

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

Tuesday 27 May 2008

Session 3

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EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

11th 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)

*Patricia Ferguson (Glasgow Maryhill) (Lab)

*Alasdair Morgan (South of Scotland) (SNP)

*Irene Oldfather (Cunninghame South) (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 (Tw eeddale, Etrick and Lauderdale) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Lisa Bird (Scottish Government International Division)

Peter Campbell (Scottish Environment Protection Agency)

Almira Delibegovic-Broome (Faculty of Advocates)

Linda Fabiani (Minister for Europe, External Affairs and Culture)

Sarah Fleming (Law Society of Scotland)

Michael Howlin (Faculty of Advocates)

James McLean (Law Society of Scotland)

Matt Ogston (Scottish Environment Protection Agency)

Karen Wright (Scottish Natural Heritage)

CLERK TO THE COMMITTEE

Dr Jim Johnston

ASSISTANT CLERKS

Ian Cox

Lucy Scharbert

LOCATION

Committee Room 2

Scottish Parliament

European and External Relations Committee

Tuesday 27 May 2008

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

Interests

The Convener (Malcolm Chisholm): Good morning and welcome to the 11th meeting in 2008 of the European and External Relations Committee. We have received apologies from Ted Brocklebank and Iain Smith. I welcome Jackson Carlaw, who is here as Ted Brocklebank's substitute. As this is the first time that Jackson Carlaw has been to the committee, I invite him to declare any interests that are relevant to the committee's remit.

Jackson Carlaw (West of Scotland) (Con): I have nothing to declare, other than what is in my entry in the register of members' interests.

The Convener: The first agenda item is to welcome Patricia Ferguson as a new member of the committee. I invite her to declare any interests that are relevant to the committee's remit.

Patricia Ferguson (Glasgow Maryhill) (Lab): I suspect that I do not have anything to declare but, just to be on the safe side, I should say that I am chair of the cross-party group in the Scottish Parliament on international development, a member of the cross-party group in the Scottish Parliament on Malawi and a member of the Scotland Malawi Partnership.

International Development Inquiry

10:01

The Convener: Agenda item 2 is to continue our inquiry into international development. I welcome the Minister for Europe, External Affairs and Culture, Linda Fabiani, from whom we will take oral evidence as part of our inquiry. I welcome Lisa Bird, the head of the international development branch, who is accompanying the minister. I invite the minister to give an opening statement.

The Minister for Europe, External Affairs and Culture (Linda Fabiani): I have followed with interest the committee's inquiry into international development and I look forward to reading the report. I will provide a brief overview of the Scottish Government's international development policy, which we published on 7 May. The plan forms part of the wider international framework and illustrates the Government's commitment to Scotland being a responsible nation and playing our part in tackling the global issue of poverty and in facilitating economic growth for all. The new development policy illustrates our vision for the Scottish Government's contribution and provides a clear set of objectives, which are to be delivered through six distinct programmes of work. The policy will determine the use of the international development fund, which we have increased to £6 million in the present financial year, £6 million in the next financial year and then £9 million in 2010-11.

I will talk briefly about each of the six elements. First, we have identified a new sub-Saharan Africa development programme that will focus on Zambia, Tanzania, Rwanda and Sudan. Those countries, as do others in the region, experience acute and persistent poverty, characterised by a lack of access to health care, few educational or vocational opportunities and, ultimately, low life expectancy. The comparative situation in each of the four countries is made clear in the latest United Nations human development report. Although Scotland alone cannot solve all those problems, we have a distinct and valuable contribution to make.

Many countries in sub-Saharan Africa have strong links with Scotland, some historical and some more contemporary. The Scottish Government is keen to build on those relations and, importantly, on existing work between organisations in Scotland and the four countries. We will therefore look to established organisations in Scotland to deliver strategic programmes in the countries through a block grant system. We are adopting a very different approach. We will not run

regular funding rounds for the programme or establish direct Government relationships or co-operation agreements. Through a competitive process, we will select organisations or consortia to hold block grants, but will then devolve responsibility to them to develop targeted programmes, with the proviso that they must represent the interests and development priorities of those countries and be responsible for monitoring all activity within the block grant.

The second element of the policy is the Malawi development programme. The Government confirmed its commitment to Malawi at the outset and I confirmed the commitment with the Government of Malawi on taking office and during my visit to Malawi in February. We supported the commitment with our early decision to ring fence at least £3 million per year for Malawi from our increased budget. That has been received warmly by the Government of Malawi. Officials are working on the detail of future funding priorities across the four strands of the co-operation agreement.

I stress that the Government will continue to work in partnership with the Government of Malawi. We have agreed that we need to develop a more focused programme of activity across the four areas of the agreement. We have responded to the Government of Malawi's request at the most recent Scotland Malawi joint commission talks for us to invest more in economic development. I am pleased that we have been able to do so by supporting several new programmes, including the Malawi enterprise programme, led by the Scotland Malawi business group, which includes a unique and truly innovative project to work with young Malawians who wish to set up new businesses. We also have supported microfinance through Opportunity International by match funding the contribution of individual donors and thereby unlocking £415,000 of European Union funding. We will continue to ensure that economic development receives due attention.

The third element of our international development policy is to support networking and information exchange in Scotland. I can announce that we have agreed a three-year contribution to the core funding of the Network of International Development Organisations in Scotland—NIDOS—and the Scotland Malawi Partnership, of £147,000 and £158,000 respectively. The allocation to NIDOS will support networking, information exchange and, most important, the dissemination of information on best practice.

The support to the Scotland Malawi Partnership will help it to build capacity to act as a resource for any individual or organisation that requires information regarding Malawi. It will also enable the partnership to build further its database of

those working with Malawi, including its current database on schools partnerships. Strengthening that information resource will facilitate more effective collaboration and exchange of information in Scotland. For the partnership's work in Malawi, we have allocated a small sum of money to enable it to consider whether a business case exists for additional support for its information exchange activities in Malawi. On a related point, I confirm that a database that covers activity throughout Africa, which was supported from the international development fund, has now been completed by the centre of African studies at the University of Edinburgh. We are discussing plans for the database to be launched—it will be accessible free of charge.

The fourth component of the new policy is the fair trade Scotland programme. The Scottish Government is committed to Scotland becoming a fair trade nation. The commitment will be delivered through the Scottish Fair Trade Forum, which will drive forward the fair trade agenda in Scotland.

The fifth element clarifies the Scottish Government's role in responding to international humanitarian crises. Our response will be unique to each situation and will be considered on a case-by-case basis, in discussion with the Disasters Emergency Committee, the Department for International Development, the Foreign and Commonwealth Office, relevant non-governmental organisations and, where possible, the advice of the country that is involved. We will be ready to assist when appropriate, as we confirmed recently with regard to the situations in Burma and China.

The sixth element of the new policy is a new programme with the Indian sub-continent. Scotland can be proud of its diverse ethnic and cultural identity. By developing a new programme with the Indian sub-continent, we will continue to build a strong, fair and inclusive national identity, while expressing solidarity with communities that are represented in Scottish society. We have not made final decisions on specific countries or allocated specific funding to the programme at this stage. Although post-disaster work has been carried out in the area previously, the programme is in essence new and officials will hold wide-ranging discussions with key stakeholders in the coming months to develop the programme and consider relevant funding mechanisms. We will also consider existing work and other opportunities.

I will confirm the process for implementing the programmes. Many of them are under way, but officials will meet with NIDOS and the Scotland Malawi Partnership next week to seek their views on the specific funding criteria that should be used to support the sub-Saharan Africa and Malawi development programmes. Work on the Indian

sub-continent development programme will begin once those programmes are under way. Funding criteria and the accompanying guidance for all six programmes and relevant funding information will be published on the Scottish Government website.

I hope that that has provided the committee with an overview of our new focus and of the new areas of activity. The needs of developing countries are of paramount importance to us, and we will continue to work closely with organisations in Scotland to help Scotland to play its part as a responsible nation, doing what is right and assisting in the global effort to address the challenges that are faced by the developing world.

The Convener: Thank you, minister. There will be lots of questions about the various funding streams, but I will ask a broader question to start. Previously, the international development policy was about more than just funding streams, important though they are. Awareness raising and education have been regarded as an important part of policy in this country. When Kadie Armstrong from the International Development Education Association of Scotland came to the committee, she said:

“from an education and awareness-raising point of view, there is not a lot in the international development policy to be positive about.”—[*Official Report, European and External Relations Committee*, 13 May 2008; c 648-49.]

I thought it important to raise that point at the beginning. How would you respond? Could you clarify why the policy does not appear to address awareness-raising issues, which have been a key aspect of the committee's inquiry as well as of the previous policy?

Linda Fabiani: Government has to be realistic about its role. We are funding the Scotland Malawi Partnership. There is a particular reference to Malawi because of the many links that civic society throughout Scotland, in all its forms, has made with Malawi. As a partner that is funded by the Scottish Government, the Scotland Malawi Partnership will be carrying out that role. We have provided additional funding to allow the database that I mentioned earlier to become much more of a resource for members of the partnership. That will be useful in itself.

We are very strong on helping to raise awareness and create links. It is important that any policy is tightly focused on what it wishes to achieve. The practice that develops beyond that will be varied. We continue to work with schools, colleges and universities as part of the wider awareness-raising work.

