise impact by establishing new kinds of partnerships and links between organisations that specialise in poverty reduction at grass-roots level and big organisations that work at a global level and have much more money and power. Those organisations might include military organisations. In Afghanistan, the military exerts tremendous influence and is trying to understand how it can do better by establishing links with civil society organisations. There is a range of possibilities, but when we are looking at the strategy we must not forget that the really big players—the organisations that have most impact on world poverty—are businesses, trading organisations, financial organisations, the military, crime prevention organisations and scientific organisations. Aid-based and grass-roots level organisations have relevant expertise, but they are not the whole story.

**Dr Carbone:** I strongly support those comments. My point relates not to Scotland specifically, but to the UK in general. Every year, the Centre for Global Development publishes a report on how the different donor countries rank in their commitment to international development. That commitment includes a number of issues besides aid. Scotland is included in the findings for the UK, which ranks very high on promoting investment abroad but very low on supporting the transfer of new technologies. I do not know whether the issue falls within the Scottish Parliament's remit, but I strongly encourage the committee to take action in this area. The UK ranks 18<sup>th</sup> out of 23 countries on transfer of new technologies, but first on promoting investment. We could benefit from action by the Scottish Parliament in support of technology transfer.

**Professor Struthers:** I strongly support Dr Thin's proposal to involve business and finance. I made a similar point at the meeting that I attended on 2 October. Dr Thin is right to say that we have some big companies, especially in the financial sector, but also in infrastructure sectors such as water.

With a limited budget, how do we go about linking our business community with the needs of developing countries? The answer is that that will happen anyway to some extent because companies want to trade where there are opportunities. We do not want to talk only about Africa, not least because Dr Huq is beside me and he comes from Bangladesh. I agree that we should not focus exclusively on Africa, but if we think about Africa for a moment, the rate of economic growth there was about 5.5 per cent last year. That is more than twice the rate that we achieved in Britain. There is potential for Scottish or British companies to trade more effectively with the growth sectors in African economies.

One way in which to encourage trade is to hold an annual investment forum with a focus on developing countries. I have a little experience of that through a tenuous link with an organisation in Switzerland called the Swiss Organisation for Facilitating Investments. The Swiss Government puts a tremendous amount of money into practical, business-oriented forms of development. We do not often think of Switzerland in that context, but it is very development oriented. My experience of that came about serendipitously because of my role as an external examiner for a course that Napier University established with SOFI. Among many other things, SOFI organises several investment fora each year and invites businesspeople from the developing world to attend them. The number of established business links that come from that is high. We could think about doing the same thing in Scotland, perhaps on a smaller scale.

I support the emphasis on business links. There are other priorities for the strategy, not least community links, which have been mentioned. Those priorities are not mutually exclusive, however, because when we establish good business links, they have beneficial repercussions for communities.

I strongly support the idea that at least part of the strategy should involve business communities. We need to do a bit more work on how to deliver that in a practical way.

**Dr Huq:** We need to bring in some players from the business sector and encourage some involvement from the non-governmental organisation sector. I was on the board of the Network of International Development Organisations in Scotland for a number of years. Here in Scotland, we have Lloyds TSB Scotland, which plays a role, but we have not been able to get the Royal Bank of Scotland or HBOS closely involved. Ireland is a small country but it is making a major impact internationally. In an age of globalisation, we in Scotland have an opportunity to do that.

I agree that if we do not extend the geographical focus, we will miss an important opportunity. Cairn Energy is very active in Bangladesh, which needs the support. We have a major product such as Robert Burns. Can we make him widely popular all over the world? I pick up Neil Thin's point about having a competitive advantage.

Scotland's higher education sector also can play an important part. John Struthers and I are closely involved in the Development Studies Association, and we in higher education should continue to play our part.

**The Convener:** Thank you. Just to reassure you, we will have a panel of witnesses from business.

**Alex Neil:** I agree with what John Struthers and Dr Huq said, but I want to probe them a little more. John Struthers rightly said that the overall continental growth rate in Africa last year was about 5.5 per cent, but there were wide divergences in the growth rates of different countries. For example, the growth rate of Nigeria is substantially greater than that of Chad. Perhaps we should look at countries such as Nigeria in terms of trade opportunities, as Dr Huq suggested.

