

EUROPEAN COMMITTEE

Tuesday 19 September 2000
(*Afternoon*)

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EUROPEAN COMMITTEE 16th Meeting 2000, Session 1

CONVENER

*Hugh Henry (Paisley South) (Lab)

DEPUTY CONVENER

*Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)

COMMITTEE MEMBERS

*Dennis Canavan (Falkirk West)
Bruce Crawford (Mid Scotland and Fife) (SNP)
Dr Winnie Ewing (Highlands and Islands) (SNP)
*Dr Sylvia Jackson (Stirling) (Lab)
Ms Margo MacDonald (Lothians) (SNP)
*Maureen Macmillan (Highlands and Islands) (Lab)
*David Mundell (South of Scotland) (Con)
*Irene Oldfather (Cunninghame South) (Lab)
Tavish Scott (Shetland) (LD)
*Ben Wallace (North-East Scotland) (Con)
*Allan Wilson (Cunninghame North) (Lab)

*attended

THE FOLLOWING MEMBERS ALSO ATTENDED:

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)
Fiona McLeod (West of Scotland) (SNP)
Mr Brian Monteith (Mid Scotland and Fife) (Con)

WITNESSES

Mr Lex Gold (Scottish Premier League)
Mr Tony Higgins (Scottish Professional Footballers Association)
Mr Martin Rose (Scottish Federation of Football Supporters Clubs)
Mr Sandy Bryson (Scottish Football Association)
Mr David Thomson (Scottish Football League)

CLERK TO THE COMMITTEE

Stephen Imrie

ASSISTANT CLERK

David Simpson

LOCATION

Committee Room 2

Scottish Parliament

European Committee

Tuesday 19 September 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:06*]

The Convener (Hugh Henry): Good afternoon, ladies and gentlemen, and welcome to the 16th meeting this year of the European Committee. I have received apologies from Tavish Scott, who is at the Liberal Democrat conference—we all have a cross to bear. Bruce Crawford is involved in another meeting. Margo MacDonald is at the Audit Committee meeting, eagerly anticipating the publication of the Black report. Winnie Ewing is also at another meeting. We are joined by Fiona McLeod, who is not a member of the committee but is keen to sit in on the debate. Brian Monteith might also join us later.

Football Transfer Fees

The Convener: The first item on today's agenda is evidence from the various football bodies in Scotland about the European Commission's proposals on transfer fees. The committee decided that it was important to hear the views of the football clubs. We also wanted to hear from the players and the fans. We are concerned that this issue is not just about workers' rights and contracts, but could affect a significant part of our social fabric and many people's livelihoods.

I am delighted that all the bodies that we invited to give evidence have sent senior representatives to our meeting. I am particularly glad to see Lex Gold, who has already given evidence on the dry problems of structural funds. I hope that we will have a livelier debate today. I am not always sure which hat Lex Gold is wearing, but today he is representing the Scottish Premier League. It has been suggested that, to follow the football tradition, we should organise pies and Bovril at half time, but the Health and Community Care Committee might have something to say about such an unhealthy precedent.

The issue of football transfer fees is of great concern. Over several years, many people in this room have championed workers' rights across Scotland and Europe. However, the issue of transfer fees is slightly different and, as I said, might have a significant effect on our social fabric.

Earlier, I spoke to Stewart Gilmour, the chairman of St Mirren Football Club, my local club. He has

expressed concerns, which I am sure we will hear repeated today, about the consequences for full-time football, youth development, wages for those not at the top of the scale and potential unemployment. We look forward to discovering whether there is a consistent view on that across all the bodies involved in Scottish football.

We would like to hear the views of our witnesses' organisations on the European Commission's proposals and the solutions that have been suggested by FIFA and the Union of European Football Associations. Do those suggestions go some way towards addressing current concerns or should we press for alternatives? What impact will the proposals have on the Scottish game? Do you have any alternative suggestions?

I will invite each witness to make a short presentation. The committee will try to come to a rapid conclusion—we are aware of the time scale that is involved. We will report back to Parliament and we will send our conclusions directly to the European Commission. I know that Tony Higgins is meeting members of the European Parliament tomorrow. We will also be sending our views to our MEPs in the hope that they can take the matter forward. We will forward our conclusions to the UK Government, so that it can take up the matter in the appropriate forum.

I welcome Tony Higgins from the Scottish Professional Footballers Association, Martin Rose from the Scottish Federation of Football Supporters Clubs, David Thomson from the Scottish Football League, Lex Gold from the Scottish Premier League and Sandy Bryson from the Scottish Football Association. I invite Tony Higgins to give the first presentation.

Mr Tony Higgins (Scottish Professional Footballers Association): Thank you for the invitation to give evidence to the committee. As a former player, I had many pies flung in my direction, so I understood your earlier reference, convener.