The Convener: This is a related question, although it broadens things out. We have heard a lot of evidence to suggest that, to be effective, the international development policy must not stand

alone but should form part of a wider strategy within Government policy as a whole. Do you agree with that approach? If so, can you provide details to the committee about how it will work in practice? In particular, does the Government intend to conduct an international development impact assessment of its policies in general and will international development issues be mainstreamed across all Government departments? The last part of that question perhaps refers to education in particular.

Linda Fabiani: International development is part of our international framework, which sits in the First Minister's office. That is a mark of the importance of these issues to the Government, because everything in the First Minister's office is mainstreamed across Government. For example, education colleagues are working on international development issues for education. Health officials working in the department of Nicola Sturgeon, the Cabinet Secretary for Health and Wellbeing, are working on international development issues with health colleagues elsewhere. That work carries on.

I will turn to Lisa Bird on the subject of impact assessment. We are currently carrying out an assessment with Learning and Teaching Scotland, I think it is, which is heading up the monitoring of what has been happening so far and of the continuing impact of the international development policy.

Lisa Bird (Scottish Government International Division): It is actually LTS International, an organisation that was involved in setting grants previously. LTS International is working with us to develop a wider framework for evaluating the programme. It is currently examining a selection of projects that have been funded in Malawi, and we will get results from that work in the summer, which will inform a future programme.

10:15

Alex Neil (Central Scotland) (SNP): I am interested in developments in the sub-Saharan countries and in the Indian sub-continent. Let me deal with the Indian sub-continent first. Are we talking about India, Pakistan, Bangladesh and also Sri Lanka? Are any other countries in the region included? You rightly said that we are not considering the programme as a funding stream, but as a key part of our strategy, as we build relationships and see what we can do. Could you expand on the Indian sub-continent strand of the policy, please?

Linda Fabiani: We felt that strand to be very important. It will include the countries that you have mentioned. There are hugely strong links between Scotland and the Indian sub-continent

that should be recognised. There is also realism. We recognise the vastness of the Indian sub-continent and we do not want to rush into an Indian sub-continent programme. It is very new. We have to take time to consider where Scotland's specific skills can best be used. We have already started discussions with the consuls general of India and Pakistan and the honorary consul of Bangladesh, who are based here. Those discussions will continue.

There are charities and non-governmental organisations in Scotland that have been working in the Indian sub-continent for many years. We are listening to their advice and finding out where we can best help. The communities from the Indian sub-continent who are resident in Scotland are extremely important. It is crucial to work with those communities to best advantage.

Alex Neil: I am particularly interested in that, because I was brought up in Patna, which was named after the capital of Bihar state in India. I hope that there will be links between Patna in India and Patna in Scotland.

Turning to the sub-Saharan countries, you mentioned that some recent programmes in Malawi have been structured in such a way as to leverage in additional resources, particularly from the European Union, which I think is a big plus. Could the programmes for the other four sub-Saharan countries be tailored in such a way as to attract such resources—and not necessarily just from the European Union? Given that we have a very small budget for international development in relative terms, we should try to leverage in either private sector, third-party or European Union involvement where we can. I am not saying that we should try to tailor our programmes based on that but, where we can, the more resources that we can leverage in, the better.

As I said, I am interested in the four sub-Saharan countries. I understand why you are not adopting the co-operation agreement method. In determining where we are going to assist, have we had discussions with the four Governments concerned or with NGOs working in the four countries? In other words, how are we determining what people in those countries perceive to be their needs, rather than what we perceive to be their needs, to ensure that what we do is consistent with what the countries themselves are hoping to achieve?

Linda Fabiani: It is incredibly important to seek match-funding opportunities all the time. As you said, that would not be the main criterion for doing work in any of those countries, but we should take any opportunity that is presented. I was particularly delighted about the example that I mentioned in my opening remarks. We managed not just to get individual allocations of match-

funding for the Government's contribution, but to get European Union funding unlocked, too. That is the sort of model that we should be proceeding with, certainly in relation to the four sub-Saharan African countries outwith Malawi.

We have not had discussions with those countries' Governments, but we have had discussions with NGOs working in those areas. It is an important element to use the expertise that is already there. In our relationships with those four countries, our work should be outcome driven, as we use the experience of the organisations that are already working in the field. Our relationships with the four countries will be very different from the relationship that we have with Malawi, for which we have the joint working agreement.

Any opportunities should be taken to use one of the four countries for the assistance of another and to keep relationships going. As an illustration, Tanzania has some fairly good universities, and I would think that it would be useful to have a programme for Malawian, Zambian or Rwandan students to tap into the Tanzanian universities, rather than have them go to South Africa—or indeed Europe—for their studies. We have been considering that idea lately. Such co-operation between countries in that region is extremely beneficial in itself.

Gil Paterson (West of Scotland) (SNP): In our evidence-taking sessions, we have heard conflicting views. We have been told that, rather than being too ambitious, we should use our resources in only one country and, even then, devote them to only one initiative. However, from what you say, I gather that we are going to broaden our horizons and spread the few resources that we have even further. Might we be spreading our expertise and resources too thinly, considering that our resources are small compared to those of other countries?

Linda Fabiani: Leaving Malawi to one side, because we have a specific commitment in that regard, the policy is more focused and tighter than it was before. The naming of the other four countries is a new step. Previously, the policy covered the whole of sub-Saharan Africa, so we have not expanded our reach. We have also doubled the budget over the course of the Parliament, so additional resources will be available.

On Malawi, I have heard it suggested that we should focus on only one thing, such as maternal health or primary education. However, the arrangement that we have with Malawi involves a co-operation agreement between the two Governments. When I was in Malawi in February, I noted the commitment that my counterparts in Malawi had to the four strands that already exist. It might be possible for us to focus on elements

within those strands, but, under the co-operation agreement, it is not for us to say what we are going to do in Malawi. Everything must be done in the context of agreement with our partners—at the end of the day, they are the ones who are important.

Targeting within the other four countries will also be important. That is why I want to use the expertise that the agencies that are already working there have built up, whether they are charities, NGOs or the Scottish institutions that have a presence in those places. We are keen to develop a consortium approach that will enable those organisations to work together.

It is easy to say that we should focus only on vocational education, for example, but how can someone study if they are the person who has to work to bring in money to feed the rest of the family? The consortium approach will enable us to consider the broader work that needs to be done to enable the central aspect to be properly carried out.

Gil Paterson: There is no doubt that the Malawi initiative has been a tremendous success. I hope that the Government will learn lessons from the experience of the previous Executive. From our evidence-taking sessions, it is clear that the beneficial effect of the small resource that we have has multiplied a hundredfold. The Malawi initiative captured the Scottish imagination. However, was that a one-off, or can the experience be repeated, with more resources from commerce, industry, universities and so on factored in? Something really special happened with Malawi, and I would like us to be able to repeat that.

Linda Fabiani: Undoubtedly, there is something special about the relationship between Scotland and Malawi. That has always been the case. We should not underestimate the quiet sense of partnership that has existed between civic Scotland and Malawi since the days of Livingstone, when Malawi was known as Nyasaland. What happened a few years ago was that we managed to pull that together into the co-operation agreement between the Scottish Executive and the Government of Malawi. Regardless of who was in Government at the time, the time was right to re-examine the existing relationship, learn from what had been happening and move forward in a more focused way. That has been welcomed by the Government of Malawi.

With regard to what we might do in other countries, we can learn good practice from what has been done in Malawi. However, we do not have any intention to try to replicate what we have in Malawi elsewhere. We have to approach these things step by step and see how they build up.

Alasdair Morgan (South of Scotland) (SNP):

The fair trade programme seems to involve support being channelled through the Scottish Fair Trade Forum. That would seem to indicate that consideration is being given to the supply side of fair trade. Is that correct? What do you see the fair trade forum doing with the support that you are giving to it?

Linda Fabiani: The fair trade forum is spearheading the fair trade movement in Scotland, with the ultimate aim of Scotland becoming a meaningful fair trade nation. The fair trade forum is being funded as a sort of service organisation for all those involved in fair trade in Scotland. For example, local fair trade groups look to the forum to head up some of the work that they are involved in. It is almost like a membership organisation, I guess. It also promotes fair trade and raises awareness of the issue, in the interests of international development, which the convener mentioned earlier.

Alasdair Morgan: Clearly, the Government should not need its awareness raised. However, when he spoke to us at our previous meeting, John McAllion criticised the Government's public procurement policies because they did not include fair trade in their tender criteria, which he thought that it would be possible to do. What is your view?

Linda Fabiani: There are technical issues under European procurement rules. A House of Commons committee considered the matter and submitted a report, which I understand is under consideration by the Department for International Development.

We know that other European Governments have specified that fair trade goods be sought. We are always investigating such matters. I have had meetings with our procurement people to ask whether we are taking full advantage of how the procurement arrangements work in relation to fair trade and I know that our counterparts in Westminster are doing the same thing. We are constantly looking at how we can improve. Indeed, the First Minister said in the chamber last week that we would monitor this issue. We all want to be able to be fairer with regard to procurement.

Irene Oldfather (Cunninghame South) (Lab): I apologise to the committee and the minister for the fact that I arrived late; I had some travel difficulties this morning.

I have two points that I would like to raise. The minister said that the international development advisory group that will be set up will draw on the experience of the external international development sector. Can she give us an assurance about the involvement in the process of the NGOs that have a wealth of experience in this area, such as the Scottish Catholic International

Aid Fund and Oxfam, from which the committee has taken evidence?

The funds have been set up in accordance with the three strands of the international development policy, which involve challenge funds, targeted competitive tendering and block grant funding. How will the money be allocated across those three strands?