Should we look at countries such as Malawi in the same way, or become involved in projects—one project will see the effective duplication, with private sector support, of the Prince's Scottish Youth Business Trust in Malawi—given that the total gross domestic product of Malawi is less than the total budget of Scottish Enterprise?

I accept the point about the need to get the business community involved, but surely we have to go further than that. Should we not be asking which way is the best way in which to involve the business community in different countries or in different sectors in those countries? Within the overall framework of trying to get the business community involved, where should our priorities lie? Should we be looking to set up initiatives such as the one to which I referred in Malawi—in effect, a Malawian version of the PSYBT—or should we be looking to trade or something else?

**Professor Struthers:** Your point about the problems that we face in choosing countries that we want to focus on is a good one. It leads me to qualify what I said earlier about the average rate of economic growth in Africa which, as you rightly said, is heavily dominated by the big economies, and not least by the South African economy.

I return to a point that Professor Briggs made on what may be called the forgotten states. With more than 120 million people, Nigeria has a huge economy and—

**Alex Neil:** And if it was better organised, Nigeria could make a much more substantial contribution to the development of the rest of Africa.

**Professor Struthers:** The point is an interesting one, but the answer is not simply either/or. In talking about trying to promote trade between Scotland and African economies, we should be looking not at the high-growth economies, but the medium-sized economies that show potential for growth. The rate of economic growth in a country such as Nigeria is assured, given that it is a major oil producer. Nigeria has experienced huge increases in its oil revenues, but the question about how it will use those revenues remains. Civil governance comes into play in that regard.

A number of African economies are in the middle-ranking position. I am thinking of West African countries such as Ghana and Sierra Leone. It is often the case that those countries have strong links with Scotland, just as Malawi has. The links were formed through historical connections such as church and other commitments that were made over centuries. Those links give us something on which to build.

We need to focus on countries that are in that middle-ranking position and not the Nigerias of this world. I am not saying that we should not interact with Nigeria, but that we should take a slightly different focus in our links with that country. It may be slightly controversial to suggest this, but we should look at countries that have had a significant period of political stability. Doing so would enable us to build on what is on the ground, politically and socially. If the right institutions are in place, we have a good starting point for the work that we do. If we were to hold a big investment forum along the lines that we discussed earlier, the Nigerias of this world would come along—indeed, they could fund it themselves.

Mr Neil is absolutely right: unfortunately, it is inevitable that some countries will miss out on the opportunities that we are discussing. Our limited budget means that we will have to be selective in what we do.

12:30

**Alex Neil:** It is obvious from the evidence that we took last week that some people want us to concentrate exclusively on Malawi—we can understand why—whereas other people think that we should focus on Malawi but, at the same time, spread our wings. There appears to be consensus so far that, if we spread our wings, it should be to other parts of sub-Saharan Africa—particularly to those countries that are adjacent to Malawi—rather than northern parts of Africa, central America, Latin America or Asia. We have covered the question whether or not we should focus. If we

spread our wings, should we do so only to sub-Saharan Africa and the countries that are adjacent to Malawi? Does anyone have strong feelings that we should try to spread our wings to other continents?

I know that Dr Huq is not prejudiced on the matter.

**Dr Huq:** Yes I am, coming from Asia. We have already become involved in Malawi. However, there is something that I find disturbing. I have made Scotland my home; my two children were born and brought up here. Some of you might not like this approach—I recall the lectures that John Struthers and I gave at the request of Des Browne two years ago—but China does not need any more aid, and India is coming out a bit. Even my poor Bangladesh will not need it in 10 or 20 years' time. However, if we do not play any role in those countries, Scotland will fail to make any impact.

**Alex Neil:** That is my point. Is our role in those countries already one of trade rather than aid, whereas our role in the sub-Sahara very much emphasises aid—and is not yet at a stage when we can shift towards trade?

**Dr Huq:** The two are interlinked. I point out the Scottish tea connection, and the jute connection through Dundee. Cairn Energy is now playing a role. I would say that there are two roles, one of which is trade. Some big players are involved, including the Royal Bank of Scotland and the Bank of Scotland. They can come on to the international aid scene; they can get involved.