It is important to outline why we are here today. I understand that the SFA has given the committee a briefing document, which should encapsulate many of the arguments. I noticed in the *Official Report* of a previous meeting that Dennis Canavan mentioned that, a few years ago, I attended the House of Commons Select Committee on Culture, Media and Sport to discuss a solution to the problems resulting from the Bosman ruling. We were part-supporters of Jean Marc Bosman's case—morally and financially—because of his particular circumstances. Our lawyers examined the Bosman decision and told us that the next stage would be the unilateral right to termination of contract by club and player. That is the reason that we are here today.

The only solution is a political one. Although the free market operates fairly effectively in other industries, it does not sit comfortably with football and other sport. Football businesses are also sporting organisations and require competition to survive and to interest the fans at every level. It is important that our competitor is at our shoulders, not 300 yards down the street. There must be real competition in football and that is why it is important that we have this debate.

We set ourselves three objectives. First, we want to delay implementation. As members will know, football has created a task force, which must report by 31 October. There will be two months' deliberation by the European Commission, which will announce its findings in January. Football has been asked for its solutions.

Another objective that we have set ourselves is to find the political route to a protocol for sport. That was discussed in committee two weeks ago. Other areas, such as broadcasting, are exempt from the Treaty of Rome and its applications. That is something that we are now considering. We want to convince politicians of the need for a special protocol for sport, so that some of the worst excesses of European law do not apply to football.

14:15

We believe that the ethos of such a protocol must involve social partnership. Previously, FIFA and UEFA tended to operate and manage themselves, and they introduced regulations that resulted in the Bosman case. My organisation is a member of the Institute of Professional Sport, a UK-wide body comprising footballers, cricketers, golfers and other sportspeople. We come together to lobby Government on sports issues; I know that professional sportsmen in Britain all want a special protocol for sport. I would be happy to answer questions about that in more detail. The Institute of Professional Sport also aims to come to a compromise with the European Commission on the current transfer system.

Three days ago, I spoke to people close to the Commission, who told me that the status quo is not an option and that the system as we know it is at an end. We are concerned about protection for young players who are coming through the system. The clubs must receive realistic compensation for the training and education of those young players, particularly up to the age of 21. The FIFA task force has suggested that the age limit should be 24, but I do not think that the European Commission will accept that. People understand the concept of an apprenticeship finishing at around the age of 21, so the Commission will probably accept that proposal.

Of course, if we accept the principle of youth development and compensation, it is important to decide the ingredients of a compensation package. That is what the FIFA task force is working on at present. We accept that older players should have the right to freedom of movement in Europe and throughout world football, but we must consider the nurturing process. Many of our clubs, such as St Mirren, St Johnstone and Falkirk, have said that, if there is no proper compensation package for young players when the new system comes into force, they will revert to part-time status. That would mean that there would be unemployed footballers.

There are many bureaucratic ways in which clubs could tackle the situation, such as using transfer windows. We are currently dealing with some French players who have come over to play in Scotland. They cannot go back to France because their next transfer window is during November; they are plying their trade in this country, unable to go back to France until the next transfer window, when they may be able to sign with a French club. Although transfer windows are one of the solutions proposed by the FIFA task force, that system can also impinge on the rights of players to move freely, even where there is mutual agreement during contract.

The papers from the Scottish Football Association show that there is broad agreement within the football family. The football task force is examining the matter closely. We believe that there should be a delay in implementation; that has been accepted. We also believe that there must be a compromise. The EC has shifted position since it first announced the abolition of transfer fees. It has accepted that the way in which football finances operate means that there must be some form of compensation for young players. That is something that is dear to our hearts. We also want a special protocol based on the players and the governing bodies finding solutions to the problems.

The Convener: Thank you, Tony, for outlining the view of the players who might be affected. In this debate, the views of fans are often overlooked, so I am pleased that Martin Rose is able to contribute to our discussion today.

Mr Martin Rose (Scottish Federation of Football Supporters Clubs): There are others here today who are better qualified than I am to speak about the legal, economic and organisational impact of the total abolition of football transfer fees. I am here as a football supporter and a customer of the football industry, and my concern is therefore for the continuing health of the game in as good a state as possible. That good health is threatened by the total abolition of transfer fees, especially but not solely

because of the impact that that will have on small and medium-sized clubs.

As Tony Higgins said, the current arrangements are not acceptable to the European Commission and will be removed. To a significant degree, finding a solution is a matter of attempting to minimise the damage. Although it is right and proper to analyse football in the same way as any other industry or commercial entity, there are significant differences between the football industry in general, and professional clubs in particular, and other businesses. Those differences must be acknowledged. Accordingly, although we recognise that all individuals should enjoy basic employment rights, we believe that those rights should not be to the detriment of the industry within which individuals operate.