The minister might be aware that the committee took evidence from Malcolm Bruce MP, who chairs Westminster's International Development Committee. He said that countries that have a small civil service and a weak civil society should not have to spend too much time preparing bids for challenge funds. Has the minister given any consideration to that view? Has she thought about providing funds directly to the Governments of the countries that we are involved with, so that they can decide how they want to spend the money, or to the NGOs, which have an administrative and social structure on the ground?

10:30

Linda Fabiani: I think that you raised three issues.

Irene Oldfather: I said that I had two questions, but perhaps I asked more than two.

Linda Fabiani: I am working out how the two advisory groups can be best used to capture the experience that is out there and inform me about it. I want the group that deals specifically with Malawi to be a close ministerial group; Malawi is special, and I want folk on that group who will bounce around ideas and work out the best way forward. The wider group will include much wider representation and will consider the overall international development policy. I hope to firm up our proposals on that soon and to ask people whether they would like to come on board.

You asked about funding. Lisa Bird will talk about the specifics of that, because she will discuss such matters with NIDOS and the Scotland Malawi Partnership in the next couple of weeks with a view to finding out how we can best work out the funding. Our policy is not to provide funding straight to Governments. The question takes us back to recognising that Scotland already contributes to DFID. Malcolm Bruce would talk about the format that many of the DFID programmes use. What we are doing is additional, enhancing and specific to Scotland. The Government would not consider providing funding straight to Governments. Our policy is to go specifically to the grass roots all the time, through our NGOs.

On civic society and governance, I can give an example from Malawi, where we are funding the

Scottish Council for Voluntary Organisations to work closely with its counterpart CONGOMA, which is, of course, much less strong than the SCVO. The capacity building and working together there seem to be fairly successful, and that is quite a good model. We should use the expertise that we have in this country to help build up and inform similar organisations elsewhere.

Lisa Bird: Irene Oldfather asked about the allocation of funding for the block grant programme for sub-Saharan Africa. We have not finalised the exact amounts of money for each country yet, but we are looking to have a block grant for three years for each of the countries. We will talk to the Scotland Malawi Partnership and NIDOS in particular about the matter next week; we will then talk to NGOs and other organisations that are involved in the area, because we want to ensure that people can respond to proposals and that we get a feel for the size of the programme that people could manage. The money will, of course, come from the remaining £3 million for each year that is not for Malawi work. We need to work out in more detail with people what is manageable and what will achieve results for us.

Irene Oldfather: Will each of the three funding mechanisms pay out a third of the funds?

Linda Fabiani: Malawi is always separate, of course, and we have said that at least £3 million of ring-fenced funding is guaranteed for it each year. There is no specific ring fencing beyond that for anything. Is that right, Lisa?

Lisa Bird: That is correct.

Irene Oldfather: Will things simply depend on what bids come in? How will you decide, for example, how much the challenge funding will be or how much the targeted competitive tendering budget will be?

Lisa Bird: The Malawi programme will operate mainly on the challenge fund model, for which there is a fixed minimum of £3 million. If enough bids are not achieved on the topics that have been agreed with the Government of Malawi, we will move to more competitive tendering. That is how the model will work with the minimum of £3 million. The block grant funding process will be one process at the outset for achieving bids for three years for each country. There is no challenge fund for the sub-Saharan Africa programme—it is purely a block-grant programme.

Patricia Ferguson: I am particularly interested in the Indian sub-continent developments. The minister correctly identified the scale of the problem in the Indian sub-continent; a third of the world's poor live there. If we cannot tackle that problem collectively, it is obvious that we will never achieve the millennium goals, never mind anything else. Given that DFID is investing some £825

million over the next three years in the Indian sub-continent, what discussions have taken place to ensure that any moneys that we make available will complement what it is doing and will not simply be lost in trying to deal with problems on such a scale?

Linda Fabiani: I reassure everyone that we have the same very good working relationship with DFID and the FCO as existed previously. Our policy has been advanced in consultation with DFID, because there is no point in doing anything that does not complement what DFID is doing. Similarly, our Indian sub-continent work will be done with reference to DFID's existing programmes. We will talk things through with it.

Patricia Ferguson: Have you started to think about areas in which work might be done?

Linda Fabiani: We are formulating things and taking soundings from people who are already working out there.

Patricia Ferguson: One of the main purposes of the Scottish Fair Trade Forum is to raise awareness. In light of what you said earlier, is there not a slight contradiction in the Government's overall policy? I am trying to think through what was said. The convener asked whether people in Scotland are still trying to raise awareness, but I got the impression that raising awareness is not a priority. If we are funding the Scottish Fair Trade Forum to raise awareness, is there not a slight contradiction in the policy?

Linda Fabiani: Raising awareness is always a priority, and it happens from day to day as we implement our policies. The Scotland Malawi Partnership, for example, raises a lot of awareness about Malawi. Links with Malawi exist throughout Scotland, and we constantly raise awareness through our education and health departments. The University of Edinburgh's centre of African studies has now completed a database on Africa, which is another awareness-raising tool that will be used. Awareness is being raised all the time.

Patricia Ferguson: With hindsight, would it have been slightly more reassuring to organisations that work in the fields of education and awareness raising if awareness raising had been mentioned in the policy?

I will move on. Have you and your department considered when Scotland will become a fair trade nation? I know that there have been significant moves forward on that.

Linda Fabiani: First, we have received positive responses to our international development policy from right across the field. Partners have not raised the issue of a lack of awareness raising.

Secondly, it is, of course, very much in the hands of the Scottish Fair Trade Forum to give us advice on Scotland becoming a fair trade nation. However, I think that a general feeling exists that we should not set a target or say, for example, that Wales is nearly there, so we must hurry up. The issue has always been making such a move meaningful, considering the criteria that have been set and saying, "Right. Let's work towards and beyond those criteria." The view that we should not be tokenistic is held throughout the field, from grass-roots fair trade organisations and communities in small fair trade towns and schools through to the organisations that head up the Scottish Fair Trade Forum. Their view is that it does not matter how long it takes for Scotland to become a fair trade nation, as long as being such a nation means something.

Patricia Ferguson: It is reassuring that we are not rushing headlong to try to achieve such a target. We are talking about a journey. The more people we can take with us on that journey, the better it will be.

The Convener: Who did the Government consult in developing the policy? Have the consultation responses been made public and, if not, will they be?

Linda Fabiani: Lisa Bird will respond, as she has been in the front line of that activity.

Lisa Bird: The review was open to all organisations and individuals, all of whose responses will be published on the website.

The Convener: Although that is reassuring, I reinforce Patricia Ferguson's comment. We hear what you have said about not only awareness raising but mainstreaming and other issues, but some people—I will not quantify how many—think it a bit odd that awareness raising was not mentioned in the document. The document can no doubt be supplemented by your remarks.

In response to my question on mainstreaming, Lisa Bird referred to a review of some projects in Malawi. I am not sure whether that has anything to do with mainstreaming, but it is certainly an interesting development. How many projects are being reviewed? When will we receive the results? Any information about the review would be welcome, because I do not think that it has been mentioned in the public realm before.

Linda Fabiani: Lisa Bird will say more about the review, which is being conducted by LTS International.

Lisa Bird: After reviewing the six-monthly and annual reports of all the projects that have been funded in Malawi, LTS International is looking in more detail at a number of projects with the aim of putting together four case studies, some of which

will cover more than one project of similar type. That review will be available some time this summer.

The Convener: Will you say a bit more about the response to international humanitarian crises? Given the timescales for responding to such incidents, some people raised their eyebrows when they heard about things such as formal proposals and assessment processes.

Linda Fabiani: Our basic response to all humanitarian crises is to consult and take the advice of the Disasters Emergency Committee. For example, in the case of Burma/Myanmar, there are, as we all know, various specific political problems involved in getting international development aid, disaster relief and so on into the country. When we met representatives of the DEC, we were able to assure them that, if it came to us and said, "We think that your Government can help in this manner", we would be ready for action. Every humanitarian disaster has to be looked at individually and, as what has happened in Burma/Myanmar has shown, each case is likely to have very special and specific circumstances.

After the tsunami in Sri Lanka, Scotland sent out a lot of expertise to help with the situation. That is the kind of activity that we stand ready and willing to facilitate and, if necessary, co-ordinate in relation to Burma/Myanmar or, indeed, China.

Jackson Carlaw: Gil Paterson spoke about engaging the business community. As someone who was involved in business for more than 30 years but was never particularly attracted to chambers of commerce or some of the other organisations in which one is supposed to posture, I wonder what you think about such engagement. You said that all of this has captured the imagination of people in Scotland, but some of the many Scottish businesses that are still run by Scottish people might not wish to contribute in the ways that have been laid out. Do you think that the route lies in the traditional points of contact such as the chambers of commerce and the Confederation of British Industry, or is there an opportunity to take a fresh approach that appeals to a broader range of businesses that might wish to contribute to something that is as practical in its outcome as you have suggested?

Linda Fabiani: That question is very useful, because this area holds a lot of potential that we can help to unlock. Chambers of commerce and professional organisations in Scotland already have links with their international counterparts—for example, Rotary International is huge—and that work has been going on for decades.

That aside, what can Government do to assist in opening up other links that might bring benefit? In that respect, the Scotland Malawi business group,

which involves businesspeople in both countries, has been a success. During my visit to Malawi, I was able to see some of what was going on and I was very much heartened by the emphasis on encouraging young people in the country to set up their own two, three or four-person businesses and to work up from there. In fact, I believe that that is the way forward.