The geographical focus is extremely important. As you suggested, there is probably bias on my part—and I am involved with some non-governmental organisations. It would be unfortunate if the geographical focus was not widely extended.

**Dr Thin:** Alex Neil asked where we should spread our wings to. As far as the geographical spread is concerned, I will not put my head on the block and suggest that you should do exactly this or that. However, I will say that the spread of funds is a non-issue. Of course that matters to one or two organisations, which may or may not benefit, but the spread of funds is not really the issue. Rather, the issue is the spread of attention and the reason why we spread our attention. If you focus your attention on direct poverty alleviation through grass-roots organisations, it will be drawn to the poorest countries of the world, where trade and scientific links—and bilateral aid, in some cases—are not working.

However, if you see your agenda as one of enhancing Scotland's sense of global social responsibility, improving how we contribute to social justice, reducing the harm that we might be doing, reducing our contributions to global social

injustice, and improving our understanding of our environmental responsibilities beyond Scotland's borders, those issues will command our attention. Those issues, which are morally compelling, are much bigger and more important than the direct alleviation of the symptoms of poverty.

We might well argue that there is not much point in having aid partnerships with India and China although, between them, they have far more poor people than sub-Saharan Africa does. India and China are also worthy of our attention because we can forge partnerships with them that really matter and make a difference on a world scale. In considering the geographical focus, we should consider not the spread of funds but the spread of our attention and of our partnerships.

**Professor Briggs:** The budget is an issue, as is the business side. On trade, Mr Neil spoke about focus. I will come back to that.

As has been said, if you strip South Africa out of Africa, you will see that the growth rates are a little more modest—except among one or two of the so-called African leopards, or whatever the phrase is that people are using these days. Scotland has had contacts with Malawi at governmental level over the past few years, and if you talk to Malawians, or people from a significant number of other countries, you will learn that trade is indeed an answer to many of their problems—but trade of what?

I agree with my colleagues that greater global visibility for Scotland would be fine. We all have to strive for that, especially at Scottish national level. However, I am concerned that, if our efforts become too diluted, we will not achieve that visibility. I support the notion of having a fairly contained regional focus, in order to try to make a difference, in terms of the alleviation of poverty, to a small number of countries. How that could be done is clearly for the committee to discuss.

People in DFID are incredibly jealous. They have said to me that we get a great bang for our bucks in Scotland. Our relatively modest international budget—even more modest than the one that we are talking about now—has achieved great publicity compared with DFID's enormous budget. I would love Scotland to work on a big international scale, but realistically we have to be more modest.

**John Park:** One thing that you learn quickly on this committee is that, if you do not put up your hand early in the meeting, the question that you were going to ask has already been answered by a number of speakers. In response to Iain Smith right at the start, Dr Thin spoke about a point that I was going to raise. However, coming back closer to what we do in Scotland, can the witnesses suggest ways in which we can innovate to

maximise the understanding of international development issues? How can we promote more widely the aims and achievements of policy on international development?

**Professor Struthers:** Those questions raise several issues around raising awareness of international development, which should be an objective of the strategy. As Professor Briggs hinted, it would not cost all that much money.

A part can be played by the existing structures and organisations in Scotland, not least by those in the academic world. In preparing for today's meeting and the meeting last October, I did quite a bit of research into the contributions of Scottish universities. One of the great things about Scotland is that the universities co-operate with one another very well. That happens partly through the work of the Development Studies Association but also through the new Glasgow centre for international development and other institutions in Scotland. A great deal of awareness raising is going on anyway, particularly at university level.

Even if the Scottish Government did not have its strategy, the work would continue. That manifests itself in, for example, the fact that record numbers of students are coming to Scotland. As I think I mentioned the previous time I came to the committee, that has been helped by the fresh talent initiative, which allows students to stay in Scotland for two years after completing their masters degree. That was a very good initiative by the then Scottish Executive. We see the benefits in our university, and I am sure that others see the benefits in their universities, too.

To some extent, that links in with the business community. Raising awareness and being innovative are a vital part of the strategy. That would not necessarily take up a large share of your budget, partly because a lot of the work is going on anyway in universities and other places. Being innovative in that comes down to highlighting the good practice in countries such as Malawi. Excellent links already exist.