There must be a recognition—and there is already some evidence that the Commission is prepared to recognise this—of the particular hierarchical structure that operates in professional football. That structure means that the supply of players at the top depends to a large extent on the training and development at clubs in the middle or at the bottom of the hierarchy. In the past, that training and development role was rewarded by the operation of the transfer system, which allowed smaller clubs to generate income from the sale of players.

If the Commission is to concede anything, I suggest that it should be in the area of youth development. The abolition of transfers at the top level may have a limited impact on the top players and major clubs, although there may need to be some financial realignment even there. Major clubs have a more diverse income stream than clubs at the middle or bottom of the hierarchy. They have higher gate receipts, more income from television and better merchandising opportunities. For some small and medium-sized clubs, the income that they receive from transfer fees forms a significant element of their overall income. The withdrawal of those fees in any form will be problematic for them.

Transfer fees, particularly for players under 24 or under 21, are more than just a financial matter and they affect more than just the small clubs. As all the witnesses here today acknowledge, standards in the game must be improved and that improvement will come about only by investment in the training and development of young players. The football industry in this country has recognised belatedly that good players will be produced only by properly structured training and development programmes.

Many clubs would seriously reconsider their investment, in time and money, in youth development if they were to be deprived of a return on that investment in the event of a player

moving to another club. In that regard, Rangers is just as likely to be adversely affected as, for example, Livingston is. It is crucial that the Commission recognises the key role that youth development plays in the continued well-being of the game. Football plays a significant part in the social and economic life of Europeans and it is important that it receives appropriate support from the regulatory institutions.

My concern is the overall health of the game. I encourage the committee to exercise what influence it can on the Commission to consider the proposals that have been submitted, by UEFA and FIFPro among others, on the retention of some sort of transfer system or reimbursement for players under 24 or 21, whichever age is decided on. That would go some way towards acknowledging that football is different from other industries and commercial operations and deserves to be treated differently.

As I said, no one would deny football players the right to employment protection. However, that protection should not be at the cost of an overall reduction in employment opportunities, which could be a result of the total abolition of transfer fees.

The Convener: Thank you, Martin. A lot of publicity tends to focus on the top clubs. The sports pages are full of accounts of what happens in the Premier League clubs, from which we shall hear in a minute. However, the consequences for the first, second and third divisions are often overlooked, so I am pleased that David Thomson from the Scottish Football League is here.

Mr David Thomson (Scottish Football League): I was employed by the Scottish Football League about 20 years ago and I thought that I should remind the ladies and gentlemen here of some of the players who have come through the ranks. That should give you some idea of the importance of youth development and of the need to have some form of compensation and transfer fees maintained.

Ayr United Football Club has had players such as Stevie Nicol and Alan McInally, who have gone on to play at the very top level and have won European championship medals. Clyde Football Club has had Steve Archibald, Pat Nevin and Ian Ferguson. Clydebank Football Club has had the great—and, unfortunately, late—Davie Cooper, Tommy Coyne and Bobby Williamson, who is a top manager. Cowdenbeath Football Club has had Craig Levein. Dumbarton Football Club has had Murdo MacLeod. East Fife Football Club has had Gordon Durie. Falkirk Football Club, as Mr Canavan will know, has had Stewart Kennedy, Brian Irvine and David Weir. Hamilton Academical Football Club has had Paul Hegarty and John Brown. Meadowbank Thistle Football Club has

had Darren Jackson. Greenock Morton Football Club has had Derek McInnes and David Hopkin. Partick Thistle Football Club has had Mo Johnston. Queen of the South Football Club has had Jamie McAllister, who is now starting to make a name for himself in Aberdeen Football Club. Raith Rovers Football Club, of course, has had Stevie Crawford and Colin Cameron. All those players were developed and nurtured by those clubs before being transferred to bigger clubs where they made a name for themselves or are making a name for themselves.

A number of clubs in the SPL, such as Dunfermline Athletic Football Club, St Johnstone Football Club, St Mirren Football Club and even Hibernian Football Club, used to play in the first or second division. A lot of their players from the time when they were in the lower divisions, such as Ally McCoist and Jackie McNamara, have gone on to play for Scotland as well as winning many major honours. The transfer fees that the clubs received were welcome income, which could be reinvested in their youth policies.

Since the Bosman decision, clubs have had to adapt. It is important to point out that the Bosman decision does not affect the movement of out-of-contract players within the confines of the UK. That means that there is some element of compensation for clubs losing players under 24-years-old. The majority of Scottish players prefer to play their professional football in the UK. They are more comfortable with the language and the way of life. They prefer bacon butties and black pudding suppers in Yorkshire to mussels and chardonnay in Monaco. Many players who left immediately after the Bosman decision have returned to the UK.