10:45

As with everything, we need to look at this in the round. In Malawi, after primary education, those who are fortunate receive secondary education and the really fortunate then receive vocational education. The question is what happens after that. Trying to fill that wee gap by providing people with the facility to set up businesses is a useful way forward. What is particularly good about the scheme is that it is run by businesspeople, who also offer mentoring facilities and hard-headed business sense.

In a scheme with Opportunity International, for which we have managed to unlock other funds, we are providing people with the very basic facility of having bank accounts, which means that they can receive microfinancial services. Moreover, a fairly small business in Fife has, through discussions with and advice from our officers, now become involved with the Chisomo children's club, which works with street children in Malawi. Perhaps Lisa Bird will write down the name of the firm for me so that I can put it on record.

When I spoke recently to the director of that firm—which, I can now tell the committee, is Shackleton Technologies—he told me that his workforce is immensely enthusiastic about making that input and forming such partnerships. That is another way in which we can create important business links.

Another reason why I am happy for NGOs to consider three-year funding blocks is that such an approach will allow me to free up some staff in Scotland to take advantage of these opportunities. Involving businesses of all sizes is, after all, an extremely important and quite natural progression from involving schools, colleges and churches.

Jackson Carlaw: As the minister's last example shows, this is certainly an area with huge potential. Some businesses might not want to get sucked into the wider orbit of the committee work that is involved in participation, but they might have workforces that are large enough to become, like schools, involved and engaged in a specific project. They form a particularly strong and as yet untapped resource that needs to be accessed.

Linda Fabiani: The fact that Government funding is involved provides some comfort about the governance and monitoring of projects and

helps businesses to get over their reluctance about being involved in something that is not only very new but on the other side of the world.

Patricia Ferguson: Such relationships offer great opportunities for both sides to gain in different ways. Have any measures been introduced to encourage the application of fair trade principles? Are you comfortable with what is happening at the moment?

Linda Fabiani: That is a very good point. When, over the past few years, I have visited various places in Africa, I have found awareness of fair trade to be extremely low. However, I have been heartened by recent signs that, after all the work that people have put in for many years, there seems to be much more recognition and understanding of fair trade principles in workplaces in Africa. Indeed, when we visited the south of the country in February, we spoke to two tea plantation owners who had committed to moving to fair trade.

As I said, it has happened slowly, but there is now more recognition of fair trade principles. The member certainly makes a good point: in creating links with Malawi or elsewhere, we should always ensure that we raise awareness of such principles.

Patricia Ferguson: If we are encouraging businesses from Scotland to become involved in the work that is being done in Malawi and other countries, are we encouraging them to embrace fair trade principles as part of that?

Linda Fabiani: I am not aware of our having any great relationships over the years with companies that are going out and working in Malawi. However, if we start to have such dialogue, we should certainly take on board the issue that you raise.

The Convener: I asked you about consultation. Did you make use of the evidence that the committee has taken? We have been undertaking an inquiry for a few months and we should report by the end of June. Was the evidence that we took of any use to the Government?

Linda Fabiani: Yes, of course. The committee inquiry and our policy development have been happening in tandem. Many of the people who gave evidence to the committee were our consultees.

Lisa Bird: We certainly made good use of the evidence that the committee took.

The Convener: One of the people who gave evidence was Jack McConnell. He made the straightforward, specific suggestion, which I think was echoed by the Honorary Consul for Malawi, that the Scottish Government should put a Scottish representative in Lilongwe who could assist in the development of Scotland's

relationship with Malawi and the execution of our international development policy in that country. Is that being considered?

Linda Fabiani: That has been talked about ever since the then Scottish Executive and Scottish Parliament developed an international development policy and it seems to have come up again. I had this discussion with the current British High Commissioner to Malawi when I was out there this year. As far as I am concerned, Scotland pays its taxes; it makes its contribution to DFID and the British High Commission for representation in country. The British High Commissioner to Malawi is there to work for all the component parts of the United Kingdom, so he is there to work for Scotland. I do not think that funding someone to work in Malawi, with all the on-going costs that that would entail, should be part of our international development policy. It is more sensible to fund the building up of the appropriate civic organisations in Malawi to ensure that things work better. That includes, for example, the work that is being done with the SCVO and CONGOMA—the SCVO's equivalent in Malawi. A lot of the different organisations that we use already have people working in the country who are perfectly capable of monitoring the work that is being done.

The Convener: Jack McConnell also referred to volunteering. He said:

"In the medium term, national support for the pension contributions of public sector professionals who want to volunteer abroad for a year or two would be a great incentive to increase the number of people who do that. That requires a national fund rather than a grant to another body."—[*Official Report, European and External Relations Committee*, 15 April 2008; c 573.]

Would the Scottish Government consider providing national funding for pension contributions for Scots who volunteer abroad?

Linda Fabiani: That has been under discussion for a long time with the Department for Work and Pensions and its Scottish equivalent. It has been said recently that people who worked for Voluntary Service Overseas were disadvantaged in that regard. A VSO and national health service pilot partnership, which finished in March 2008, was aimed at encouraging NHS Scotland staff to go out to Malawi. However, it was not as successful as expected and the target number of staff going out was not met, so there was an underspend. We have agreed that VSO can carry on with that.

The discussion on pensions in relation to VSO and the health service and the teaching profession is on-going. I think that another pilot scheme was announced recently by the Department for Work and Pensions.

Lisa Bird: The Department for International Development recently announced a wider scheme, which is for any public sector worker.

Patricia Ferguson: I think that Jack McConnell was talking about superannuation, rather than pensions as such. I think that that area was covered by the VSO pilot group. Perhaps he was suggesting that that might be considered further.

Linda Fabiani: So he was talking about superannuation rather than pensions. I do not know the answer to that, but perhaps Lisa Bird does.

Lisa Bird: No.

Patricia Ferguson: I presume that that is what he meant.

Linda Fabiani: We will certainly look into it after the meeting.

The Convener: How will the Scottish Government measure the impact of the mainstreaming of international development policy across its departments?

Linda Fabiani: I will pass to Lisa Bird to explain the detail of that. We have been discussing the matter. Although different departments are doing different aspects of international development work, it is important that we have someone heading that up—Lisa Bird is doing that—to ensure that we are aware of everything that is happening and that we are not duplicating or crossing over work and creating difficulties.

Lisa Bird: We will continue with six-monthly and annual reporting. We will refresh the documentation for that in discussion with NIDOS when we meet next week. We will also build on project level reporting and consider what wider evaluation we can undertake. That will be very much informed by the discussions with NIDOS and the results of the initial work that LTS International is carrying out for us.

The Convener: I thank the minister and Lisa Bird for giving evidence. That was the last session in our inquiry. We will report within the next few weeks and I am sure that we will continue our discussions in the light of our report.

10:56

Meeting suspended.

11:03

On resuming—

Services Directive Inquiry

The Convener: Item 3 is evidence as part of our inquiry into the transposition of the services directive. I welcome the first panel of witnesses. Almira Delibegovic-Broome and Michael Howlin are from the Faculty of Advocates, and Sarah Fleming and James McLean are from the Law Society of Scotland. I thank you all for coming and invite you to give your opening statements.

Michael Howlin (Faculty of Advocates): My opening statement is that we do not propose to make an opening statement. I say that not out of any disrespect for the committee but because the faculty's position is that it does not come here with an axe to grind or an image to present. The faculty can see something that, judging by background papers that I have seen, is glaringly obvious to the committee already, which is that the task for the Scottish Parliament or the Scottish Government—depending on whose job it finally is—in implementing the directive is daunting because the directive is extremely broad in scope. It is what the European Commission calls, in eurospeak, a horizontal directive, which means that instead of saying, "We're going to regulate throughout Europe on one specific point," it goes across the board and tries to achieve something very general for a broad sweep of services. Therefore, given our perception—which I suspect the committee will share—of the extent to which the task is daunting, what the faculty proposes is simply to attempt to assist the committee so far as it can by answering any questions that the committee has. To make it clear, the faculty does not wish to restrict its assistance simply to appearing today; it is happy to assist downstream. It may be, for example, that if and when we get to the stage of draft legislation, there will be an opportunity for further input from the faculty. That is my opening non-statement, convener.

The Convener: That is an innovation. Can the Law Society of Scotland beat that?

Sarah Fleming (Law Society of Scotland): I will not try to beat that. I thank the committee for inviting us to give evidence to what I think will be a useful inquiry. I echo the comments of our colleagues from the Faculty of Advocates that this is a large, important directive, with potentially profound effects, specifically for the regulation of the legal profession in Scotland. It deals with a number of issues that have been discussed over the years in great detail at Scotland level, United Kingdom level and Europe level about the regulation of professions and the rules that we can apply to people who want to practise in the

professions. It will require significant consideration by the Law Society on behalf of its members and the potential recipients of services provided by solicitors and others under the directive. In doing so, it raises quite significant logistical issues for the Law Society, in quite a brief timescale before implementation is required in December 2009. That seems like a long way off but, in the life of an organisation, and given the issues that are raised by the directive, it is really quite a short period.

The Convener: We are interested in the substance of the directive but also in the process around it. Our interest in that is partly on the back of our recent inquiry into the transposition of European Union directives, in which one of the key issues that arose was the need for the Scottish Government to get in early in the European Union legislative process.

The Law Society's written evidence expresses

"concerns about the lack of progress made in regard to ascertaining the volume of legislation which will be covered by the Directive".