**John Park:** Are other countries in the EU developing international development policies and projects? Are there ideas there for how you might innovate on regional awareness, or are we on the cusp of the issue?

**Professor Struthers:** Someone mentioned the Scandinavians and Ireland in that regard. There is a lot of good practice in other countries, and we and the committee can learn from that. As far as aid programmes are concerned, people quite often laud the Scandinavian model. The Norwegian Agency for Development Co-operation is often held up as a model, although those of us who do research on the issue may question how good a

model that is. Quite a significant degree of tied aid, for example, is associated with Norwegian aid. I am not criticising Norway in particular. Lessons can be learned by looking at other countries.

Dr Thin spoke about Scotland playing to its comparative strengths in education, business and finance. We have many things to contribute from our history, our education system and our business community. It would be useful for the committee to examine other countries—particularly the smaller countries, which have a similar budget to the one that is under discussion—and find out how they go about it.

**Dr Thin:** I have two suggestions. Again, they are rather general, but I hope that they will come to something. First, on how we optimise the constructive innovation on development awareness, one of the more radical suggestions among the responses to that call was that the whole budget might be spent on development awareness. That would probably be rejected as a bit extreme, and perhaps selfish on the part of the organisation that suggested it, but I feel strongly that that is where we can make one of the biggest differences. How do we do that well, however?

Ten years ago, the United Kingdom in general was appalling at development awareness, despite having one of the biggest non-governmental sectors in international development. The British public were not interested. The make poverty history campaign changed all that. How do we capitalise on that and keep that extraordinary momentum going? Lots of initiatives are going on, although I suspect that in Scotland those initiatives are still rather too strongly focused on schools. The issue of the school-to-school link was raised earlier. There are lots of good things that we can do with that, but the capacity of schools in poorer countries to respond to the demand from Scotland for links is pretty stretched in most of the countries where it has been done so far.

Development awareness needs to expand more empathically into public awareness, particularly among the adult population. In the coming years, I would like more strategic targeting of organisations and of the means through which the Scottish public—as consumers, as prospective players in business and as investors—learn about international development.

The second suggestion, which is a practical thing that could be done to enhance development awareness, is the linking of international volunteering and development-related volunteering in Scotland with development awareness more generally. We have a network on that through NIDOS, which we developed in response to the Russell commission finding two years ago that volunteering should be strongly encouraged throughout the UK. Scotland has

been a bit slower than England in responding to that challenge.

12:45

The countries that were mentioned a while ago as being good at international development partnerships and development awareness—Ireland and the Scandinavian countries—have much stronger histories of encouraging young people, as well as people who are at later stages in their careers, to volunteer internationally. Often, the way in which people develop a lifelong genuine and heartfelt commitment to the reduction of world poverty is through tangible personal experiences. We need to support good volunteering—not just school-to-school links that involve building a latrine at the back of some school somewhere, but innovative volunteering. Tremendous work is being done by, for example, Challenges Worldwide to enable people at all stages of their careers to volunteer as professionals and to learn as well as share what they know. Strong efforts must be made to link that volunteering with further efforts to generate public support for and awareness of development. That would give us a tremendous bang for our buck.

**Professor Briggs:** Mr Park talked about how to set up better partnerships. Speaking for the higher education sector—there is no special case for that sector in that regard, it is just the one of which I am most aware—one of the things that is happening, and for which it would be good to have the committee's support, is the creation of dialogues between the various institutions in Scotland to ensure that they can share their expertise. The Irish have done that well, as have the Scandinavians and the Dutch. Sharing that expertise enables the institutions to see where the real strengths lie and helps them to develop a pan-Scottish view of the matter. That approach has been relatively successful elsewhere in Europe and we are aware that some of our cousins in London—the so-called Bloomsbury group of institutions around the University of London colleges—are doing the same sort of thing. Sharing our expertise, knowledge and experience will enable us to produce something better than any of the universities could produce on their own.

Those initiatives are happening and they will continue to happen. However, it would be useful if the committee could express its support for those activities.