Over the years, many clubs have developed young players, moved them on for a transfer fee or a compensation fee and reinvested that money in their youth system—to pay for the costs involved in running the team, such as for coaches—or in new signings. Even when the clubs are signing new players, the transfer fee money circulates within football at a club level. However, if players can give two or three months' notice that they are quitting the club with two years of their contract remaining and the clubs have paid transfer fees that they cannot recover, I do not know what will happen to the employment system within football in general. It may grind to a halt.

Clubs might be led to reassess their youth development programmes and question whether they should continue with a youth policy. If a club cannot get some financial return on its investment in rearing, developing and nurturing new players from an early age, it might abandon or scale down its youth development programme. We should remember that, for every player who makes it to

the professional level—and I am not talking only about the very top level—there is a huge drop-out of players. For every star or player at the senior professional level, there may be a drop-out of about 20 players. However, the rearing of those players from the ages of eight, nine or 10 costs the clubs a lot of money.

Football is a team game that relies on continuity. If players were constantly to move team, there would be a catastrophic effect on the teams' ability to plan for the season. Clubs accept that they might lose some players during a season, but the abolition of the transfer system would create chaos, as clubs would not be able to establish a settled formation.

The youth development initiative programme that we introduced into the Scottish Football League about six or seven years ago involves non-competitive football for the under-13 to the under-16 levels. Approximately 1,000 young players are participating. Some of them will become stars. However, developing those players is costing the clubs a lot of money. If the transfer system disappears, I fear the worst for football in general—not only for the teams in the first, second and third divisions, but for the clubs at the highest level.

14:30

The Convener: While talking about the significant contribution that smaller clubs have made to youth development, David Thomson has indicated the problems that might exist for clubs at the higher level. Lex Gold is here to speak on behalf of the Scottish Premier League.

Mr Lex Gold (Scottish Premier League): I congratulate the committee on picking this subject. Football is part of the fabric of Scottish society and I am delighted that the Scottish Parliament is showing an interest. I am pleased to be here to speak on behalf of the Scottish Premier League.

If the proposals from Mario Monti, the European Commissioner for Competition, are implemented as described, they would be devastating for professional football in Scotland. I would concur with everything that the other witnesses have said. The football family is united in its opposition to the proposals.

In a speech to the sports federations on April 17, Mr Monti said:

"International transfer systems based on arbitrarily calculated fees that bear no relation to training costs should be prohibited, regardless of the nationality of the player and whether the transfer takes place during or at the end of the contractual period."

He went on to make it clear that the transfer system as we know it is at an end.

If the proposals are implemented, we will see total instability in competition and team building. Players could leave at short notice within the contract period. Competition would be hit, as richer clubs would have a huge advantage. At the end of the season, if a club were vying with another for relegation, the richer club could pinch a player from its rival. That is an extreme example, but it would be possible under the original proposals.

As David Thomson suggested, the biggest issue for us is the lack of incentive that there would be to develop young talent. It would be cheaper and more effective to hire more scouts and send them out to poach and pinch.

When we set up the Scottish Premier League, we had two criteria. One was to improve the stadiums so that those attending could have a higher quality of surrounding—we wanted to encourage more women and children to attend. That criterion got most notice, as it was seen to cut out some clubs.

The other criterion got less attention. It was to develop young Scottish players. The clubs in the Scottish Premier League have been working hard at developing plans for youth academies. They are prepared to make a considerable capital investment and to invest in the significant running costs of a youth academy. The Monti proposals would mean that the club could get compensation only for the cost of training one of the youngsters who succeeded. That is a huge disincentive to clubs to invest in developing youngsters.

As has been well known ever since I played football, only one out of about 20 players succeed in reaching the highest level—we cannot all be Tony Higgins. The youngsters may go on to play elsewhere—at a professional, semi-professional or amateur level, if not at the highest level—and they will have a love of the game. We are putting the development of youngsters at risk.

This may come as a surprise from somebody representing the Scottish Premier League, but we believe that if, transfer fees were scrapped, the rich would get richer and the poor would get poorer. We care about that. The committee has received submissions from Rangers, Hibernian, Dundee United, Motherwell and Aberdeen, which are all against the proposals and want the transfer fee system to be retained. I am sure that you will receive further responses from the other clubs in the SPL. We are all speaking with a common voice. The major risk is of greater unemployment, as Tony Higgins said. I am not a great person for apocalyptic comments, but this matter goes to the core of the sport.

In July, there was a meeting in Copenhagen of the European professional leagues with FIFA and

UEFA. We made it clear that we thought that FIFA's approach had been insufficient and we asked it to do some more energetic work. We have been working with our colleagues in the English FA Carling Premiership and the English Football Association, as well as the Scottish Football Association, to prepare a briefing on the matter. Through the Association of European Professional Leagues, we will meet Mr Monti on Thursday. At that meeting in Brussels, we will tell him our concerns about the proposals.