It points out that the

"Scottish government would have been involved with negotiations on the UK position on the text and the consideration of specific Scottish issues in liaison with relevant stakeholders."

Given the significant impact that the directive will have on the provision of legal services, was your organisation consulted by the Scottish Government during the development of the services directive at EU level? If so, what was the nature and extent of that engagement?

Sarah Fleming: As we mention in our written evidence, the society has been involved in the directive since it was first released as a proposal. We examined it and took steps to encourage amendment of the directive because of the specific issue that related to the society's guarantee fund.

With regard to our involvement with the Scottish Government, I can confirm that in 2004 or 2005 we had a meeting with the Justice Department to discuss the potential effects of the directive on the legal profession in Scotland. Although the Government was involved in the process of lodging an amendment to the directive, the Department of Trade and Industry was the lead negotiating department for the UK. However, I do not recall a formal consultation process as such.

James McLean (Law Society of Scotland): Most of our remarks were made through the DTI.

Michael Howlin: We are in the same position. We have no recollection of any specific consultation. As the committee will see from the faculty's response thus far, it was directed not at the committee or the Parliament—or indeed the

Scottish Government—but rather at a consultation document that was issued by the DTI, which is now the Department for Business, Enterprise and Regulatory Reform.

Alex Neil: I have two questions. First, what practical impact, on a day-to-day basis, will the implementation of the services directive have on your members and, more important, if I may say so, your clients? I am thinking in particular of aspects such as the cost of your services to your clients. Secondly, are there practical difficulties in the implementation of the directive that arise from the fact that the directive covers both devolved and reserved matters?

Michael Howlin: If I may, I will begin by addressing the latter question, which poses an issue of some generality and importance. For example, from the consultation papers that have been issued thus far, we can see that the committee is exercised by the issue of differential implementation. The faculty knows for a fact that there has been differential implementation in other areas of Community law.

For example, in fisheries law, certain directives have been implemented in Scotland in such a way that they have come into force before the corresponding secondary legislation in England and Wales has come into force. From my experience at the bar, I know that that has led to interesting problems that resulted from skippers saying, "I have committed an offence only because my vessel is registered in Scotland. If it had been registered in Hull, I would not have committed an offence, because it is not an offence there yet."

An underlying issue is whether the mechanics of the implementation are discriminatory. I understand that a case is pending before the European Court of Justice to test whether differential implementation is unlawful under European law—it is testing not the principle but whether the mechanics are discriminatory.

Leaving to one side for a moment the professions, we should consider the matter from the consumer's point of view. The consumer has to have a broad choice of services, including from service providers from outside the United Kingdom that wish to be facilitated in providing services in this country. If facilitation is a key purpose of the directive, one possible outcome should be borne in mind. I will take the extreme example that differential legislation or implementation in Scotland, England, Wales and Northern Ireland does not simplify matters but adds layers of complexity. In that case, and depending on how things worked out in practice, the argument could be made that, because the multiplicity of approaches had not simplified but complicated

matters, implementation was contrary to the general thrust of the directive.

Having said that, we know that when legislation is implemented separately in Scotland and England and Wales, the implementing provisions can turn out to be pretty well identical. In other words, implementation is not at all differential but is the same north and south of the border.

Alex Neil: Are you talking to your counterparts south of the border and in Northern Ireland about implementation?

Michael Howlin: I am not aware of that, although I think that there have been informal discussions with the Northern Irish bar. When we compare the legal profession in Scotland with the sheer size of it in England and Wales, we are very aware of the relatively small size of the profession in Scotland. If we take advocates and solicitors together, we are talking about tens of thousands of practitioners in Scotland and much larger numbers in England and Wales. The Scottish bar has only about 450 practising members and the Northern Irish bar is also small in number. We have identified a community of interest with Northern Ireland in that regard.

11:15

If implementation is applied across the board without recognition of the differences north of the border, the effect in Scotland could be quite different from that in England. For example, if implementation leads to advocates clustering together with accountants or other professionals in multidisciplinary practices, the choice that is available to consumers will be restricted. I have a straightforward, almost arithmetic example of that. Let us say that, of the 450 people who are practising at the bar in Scotland, 200 are criminal defence lawyers—the number feels about right, although I am not certain that it is. If so, there are 250 advocates in general civil law of various sorts, with various specialisations. If they were to become compartmentalised into multidisciplinary firms and practices—for example, as a result of the implementation of article 25 of the directive—a client who at the moment has a theoretical choice of 250 advocates to consult, seek advice from or be represented by in court could have his choice limited to four, five or six firms. Conflict of interest would prevent people in the same firm from consulting on different sides. The example illustrates the potentially negative effect on the consumer, depending on the way in which implementation was done and if the number of practitioners in Scotland was ignored.

Alex Neil: In a previous answer, you indicated that discussions with the Scottish Government about implementation are not recent. From what

you have just said, there is now rather more urgency in having those discussions.

Michael Howlin: The urgency arises from something that Sarah Fleming said earlier. It is already 2008 and we have only until the end of 2009. Given the sheer vastness of the task, a lot has to be done in a short time. The faculty issued a paper entitled “Access to Justice: A Scottish Perspective; A Scottish Solution” in response to the Scottish Government’s policy statement “Regulation and Business Structures in the Scottish Legal Profession”. In that respect, there has been engagement.

Alex Neil: Was that not in response to a Competition Commission report?

Michael Howlin: That is right. It may have been triggered by the so-called super-complaint. There was engagement at that level, albeit that it was, of course, at a different level of generality and was not wearing blinkers—so to speak—to focus its attention on the services directive.

Alex Neil: From the perspective of the legal profession, will the Scottish Parliament need to pass primary or secondary legislation to implement the directive?

Michael Howlin: Lawyers are known for their inability to give a straight answer—

Alex Neil: I thought that you were going to use the word “expensive”.

Michael Howlin: To be lawerly for a moment, I note that, towards the end of the directive, it says:

“Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive”.

As I am sure the committee is aware, the European Commission has produced a handbook on the implementation of the services directive. It rightly points out that it does not expect that implementation of the entire directive will require primary legislation. It envisages that some aspects, for example cross-border co-operation within the Community, might require simply a change of administrative practice, as between civil servants or government bodies, but that is legislatively off the scale.

Some provisions might require either the tweaking of existing secondary legislation or the generation of new secondary legislation. There may be circumstances in which primary legislation is required, however. Given that we have not yet got to grips with the draft legislation, it is difficult to say more than that at this time.

The Commission envisages that implementation will be done in a way that is perhaps not a particularly British way of doing things. Drawing on its experience of how things are done in other

countries, the Commission envisages primary legislation that is merely an empty cupboard that is filled with secondary legislation—

Alex Neil: Enabling legislation.

Michael Howlin: Yes. Sometimes, it is called framework legislation. We have such legislation in the United Kingdom, including in immigration legislation where a broad, general, principal statute allows the minister to draft more detailed regulation. A breadth of techniques is available for implementation. It is too early to say whether the Parliament will have to adopt the sledgehammer approach of passing new primary legislation to take another approach.

Alex Neil: Convener, I suggest that even at this stage the committee should write to the Government to clarify what it believes will be required by way of primary and secondary legislation to implement the directive.

The Convener: I am sure that we should do that. Does the Law Society want to comment on any of those issues?

James McLean: Implementing the directive is a daunting but doable task. The purpose of the directive is to do for services what has already been done for goods by the single market legislation, to ensure that if a service is put on to the European single market, it is properly regulated and accessible. Although some legislation might be required, we should bear in mind two things. First, as far as the Law Society is concerned, its professional rules are made under the Solicitors (Scotland) Act 1980 and they do not become rules until they have been approved by the Lord President, after which they have the force of law. There is fair scope for putting in place the right structure at that level.

However, much of what will be required is administrative and structural. Although legislation might form a part, the biggest task will be to establish the point of single contact—there is quite a lot about that in the handbook on the implementation of the services directive. A framework, probably an electronic one, will be required to enable someone to get into the system, be taken through it and interact with it and, at the appropriate level, be diverted to whichever of the three jurisdictions, in the case of lawyers, they need to go to and perhaps to other professions in other ways.

I see the task of implementation as primarily about putting the right mechanics in place, as it were; legislation will be less of a problem. Of course, we will have to examine some areas for compatibility, but it is the information technology task that is most daunting.

Irene Oldfather: “Daunting” is the right word and it applies to all of us. I agree with the Law Society’s comment in its submission that currently there is a low level of awareness of the directive’s effects, not only among citizens but among those affected. The BERR consultation gives examples as diverse as

“hallmarking, architectural services, debt collection, management consultancies and tourism.”

I guess that you guys are on the front line and, by virtue of your profession, know more about the issues than the rest of us. How can we further engage stakeholders to look at the directive? Is there a role for the Scottish Parliament to do that? How should we go about it? Do you have evidence of work outside your professions where people are looking actively at the directive’s implications and inputting as stakeholders to the process?

Sarah Fleming: That is a very pertinent and big question. As you rightly point out, the directive is wide in its application and organisations such as the Law Society and the Faculty of Advocates are in a slightly advantaged situation because we are able to approach the directive in a different way—we are competent authorities under the directive so we can be engaged with as identifiable bodies. The directive also covers people who are not particularly regulated at the moment. The last time that I spoke to BERR about that, it used the example of hairdressers. I do not know about the regulation of hairdressers; there might well be rules for them but, as far as I know, they do not have a competent authority as such. The issue is to engage not only with bodies such as ours but, potentially, with individual businesses or individuals who provide services that are covered by the directive.