**Ted Brocklebank:** My question is about focus, but not geographical focus. I ask it against the background of the minuscule sums of money that are available.

In the written evidence that we have received, there seem to be two differing views about the way in which the money should be spent. The view that is, I suppose, coming out of Europe is that it should be spent on organisational budget support—which is to say, the money should be handed over and people should be left to get on with it. The other approach—you might think of it as the more Scottish approach—involves a project-based disbursement of the moneys. It would be useful to know what members of the panel think we should be doing with our limited funding.

**Professor Briggs:** From our perspective, because of the modest funding that is available as much as anything else, I would support the latter model. That is an odd thing for me to say—if my students were here, they would be surprised to hear me saying that, because I support the notion of budget support and even sectoral support, at a lower level, rather than project support. However, the amount of money that is available will be limited, even in countries with relatively modest levels of gross national product, as we heard earlier. That is why, in terms of impact, I take the latter view.

**Dr Carbone:** My opinion is completely different. I think that there are too many donors making too many visits to developing countries and that there is a lack of co-ordination among countries, even following the Paris agenda on aid harmonisation.

On development awareness, we have to go a little beyond the budget, which I see as a constraint in our discussions. When I talk about going beyond dealing with the budget that we have in Scotland, I mean that we can use the work of the committee to make a lot of noise. I have had a discussion with some people about organising a big event when the committee's inquiry is concluded in order to make a lot of noise not only in the aid community and with European partners, but within the Scottish Government. Policy coherence is a major concern in development circles, and development does not involve only aid, so there are a number of other issues that can increase the commitment. Scotland can play a major role in committing to international development.

We talked about migration. We are ranked low in the Centre for Global Development migration index. John Struthers argued that the fresh talent initiative was visible and played a major role, but the number of students coming from developing countries is still limited. They have to pay high fees. Something should be done across different policies in the Scottish Government. We should use the committee's work to raise awareness not only with the public—which is important—but across the Government.

My last point is about the role that Scotland can play in the European Union. As John Briggs said, Scotland has made a lot of noise despite its limited development budget. Let us build on that. I do not want Scotland to play an advocacy role or lobby, but let us work in European circles. As Neil Thin might know, there is a European Union budget devoted to raising development awareness. It is for NGOs to develop campaigns, but Scotland per se is not among the countries that benefit the most from that budget. If I was asked what I wanted to see from the committee's work, I would say that it would be to give more support to NGOs and to exploit the opportunities that already exist and of which Scotland does not take advantage.

**Dr Huq:** Ireland was mentioned. I have been involved with the National University of Ireland as an external examiner, and I go to Cork often. As John Struthers said, the question is how we can learn from the Irish experiences.

Our fresh talent initiative was a good innovation and it helped greatly, but another point that you have not raised relates to our home-grown NGOs. If we do not support them equally, a number of them will feel left out. The most important point is how we can make the highest impact with our limited funds while bringing other players into the scene.

I have a close involvement with Africa. With my family, I spent two years in Ghana at the University of Cape Coast. The University of Strathclyde and the University of Glasgow have also been on the scene. That is why I have emphasised that point—let us widen the geographical net and let us make an impact.

**Professor Struthers:** Let me come back to Mr Brocklebank's question on whether the focus should be on particular projects. Basically, should we have a project-based approach?

This is the economist speaking: I support that approach. However, which individual projects and initiatives should we support? Do we pick winners and support activities that are already successful in developing countries, or do we branch out and develop into new areas? I think—again, this is the economist speaking—that we have to pick winners. We should build on what already exists, not least because the Parliament, as you do not need me to remind you, has to be accountable for the use of the money. The support must be transparent.

That means building on existing strengths at a grass-roots micro level. For example, is there a water irrigation project that is successful and transparent and for which there are accounts that can be examined? Those are the projects that we should support. That is a strongly held personal opinion, but it is based on solid academic research

in economics. I know that it is a horrible phrase, but we must pick winners in this business.

**The Convener:** We must wrap up the meeting now, but I thank the witnesses for coming. The session has been useful, and I am sure that you will have significant influence on our thinking on the matter.

With that, I close this morning's proceedings.

*Meeting closed at 12:56.*





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