When the Prime Minister visited Scotland recently, Eric Davidson, a board member of Hibernian Football Club, told him, using a briefing that the Scottish Premier League had issued, what damage the proposals would do to football as a professional sport. Eric Davidson got to talk to the Prime Minister before I did, but I am happy to support his efforts.

Of the European heads of Government, Mr Blair has at least got Mr Schröder to recognise that the proposals represent a big problem for sport. Since then, Viviane Reding, the commissioner with responsibility for sports, has been making more conciliatory comments.

We would like to retain the present system; we do not believe that the transfer system should be changed. We believe that both club and players should be bound to honour player contracts with no unilateral right on the part of either party to early termination. There is a big risk that, under the proposals, not only would players move on, but clubs could push the players out because of infirmity or loss of form. I am not sure that that is what the European Commission was looking to achieve.

We believe that the right for compensation for a player under 24 should be maintained. If the European Union is prepared to move on that, what we would want to happen is set out in the evidence produced by UEFA, which is much more sound than that recently produced by FIFA. We want young players to be protected; we want training and development to be encouraged; we want importance to be attached to contract stability; and we want compensation or transfer fees to underpin those aims. If there is to be change, we want to ensure that there is an agreed transitional period for adjustment. Under the original proposals, that would not happen.

The Convener: Thank you, Lex. Last, but not least, is Sandy Bryson from the Scottish Football Association. The SFA has a significant general role to play on behalf of Scottish football in the governing bodies of European and world football.

Mr Sandy Bryson (Scottish Football Association): First, I apologise on behalf of the chief executive of the Scottish Football

Association, Mr David Taylor, who was unavailable to attend this meeting. He is in Switzerland, attending a meeting of the UEFA task force that is discussing today's topic.

I trust that members will have received copies of the association's booklet on the proposed revision of the transfer system, which I hope will assist with your deliberations. The Scottish Football Association, as the governing body, has overall responsibility for football in Scotland. Its object is to promote, foster and develop the game of football at all levels. The association has a direct link to the international structure of football through its membership of UEFA and FIFA. As I am sure members are more than aware, the association competes both on the international stage and domestically as a separate body, independent from the other home countries.

The association aims to stop the incessant attacks on football from the European Union. We would ask that the EU recognises the fact that football is not a business in the true sense of the word, but a sport, which, as such, must have the right to regulate and to impose its own rules of competition. We are faced, yet again, with another serious issue, which could be described as Bosman 2. We will return to that matter later.

There is a wider need for protocol in professional sport to be attached to the Treaty of Rome to protect it from competition law, and to allow it to be treated as a separate case.

The original Bosman decision that was taken by the European Court of Justice on 15 December 1995 meant that a club was no longer entitled to a compensation payment for an out-of-contract player for whom that club had retained the right to a compensation fee upon the player signing for another club. The crucial point was that that affected only players whose contracts had expired. Clubs were, and are still, able to obtain transfer fees for players who are still under contract.

Given that the European court decision was based on the movement of players from one EU member state to another, it has also been possible for internal compensation systems to operate within the home national associations. Today, the association's member clubs can still obtain a compensation fee for an out-of-contract player under the age of 24 who has concluded a new contract with another club in Scotland or England.

The 1995 European court decision has led to a huge increase in the number of foreign players playing in Scotland. There is no doubt that that has had a detrimental effect on the association's national teams at all levels, as the opportunities for Scottish-born players to progress and obtain the necessary big-match experience reduce further.

The association's response to the Bosman ruling

was to introduce a youth development award scheme, which was supported by the Football Trust. The scheme was designed to offer considerable financial support to member clubs and, it was hoped, to restore or strengthen the motivation for continuing development of youth players at club level. The association's desire to implement that scheme was intended to be an encouragement to its members to continue to expand and to commence important work in the 14 to 18 age groups.

Having come through the aftermath of the original Bosman decision, football in Scotland again faces an unknown challenge in the form of Bosman 2; I will now explain what that is. Viviane Reding, the European commissioner with responsibility for education and culture, commissioned an investigation into FIFA's transfer rules. Her statement to the European Parliament in Strasbourg on 7 September, as well as a BBC release, copies of which members should have received, best set out the situation.

The original Bosman decision affected players who were out of contract, but Bosman 2 relates to the transfer system and to players who are under contract. It has been suggested that it will lead to the complete abolition of the transfer system as we know it, as well as to players having the ability to terminate their contracts unilaterally by written notice. One thing is clear, however: no one is yet sure where we stand.