My understanding is that within the Scottish Government, the enterprise and industry division is the co-ordinating department, as it were, for the different areas that are covered by various divisions in the Government. It might be useful for the committee to have an idea of what that division thinks about how it will take forward implementation and how it plans to engage with both competent authorities and those that fall outwith that scheme. It is undoubtedly a very big task and, as we have said, time is short.

Almira Delibegovic-Broome (Faculty of Advocates): One constructive approach could be to try to use the skills of those who were involved in negotiating the directive in the first place. As has been noticed in the past, a general problem at the UK level has been that people have spent considerable time negotiating particular provisions—whether in an international treaty or in an EU directive—but, although they achieved results, they disappeared from the scene and were not involved in the implementation of the treaty or

directive that they negotiated. By the time it comes to implementation, there is nobody there to point out to those who have the hands-on job of implementing the provisions the very subtle aspects that were achieved through negotiation.

An example that relates to the Law Society and the services directive is that one of the negotiators might say, "Hold on a sec, the idea was to accept article 14.7." Another example might be that limits in a directive mean that only businesses whose turnover exceeds £300,000 are covered, but when it comes to implementation, it could be possible to set a lower limit of £200,000 so that the directive is implemented immediately in the UK or in Scotland with a £200,000 limit and it is forgotten that loads of people put in lots of effort to negotiate provisions to set the level at £300,000.

One could urge those at the UK or Scotland level who have been involved in negotiations on the services directive to provide guidance and assistance at the implementation stage.

Irene Oldfather: That is a very good suggestion and we might wish to write to our MEPs about it. I know that huge numbers of amendments were tabled to the directive and Scottish MEPs were very much involved with it. Perhaps we can get further information from them.

I agree with the view about framework legislation—it is the only way to stay within the timescale. If we in the UK are behind with implementation, I wonder how some of the other member states are coping. Do our witnesses have information about Europe-wide implementation of the directive?

Michael Howlin: I do not know about the services directive in particular, but if one looks in the annual report of the European Court of Justice about the nature of the cases in front of it and then identifies those member states that are in effect being sued by the Commission for failure to implement this or that directive, it is fair to say that in the league table of good and bad states, the United Kingdom tends to come off rather well as a good state. There are other states that have a bad record—one cannot name them, of course, but one might take Italy as a name that simply occurred to one out of the blue—not least because their political system is such that very often they cannot keep Parliament in physical being long enough to conduct a whole legislative process before it falls and there is a new election.

Sarah Fleming: The Law Society has been involved in discussions about implementation of the services directive with the European legal professions as part of our involvement with the Council of European Bars and Law Societies, which is a pan-European lawyers body. It is difficult to make a generalisation about all the

different states that have to implement the directive. We are looking at the situation simply from the point of view of the legal professions. Some seem to be dealing with implementation of the directive very well and others less so, so it is difficult to make any general points.

I return to an earlier question from Mr Neil about any discussions that we have had with our counterparts elsewhere in the UK. The Law Society of Scotland has had quite a lot of contact with the Law Society of England and Wales and has attended meetings with BERR, along with that society. The issues for us are the same as for our fellow bodies in other parts of the UK, notwithstanding the fact that, obviously, the issue of differential implementation does not come into play in England and Wales. However, the more general issues of a logistical nature are the same for them as they are for us and they face the same challenge.

Irene Oldfather: It occurs to me that local authorities will be very much affected by the services directive. I do not know whether we intend to take evidence from the Convention of Scottish Local Authorities, but that would seem to be a sensible next step.

Alasdair Morgan: I think that it was Ms Fleming who said in her opening remarks that the directive had potentially profound effects for the profession. Will you spell out what those profound effects might be?

Sarah Fleming: As has been commented on, the directive is broad and a number of issues affect us. As Mr McLean said, a lot of it is to do with logistical issues such as the ability to deal electronically with matters that are not dealt with electronically at the moment.

11:30

We have quite a lot of large logistical issues to deal with. For example, as we pointed out in our written evidence, the directive does not merely cover cross-border provision of services; it covers all services. In a Scottish context, particularly in relation to the Law Society of Scotland, although relatively few practitioners from other member states come to Scotland to practise, we obviously have many legal professionals who are, in a broad sense, domestic practitioners. For example, a solicitor in Cambuslang who wants to deal with the Law Society should be in the same position as a lawyer from Paris who wants to deal with the Law Society. That could involve the Law Society, for example, dealing with all practising certificate applications, which are dealt with annually, in an electronic format, which we do not do at the moment. Also, the point of single contact, which is meant to be a portal through which applications for

access to a service activity will be made will require both the lawyer from Paris and the solicitor from Cambuslang to be able to approach the Law Society through that portal. That is a potentially large logistical issue, and it is one of the biggest that we face.

Even at this stage, it is probably safe to say that we will also require to change our rules regarding issues such as the part of the directive that deals with services to clients and the kind of information services that will be required. There is a general thrust in the directive that as much information should be provided as possible to clients and potential clients during the contact between the service provider and the service recipient. That will require general changes. More broadly, we must screen all our rules to ensure that they are compliant with the directive and that, if we put requirements on practitioners, they are reasonable within the directive's terms.

James McLean: One of the most challenging tasks for the Law Society will be to devise rules that are compliant with article 25 of the directive—the multidisciplinary activities article—because there are two parts to that. The first bit is that anything that might appear anticompetitive must be objectively justifiable. The second part, in article 25(2), is to ensure that, if we allow non-lawyers to be involved, we must have a proper way of dealing with conflicts of interest and ensuring that there is independence and impartiality, and the rules governing professional ethics must allow for legal privilege.

Putting that in place in a way that is compliant with article 25 will not be easy. We must bear in mind that we are putting in place something that will allow the lawyers to operate in the single market, so it will need to be something that will withstand any challenge, for example, from a Scots or English firm that opens up in Paris. We have work to do, therefore.

Alasdair Morgan: Will you face more or fewer difficulties than your counterparts in Paris?

James McLean: We will have to solve the problem of dealing with external influence in law firms; our counterparts in Paris do not have to solve that problem because they just do not allow it. We will deal with that, but otherwise it will be a similar exercise.

Alex Neil: Will your counterparts not have to allow external influence under the services directive?

James McLean: No.

Alex Neil: Does that not defeat the purpose?

James McLean: If we do not allow it, we must be able to justify that. In article 25, paragraph 1, on competition, and paragraph 2, on the

independence and impartiality of the profession, are not in a hierarchy; paragraph 2 is not inferior to paragraph 1. We must be capable of ensuring that we can deal with conflicts of interest and that independence, impartiality and professional ethics are safeguarded. That is an absolute requirement, so we will have to fulfil it.

Alasdair Morgan: Does anyone else want to comment?

Almira Delibegovic-Broome: This goes back to Mr Neil's question at the outset about the practical impact of all this on the professions. The answer is partly that it depends on the view that is taken of provisions such as those in article 25, which allow for the possibility of exceptions and certain restrictions, if they are justifiable on named grounds, such as impartiality and conflict of interest. Before the Faculty of Advocates, for example, can plan and put in place procedures, it needs to know whether its view on not being in partnership with non-lawyers and so on is considered justifiable under the directive.

James McLean: We will have some guidance from the Court of Justice, probably by the end of the year, because the appeal on the Akzo case, which is the main case on the issue, is set to be heard on 18 June. We hope that the judgment will be issued not too long after then.

The Convener: One general issue in which we are interested is whether provisions on devolved matters should be transposed in Scotland or at the UK level. The Law Society's submission says that that decision should be made case by case but that the devolved subject of legal services should be dealt with in Scotland. Has the society discussed those views with the Scottish Government? If so, what was the response?

Sarah Fleming: The answers are yes and nobody knows yet—it is too early to say. I understand from BERR that it is considering producing at Westminster legislation—whatever it turns out to be—at least in draft form towards the end of this year or the beginning of next year. Before that happens, BERR will have to be clear about how different provisions are to be allocated. As has been said, it can be assumed that many issues that relate to the legal profession will be practical and administrative rather than legislative, although we have not delved into that with the Government yet. One important point is that whatever happens with the implementing legislation—whether that is dealt with entirely at Westminster, where it is required, or whether some of it is dealt with by the Scottish Parliament—the Scottish Government will have to be fully engaged in the parts that relate to devolved matters in Scotland, because it must know whether the legislation is appropriate.

The Convener: Does the Faculty of Advocates have a view?

Michael Howlin: I am not aware of our having any direct engagement with the Scottish Government on the matter, but it is fairly obvious that that ought to take place. We will report back on that after today's meeting.

The Convener: In principle, do you want the legislation on devolved matters to be dealt with in Scotland?

Michael Howlin: If legal practitioners did not have a particular interest because they are members of so-called regulated professions and therefore have special treatment—so to speak—under the directive, we might be relaxed about whether implementation took place north or south of the border. However, given the slant towards regulated professions and the fact that the faculty has a view of its own, especially on multidisciplinary practices, which might be coloured by the Scottish bar's smallness—the English bar has 17,000 practitioners—our view could be that it would be better to implement provisions north of the border, if legislative intervention rather than a lesser form of implementation turns out to be called for.

Sarah Fleming: As our submission says, legislation that affects the legal profession in a Scottish domestic context could be dealt with by the Scottish Parliament next year. Whatever else happens, we must ensure that the implementing legislation—wherever it is introduced—and implementing steps for the services directive are entirely in harmony with whatever is introduced in this Parliament.