FIFA and UEFA have realised the urgency of the matter, and the flurry of activity in the past few weeks has led to the formation of a task force that has been in dialogue with the European Commission. The signs now appear to be more encouraging, but we now have to wait the task force's proposals regarding the development of young players, the transfer system and players' contracts, which are due on 31 October 2000. We must then wait for the European Commission's response to those proposals, in accordance with Community law.

The abolition of the transfer system and the unilateral termination of players' contracts could have a catastrophic effect on many of the association's members clubs, who rely on transfer income to survive.

In the past, many clubs have been selling clubs. Considerable sums of money are spent on the development of youth players at all levels of the game. The association sees the development of youth as the way to produce home-grown talent and the country's future internationals. Everything in our power should be done to ensure that our clubs receive fair compensation or transfer fees when they have nurtured, trained and groomed young players for many years prior to their moving to bigger and, possibly, better things. Kenny

Miller's move from Hibernian Football Club to Rangers Football Club is a recent example of a club bringing a player through its youth system and receiving a substantial transfer fee. That fee will be reinvested in the club's youth development programme or, possibly, redistributed throughout Scottish football in the form of transfer fees for new players.

14:45

I reiterate that the association's objective is to promote, foster and develop the game at all levels, from grass roots to the very top, and remind the committee of the association's call for protection of some of the basic rules of professional support from European competition law. We hope that that will result in an environment in which all the association's clubs can continue to operate and perform to the best of their ability.

That is why today the association looks to the committee to add its weight and support to the association's position. The existing football transfer system should be retained to encourage youth development, maintain the financial integrity of our member clubs, and redress the imbalance that has resulted from the influx of foreign players into this country. We hope that that would lead to a continued improvement in the performances of our various national teams.

The Convener: Thank you very much. I thank each of the witnesses, not just for what they have said today but for their written submissions, which have been extremely helpful. I also thank the football clubs that have taken time either to brief our members verbally or to submit written information.

From all the witnesses we have heard the consistent view that the Commission's proposals as they stand represent an extremely serious threat to Scottish football. We have the prospect of rich clubs and players getting richer, and the rest of the game starting to wither. Football will change completely and will not be the game that we know, with the social fabric that we know.

Part of the committee's remit is to investigate, and comment on, the decisions that are being made in Europe and their implications for Scotland. However, it is also part of our remit to promote dialogue and discussion on European issues. Members have been concerned that debates on Europe are not always objective, and that there is a degree of misinformation, hostility and downright prejudice. We have all seen some of the farcical headlines that have appeared.

However, in this case the European Commission has made a proposal that not only would affect football, judging from what our witnesses have said, but could undermine the whole concept of

Europe. The European Union is supposed to help to improve the quality of life in the communities that we represent. The proposal could have a drastic effect on the quality of life not just of footballers, but of those who are deeply involved in football in Scotland, the UK and throughout Europe. There is a bigger agenda that we need to consider. The credibility of the European Commission and the European Union will be called into question if they do not listen to what I regard as very reasonable arguments.

I invite questions and comments from members.

Ben Wallace (North-East Scotland) (Con): I thank our witnesses for giving evidence to the committee today. You have emphasised the need to nurture young players at all levels. Without a better solution on the table, I do not see how abolishing the present system will help. However, I would like to investigate some of the proposals that the European Commission may make in this area.

Many of the smaller clubs' submissions emphasise the fact that youth development is important for them because it is one of the few ways in which they can generate income from the rich clubs at the top. How much does the Scottish Premier League earn from television rights? If money from television were distributed better so that it reached the smaller clubs, would those clubs not be so dependent on youth team development?

My other question relates to continuity. The committee may want to seek legal advice on whether normal contracts could maintain the continuity of a player's position. Clearly, that is not possible in some industries. However, is the Commission seeking to change the law on contracts, or is it seeking to outlaw the transfer registration fee?

Mr Gold: I will take the second question first. The EU is attacking the registration fee. There has been a suggestion that the transfer system is in breach of European law. I do not believe that that is the case, because we are dealing with contracts that are similar to the contracts that exist in business. If the football contracts are illegal, the contracts that are struck in business, particularly for senior management, must also be illegal. It is up to the Commission to explain why it is opposed to registration fees. I do not buy into its arguments.

When the Scottish Premier League was set up, we struck an agreement with the SFL on how much money it would receive. Last year £1.7 million—10 per cent of our income—was channelled into divisions 1, 2 and 3. I cannot give members the exact figures for England. However, I have spoken with the English premiership and Mr Richard Scudamore, who have indicated that the

premiership ploughs about 5 per cent of its income—which is much bigger than ours, as England is a bigger country—into divisions 1, 2 and 3. Another 5 per cent is invested in grass-roots football. It could be argued that, had there been a different kind of debate when the Scottish Premier League was set up, the allocation of revenue could have been structured differently. However, we make a considerable contribution.

The real issue is whether money in football circulates or evaporates. Sadly, if the money goes towards making agents and certain players richer, it will evaporate and will not reach clubs in the SFL or other parts of Scottish football. That would be a big mistake.

Mr Higgins: The bureaucrats see Luis Figo being transferred for £37 million from Barcelona to Real Madrid, a club that is in debt to the tune of £120 million. Academic research shows that most transfers are from top clubs to other top clubs. However, although Rangers and Hibernian are in the same league, they are on a different financial footing. The £2 million that Rangers paid for Kenny Miller may not be much money for that club, given its turnover, but Hibernian could employ 10 players for that amount. That shows how the figures can be skewed.

I can understand why the European Commission has said that football should create a much bigger solidarity fund at world, European and domestic levels from the existing TV revenues. More money should filter down to the lower leagues.

The English premiership gave 5 per cent to grass-roots development not just out of benevolence, but because the high court judgment that was looming would have said, "If you cannot demonstrate that you give money to all sections of the game, we will not allow you to operate a cartel."

That is why football must look at itself and ask whether it distributes funds sufficiently across its professional clubs. The FIFA task force is undertaking that task. If we are to have a special protocol—and I am sure that every witness here today agrees with that idea—we must demonstrate clearly that we assist each other. If we argue that competition is the nub of football, or of any sport, we must ensure, as a profession, that we filter down money to assist other clubs to compete. That will be a big decision for FIFA and UEFA to take, along with the professional clubs. We must ensure that distribution of funds takes place, because people will argue, "Why should we have special exemptions for you, when the money seems only to go the apex of the game." Football will have to make that big decision.

Ben Wallace: FIFA has been slow in responding to Europe's request and has now been

forced into the current position.

Mr Higgins: That argument has been made by FIFPro, the organisation that represents professional footballer associations worldwide. Many of our members will be affected. Some may take the view that players should be allowed to exploit their commercial worth, but we recognise that the proposal could mean unemployment or part-time football for many of our players. As I said in my opening statement, competition is essential for any sport. For us to be given an exemption, we must convince the politicians in the Council of Ministers who, ultimately, will make the decision that we are prepared to filter down money meaningfully to grass-roots development. As far as the bureaucrats in Europe are concerned, that filtering down is not happening to the extent that it should.

Mr Bryson: Moneys that are fed in through the SFA's cup competition and from international matches are fed back to the SFA's 78 member clubs. Those clubs are not just in the Scottish Premier League and Scottish Football League, but the South of Scotland League and the East of Scotland League.

Tony Higgins is talking about the money side in relation to the marketing of television rights by FIFA and UEFA, with whom the association has been in correspondence where we believe that the money could be better utilised.

Dennis Canavan (Falkirk West): The football authorities at national and international level have been criticised for not getting their act together sooner. The writing was on the wall at the time of the original Bosman decision, then in 1998 the Commission received complaints that the FIFA transfer rules were contrary to the European Union competition rules.

The Commission waited patiently for years for FIFA to propose an alternative and, until very recently, it received no response at all. There seems to be a consensus among all the witnesses today—possibly even among all those at the table—that the EU proposals are unacceptable and that they are bad for Scottish and international football. Is there a consensus on an alternative? You speak about a protocol for sport, but what would that protocol say? What would be the ideal alternative solution, if the status quo is not an option?

Mr Bryson: The association believes that a protocol should be attached to the Treaty of Rome. Our view is that sport cannot be lumped along with business. We believe that football should be given an exemption. The running of football is a unique business, and we believe that the European Commission should acknowledge that and give an exemption.

Dennis Canavan asked what would be next best. We should aim for what we want and go for that. If we dilute our aims, we will end up with a worse situation. He asked about our second option. The UEFA task force is still talking and has still to report to the Commission. I would prefer to see the task force's proposals come 31 October, then to see the Commission's response to those proposals.

15:00

Mr Thomson: Mr Canavan made a point about football bodies being slow, but Scottish football was not slow. The SFL and the SFA employed top-class European lawyers, based in Brussels, as far back as the late 1980s. We were most concerned about the Bosman situation in the early 1990s. UEFA was slow off the ground, but that is now water under the bridge. I do not know what can replace the current system.

I will throw a question back to Mr Canavan—what would be the effect of the abolition of the transfer system within the UK? In other words, the Bosman decision does not stop clubs from retaining some form of compensation fee; if a player moves from Hibernian to Manchester United and the two clubs do not agree a fee, the case goes to a compensation tribunal. I wonder what the situation would be if a player moved, in contract, from Hibernian to Manchester United, because the Bosman decision does not affect movement within the member state.