Irene Oldfather: The committee has received a letter from the Minister for Europe, External Affairs and Culture about the directive, which says that the

"immediate priority is to complete the screening process" and talks about

"the awareness of new commercial opportunities that the Directive"

will bring. In your discussions, have you heard evidence of the opportunities that the directive will bring to your profession or associated professions?

James McLean: The legal profession is fortunate in that the single market has to an extent worked for it for some time through the establishment directive. The problem with services has related to financial services. It has often been noted and said that it is perhaps difficult for the British financial services industry to operate in mainland Europe for all kinds of reasons, one of which is very detailed regulation that may or may

not have objective justification. Anything that cuts through that is a huge opportunity and it should benefit Scotland's financial services industry immensely.

I will make a point in response to an earlier remark. Moving away from the legal profession, it is probably generally true that a lot of activities that are not necessarily regulated in this country are regulated in mainland Europe—there may be a board that authorises people to carry out the activity. There will be issues in Europe about whether the rules to allow someone to become, say, a hairdresser are objectively justifiable and fit with the directive generally. If we do not regulate hairdressing—I could be wrong about that, as there may be such an organisation in Scotland—the hairdresser from Scotland who goes to Paris may not be able to say, "I am an accredited hairdresser." They may not be able to produce a certificate and say, "I am properly regulated and I should be allowed to work." In such cases, the task is to look to see whether the obstacles are justified. There will be a slight imbalance on that basis.

The Convener: As well as recommending the early engagement to which I have referred, one of the key recommendations of the committee's inquiry into transposition was on the introduction of a transposition plan. We suggested that the Scottish Government formally notify the Parliament of its plan for transposition, including the timetable, and indicate whether it planned to rely on section 57(1) of the Scotland Act 1998, which would obviously mean using the United Kingdom Parliament even for devolved matters. We also suggested that it tell the Parliament how it planned to engage with stakeholders. Would a transposition plan have been of assistance in this case?

Sarah Fleming: Yes.

The Convener: Good. We wanted you to say that.

Sarah Fleming: It is such a complex piece of legislation and covers so many different parts of the Scottish Government—never mind the Government in Whitehall—that it would have been an ideal candidate for a transposition plan. That might have made the situation more transparent not only to the committee and the Parliament but to the bodies outwith the Parliament that also need to know about the transposition process.

Michael Howlin: I can only agree. It is worth remembering that the enactment of a directive does not automatically oblige every member state to alter its laws wholesale. The first thing that we must do is look at the directive and ask, "To what extent do we already comply?" If we already comply in an area, we do not have to change.

However, we must then identify areas in which we do not comply. Someone will have to sit down and wade through a mass of legislative provisions and ask himself or herself, "Does the present state of affairs in the UK or in Scotland comply with the directive, or does it require to be altered and, if so, in what respects?" It is the breadth of that task, given the size of the trawl that potentially has to be done, that makes this a large undertaking. That is why, as you mentioned, there has to be a lot of consultation. We welcome consultation that comes as early as possible and is as broad as is possible.

The Convener: That was very useful. Thank you for helping us through the complexities of the services directive. I will suspend for five minutes to allow the witnesses to change over.

11:44

Meeting suspended.

11:48

On resuming—

The Convener: I welcome our second panel of witnesses who are giving evidence on our services directive inquiry. We have with us Karen Wright, from Scottish Natural Heritage, and Matt Ogston and Peter Campbell, from the Scottish Environment Protection Agency. I invite our witnesses to make brief opening statements.

Karen Wright (Scottish Natural Heritage): Thank you for inviting SNH to give evidence to your inquiry. We are pleased to be here and to contribute where we can. In our written submission, we did not provide an awful lot of detail in response to your questions, primarily because we were uncertain about what the implications of the directive would be for SNH. Since then, we have attended the Scottish Government seminar at COSLA's offices, which provided some clarification, and we have spoken to a number of people in the Scottish Government and in England and Wales. We do not have a firm idea of exactly what the implications of the directive will be, but we have an idea of the areas on which we need to consider doing further work.

We need to consider screening the legislation that we use that permits people to do things to ensure that it is compliant with the directive. We also need to look at the administrative provisions that we have in place. For example, one of the areas that we cover is the licensing of activities that relate to protected species, so we need to look at the administrative provisions that we have for assessing applications to ensure that the criteria are not discriminatory against citizens from other EU states.

We need to ensure that our IT systems are completely up to date and provide clear signposting so that anybody coming in from the EU would be able to see exactly what was required and would be able to find the necessary information and complete applications online.

Finally, we need to look at the administrative co-operation aspects and consider how we can liaise and communicate with our counterparts in other member states if we are required to do so. Those are the broad areas to which we need to dedicate some work.

We will continue our discussions with the Scottish Government, BERR and our counterparts in England and Wales with a view to avoiding any duplication. If they are finding out information, we want to ensure that we are not doing exactly the same thing here.

Matt Ogston (Scottish Environment Protection Agency): Thank you for the invitation to attend the meeting. We have only a short opening statement.

In most respects, SEPA's position remains as it was when it responded to the Scottish Government's consultation document. SEPA sent two delegates to the workshop that BERR staged in April 2008, which clarified many of the issues surrounding the scope of the services directive and the work to be undertaken by organisations such as SEPA that are affected by it. However, the workshop also raised questions about how the work is to be taken forward at Scottish Government level. SEPA has been in communication with the Environment Agency and the Department for Environment, Food and Rural Affairs to establish the extent to which the screening work that they already undertake can be used by SEPA in its screening work. We have also been in discussion with our sponsor department in the Scottish Government, although discussions are at an early stage.

The Convener: Thank you. My first question is for SEPA. In your written evidence, you suggest that many stakeholders are probably not aware of the potential implications and that the directive appears to have "slipped through the net" of many organisations. Will you expand on that?

Matt Ogston: We have a process for screening and spotting emerging issues, particularly those coming out of Europe. The services directive did not feature in that process. We came upon it quite late in the day; we were certainly not involved in any of the influencing that might have been appropriate. It is late for us to start work on it.

The Convener: What action by the Scottish Government would assist your organisation and other stakeholder groups to understand the implications of the services directive and the

action that needs to be taken in relation to implementation?

Matt Ogston: There needs to be something analogous to what is happening in England and Wales between DEFRA and the Environment Agency, which are co-ordinating the screening process and, in effect, leveraging off each other's expertise in doing so.

The Convener: Would Karen Wright like to comment on that?

Karen Wright: A transposition plan, which was mentioned earlier, would be particularly useful for such a complex and wide-ranging directive.

Irene Oldfather: The services directive is daunting and complex and covers a range of issues. Given how it will impact on you, do you think that it is consistent with the Commission's better regulation agenda? Is it going to make life easier for you on the ground?

Karen Wright: Given that one purpose of the directive is to simplify procedures, it will chime with the objectives of the better regulation agenda. That point has relevance to the question whether there should be a single point of contact in the UK—a single national liaison point—to make implementation as simple as possible and ensure that there is no confusion. Citizens from European countries will not necessarily understand the governance arrangements in the UK, so it makes sense that we make it as simple as possible.

Irene Oldfather: Given that people have said that they have been taken a little unaware and that the directive has "slipped through the net", do you feel that you are at an advanced stage of preparation and understand fully the directive's implications for your organisations?

Karen Wright: I would not say that we are particularly far along the line, but we know the areas that we need to consider. Other areas that have wide-ranging implications for a lot of organisations are recruitment procedures and procurement. We must ensure that any qualification requirements do not stipulate qualifications that can be obtained only in Scotland or the UK. The requirements must include a provision such as "or similar" to cover equivalent qualifications in other member states.

Peter Campbell (Scottish Environment Protection Agency): I have a couple of comments on the first question, and I will then hand over to my colleague.

On the extent of the problem of implementation, SEPA keeps a register of all the legislation for which it is the regulator and by which it is regulated. It concentrates almost exclusively on the environmental side rather than other legislation. The register runs to almost 200 entries

and covers just the main legislation, as we style it; it does not include consequential and amending statutory instruments. We would have to screen a lot of environmental legislation, and we would certainly welcome some firm instruction on how that screening process should go ahead. I would like to come back to that point and the detail of what screening involves.

We also have a better regulation unit, which the committee heard about in evidence during its general inquiry into the transposition of EU directives. That involves a process of constant improvement in overcoming what might otherwise be barriers to inquirers and customers having easy access to our systems, applications and so on. That is also covered by the services directive.

The environmental legislation that has been passed in Scotland over the years has involved a process of considering possible barriers. I have a gut feeling that it might not be such a huge task to unearth the legislation that we might have to address under the services directive.

On the actual impact, my colleague Matt Ogston might have a shortlist of the areas in which we are involved with regulating people who supply services as opposed to goods. I think that that might be quite a short shortlist.

Matt Ogston: We need some clarification on how far the definition of service providers extends. Considering how and who we regulate, I believe that waste—and waste transport in particular—is the area that is most likely to be affected. Most of our licensing and permitting involve activities that pollute in a particular location. It is difficult to see the provisions of the services directive changing that work very much. There are justifiable reasons why an organisation that wants to undertake an activity in Scotland that needs to be licensed would have to apply for a licence and would therefore need a base or presence here.

Particular provisions, including our requirement for an organisation to have a registered office in Scotland, will need to be considered. We have that requirement so that we can serve legal actions on people who do not comply with their licences. That aspect would need to be considered if an organisation did not have a registered office in Scotland but was carrying on activities in Scotland.

12:00

Irene Oldfather: Peter Campbell voiced a desire for instruction on the screening process. Are you looking to the UK Government, the Scottish Government or the European Commission for support, clarification and guidance on that? What discussions have you had to date?

Matt Ogston: When I contacted my counterpart in the Environment Agency, I found out that they had received quite a lot of information about screening and had worked on the matter in co-ordination with DEFRA. I would envisage something similar here. There are good reasons why we would be wise to await the outcome of that screening, however. Much of the legislation that we would screen here would be broadly similar in principle to what has already been screened by DEFRA and the Environment Agency. There would be no point in duplicating their effort. We should know what the timescale for screening is, and we should plan to undertake it as quickly as possible as soon as we can make a start.

Karen Wright: We have been in touch with our counterparts in England and Wales, but we have had very little information from them. I am not sure how much interaction they have had with DEFRA in respect of their responsibilities under the services directive. We are continuing a dialogue with them about that. It would be useful to have some support from the Scottish Government to help us determine our requirements.

Alasdair Morgan: I have a thought about the licensing duties that SEPA performs in relation to waste and other activities. Could your assessment of a firm's activities itself be viewed as a service? Is there any potential for such assessments to have to be opened up for competition with other certification agencies?

Peter Campbell: That raises a question from me in return: what is a service? We do not have firm enough instruction at the moment on what qualifies as a service. We have the basic definition from the European treaties, and I have seen case law on it, but your question is the sort of question that I want to ask the Scottish Government or DEFRA, for instance.

Alasdair Morgan: Various independent certification agencies inspect work on oil rigs in connection with offshore health and safety, for example. SEPA's activities include all the inspections to check compliance with legislation, do they not?

Matt Ogston: In fact, that is starting to change. The SEARS—Scotland's environmental and rural services—initiative, which is being launched in about a month's time, is a case in point. Different organisations that operate in the rural sector are undertaking compliance inspections on behalf of other organisations, and efficiencies are being sought. There are already precedents. However, that is not totally pertinent to the idea of opening up such matters for competition; it is more a matter of efficiency.

Alasdair Morgan: So you do not know whether competition is ruled out or ruled in at the moment, and you need guidance on the matter.

Matt Ogston: Yes.

The Convener: There is a general issue about the guidance that you have been given. The SEPA submission says:

"SEPA has yet to be advised what Scottish environmental legislation is within the scope of the Directive".

SNH says:

"At this stage, we are unclear what environmental legislation may be within the scope of the Directive."

Another issue that occurs to me is how you have ascertained that you are competent authorities. Do you have to find out about all those issues for yourself, or are you getting advice from the Scottish Government or anybody else?

Matt Ogston: We have not had specific advice. We are in discussion with the Scottish Government but, as of today, we have not had advice.

The Convener: Your submission refers to a seminar that you were due to attend on 15 April. Was it useful? Did it enlighten you?

Matt Ogston: It was useful. It was staged by BERR, which underlined what the various competent authorities need to plan to do and laid out fairly clearly that the screening process is a critical part of that. As my colleague has said, the screening process is, potentially, an enormous process. SEPA does not feel that it is equipped to undertake it for the range of environmental legislation. Our position has always been that we expect the Scottish Government to take a lead in that process.

Karen Wright: We found the BERR seminar useful. The message that I took from it was that we need to consider the legislation that we use to find out where it allows persons to do something and then consider whether the provisions need to be changed, and, if they do not, whether the administrative provisions that follow on from the legislation need to be changed.

Peter Campbell: As Mr Ogston said, we are lagging behind England and Wales in that we are waiting to see what their screening process throws up. That is one reason why I would not expect to be further ahead with firm instruction or guidance on how the screening process is done. To link back to your wider inquiry about transposition, in some instances Scotland lags behind the rest of the UK and in other instances Scotland is far ahead, for example on the water framework directive. This time round, because we have sort-of matching legislation north and south of the

border, it is sensible logistically to wait—not too long, I hope—for the exercise south of the border to be completed and then piggyback on it.

The Convener: Do you have a view on the general issue of whether the devolved bits should be dealt with in Scotland or in London, or are you relaxed about that?

Karen Wright: If we find legislation that needs to be changed to be compliant, I guess that the answer depends on where that legislation exists. If it is Scottish legislation, I presume that it will need to be modified here.

The Convener: That applies to the modification of legislation, but what about other regulations that might be required?

Karen Wright: An important point is that the process is pragmatic and follows the better regulation agenda.

Gil Paterson: I have a quick question that follows on from what we heard from the previous witnesses. Is there a likelihood of opt-outs for your sister organisations abroad?

Matt Ogston: I am not aware of that.

Gil Paterson: Is it too early to know? What we heard from the previous witnesses was a revelation for us.

Karen Wright: Yes—it is too early to know.

Alex Neil: The problem is that it is early in the process and you will be in the dark about many issues until the Government makes its position clear, although I presume that it is waiting for answers from elsewhere.

Peter Campbell: I can add a comment on the uncertainty. Much of the legislation with which we deal may, in fact, be exempt from the directive. For example, barriers and restrictions exist to protect the environment, which is one of the exemptions.

Another issue that we are not clear about relates to service providers who are involved in the transport of waste. Is that classed as transport, which is exempt from the services directive, or waste collection, which is included? The list goes on. We want to flesh out those issues. The process is under way somewhere, but mainly in DEFRA. We know that we will catch up soon.

The Convener: The services directive was agreed in December 2006, but you said in your submission that you did not pick up on it right away. When did you become aware of the impact that it would have on your organisation?

Peter Campbell: There were two sources of information about the directive, as far as I know—Matt Ogston might add to that. We got two alerts

around April 2007. I got information from the Brussels joint office of the Law Society of Scotland and the other UK law societies, which publish the newsletter “Brussels Agenda”, which is available electronically. Although I knew about that service’s existence, I had not studied the newsletter much, because my field is environmental legislation. However, a line in the newsletter alerted me to the fact that certain public organisations in the environmental sector would be affected by the directive.

Around the same time, one of our officers, who is currently on secondment to the European Commission, attended a presentation at a conference of the European Union network for the implementation and enforcement of environmental law—IMPEL. He came back to the office in a panic—it was a very minor panic at that stage.

That is when we started the ball rolling and other areas of SEPA, including Mr Ogston’s department, were notified. I do not want to harp on, but perhaps we should have heard about the directive’s implications from the Scottish Government before we heard via the two sources that I described.

The Convener: What was SNH’s experience?

Karen Wright: We knew about the services directive but did not realise that it had implications for us until the BERR consultation took place towards the end of last year.

The Convener: That is illuminating. If there are no more questions from members, I thank the witnesses for their helpful evidence.

Brussels Bulletin

12:12

The Convener: The final item of business today is our regular discussion of the *Brussels Bulletin*. I invite members' comments.

Alex Neil: We need to await the outcome of the Irish referendum, which I think will take place on 12 June, but if the treaty is agreed to—let us hope that it is not—we will need to pursue the regional, Scottish dimension of subsidiarity and consider the additional responsibilities and opportunities that we will have to influence European legislation as a result of the treaty's implementation. Perhaps as a starting point we could have a briefing before the summer recess from the clerks and the Scottish Parliament information centre on that aspect of the treaty and its implications for the committee.

The Convener: The committee agreed to undertake an inquiry into the impact of the Lisbon treaty, but perhaps you are suggesting that we need to get information immediately, rather than in the course of our inquiry. I am sure that the clerks will be able to help us.

Dr Jim Johnston (Clerk): Yes. SPICe recently published a research briefing on subsidiarity.

Alex Neil: Will you circulate copies?

Dr Johnston: Yes, we will ensure that the briefing is circulated to members.

Irene Oldfather: In the *Brussels Bulletin*, Ian Duncan reported on a major conference that took place on 19 May, at which subsidiarity was discussed. Many of the regions that attended the conference were represented at member level. We should consider attending conferences on matters that have such an impact on our work programme, to ensure that we not only hear about good practice in other regions but influence discussions. I agree with Alex Neil in that regard.

I raise two other matters that I think are of interest to the Parliament. First, Ian Duncan says in the bulletin:

"The European Parliament has been debating the Commission 'Animal Health Strategy 2007-2013'".

I gather that the Commission will produce an action plan soon. Given that we recently debated wildlife crime in the Parliament, and given our position on snaring, about which there are various points of view, it would be useful to know the plan's content. Perhaps we could see the plan or receive a report on it.

My second point could come under the heading of health or the common agricultural policy, depending on how members want to consider it. The EU is the leading importer of tobacco in the

world. It also has nine member states that produce tobacco, which receive huge subsidies. There have been discussions in the European Parliament about the percentage of subsidies that should be channelled into health and health promotion. The matter is of interest to the Scottish Parliament, so it would be helpful to know more about the discussions and to consider our view as a member state.

The Convener: Those are good suggestions. Can the clerks help us with information on the animal health strategy and the discussions on subsidies?

Dr Johnston: Yes.

Alex Neil: Perhaps we should widen our consideration to include the subsidies for the German coal industry, which run entirely counter to the EU's objectives on CO₂. The industry is heavily subsidised.

Alasdair Morgan: The subsidies could be used for carbon capture.

The Convener: The *Brussels Bulletin* contains a good note on the draft directive on carbon capture. If members have no further comments, I close the meeting.

Meeting closed at 12:16.

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