Dennis Canavan: That is one legal opinion, but I have heard contrary legal opinions. I am not an international lawyer, or any lawyer at all, but I am surprised that one of Tony Higgins's members—or a member of the sister unions elsewhere in the EU—has not taken a further test case to challenge the interpretation of the Bosman ruling whereby transfer fees within a member state are still allowed.

It was suggested at the time of the original Bosman decision that, instead of the transfer money going from one club to the other, it might be put by way of a compensation payment into a common fund for the development of youth football. Is that suggestion a dead duck or is it still a possibility?

Mr Thomson: The rules in the UK, within each respective league, are still that a compensation fee applies at the end of a player's contract, if he decides to move to another club and he is under 24 years of age. Take Stephen Glass, for example, who was 22 when he moved from Aberdeen to Newcastle United. The two clubs could not agree a compensation fee.

I do not want to sound pernickety, but the phrases "transfer fee" and "compensation fee"

should be kept apart. A transfer fee applies when there is a willing buyer and a willing seller for a player who is in contract. A compensation fee applies to a player under 24 years of age whose contract has expired. The club has offered the player terms of re-engagement, which are not less favourable than his previous contract, but the player has decided to better himself by moving to another club in the UK. The two clubs do not agree a fee, so the matter goes to a tribunal.

Within Scotland, such cases go to a compensation tribunal, of which Lord McCluskey is the chairman and Tony Higgins is a member. If a player moves from Scotland to England, the representatives of the various leagues, together with an independent person, would determine the compensation fee.

Sometimes people are under the misapprehension that transfer and compensation fees are one and the same. A transfer fee involves a willing buyer and a willing seller. We keep hearing about the worth, or valuation, of a player, but the valuation of a player can change dramatically from week to week. A player may be much sought after by several clubs, so the transfer fee is about the highest bidder, but a club may be in great financial difficulty, in which case the bankers will tell the club to sell the player for any money that it can get. As a result, the transfer fee can be vastly reduced.

Mr Higgins: I want to pick up on Dennis Canavan's point about the protocol. I presume that members would argue that sport is a special case, in that it expresses a cultural identity. Few things unite a nation in the same way as sport. For example, the Scottish rugby team's recent international match against England brought the whole country together under one banner. That happens infrequently in Scottish life.

I have been talking about a special protocol since I addressed a committee at Westminster three years ago. We now have consensus in the football family over the special protocol and it will be interesting to find out what the stipulations within it will be. The French—who have presidency of the EU—are having a meeting and the Council of Ministers will meet in Nice in November to discuss the special protocol. I have spoken to politicians—we need their support at Council of Ministers level to secure a protocol as a way forward for sport.

The protocol would be based on social partnership. It would not signal a return to the old days, when FIFA and the Football Association did what they liked with the transfer system and players' contracts. FIFPro—the international players' federation—would have a seat at the table and any agreement would take place through collective bargaining. The European Commission

accepts that principle.

Although the principle of a protocol has been accepted, it will be interesting to find out about the regulations within it. A French minister, Madame Marie-George Buffet—we are back to pies again—has made it quite clear that redistribution of resources, multi-ownership and football for all, including young girls and women, would be part of the protocol. If politicians can agree in principle that the protocol is a way forward, it will be up to the football family to engage with the bureaucrats and politicians to determine what the protocol will say and what the regulations will be. However, the first hurdle for the PFA—certainly in this country—is to get new politicians to accept the protocol as a way forward.

Mr Bryson: Mr Canavan touched on the idea of a compensation pool. UEFA operates a system whereby when an amateur player signs for his first professional club, the amateur club is entitled to compensation according to various criteria that are set down by UEFA. That system could perhaps be expanded; at the moment, compensation is granted only when an amateur player first attains professional status.

Mr Gold: I want to correct what I said about £1.7 million going to the SFL—the sum is nearer to £1.5 million. What I said was slightly misleading.

Mr Thomson: It was £1.7 million because we acted as agents for a couple of years, but it is now down to just over £1.4 million. We should not return to what happened two or three years ago. In any normal divorce, money is paid by a party to leave the arrangement—in that sense, the settlement agreement was similar to a divorce settlement.

Mr Gold: It was equally painful.

Mr Thomson: Most divorce settlements are painful.

The Convener: Let us have no family squabbles, please.

Mr Gold: In general—and without going into the sort of detail that we got from David Thomson—I am not sure that Dennis Canavan's idea of a compensation pool would provide a great incentive for clubs to invest in players. I wonder where the payback for the clubs would be, if they were to get a good deal less out of an investment than others were. There needs to be a way of getting money to the grass roots—that could be examined as part of the protocol that we on this side of the table all support.

My position on what ought to replace the present transfer system is more fundamental than the positions of other witnesses. I believe that the system works pretty well and I would fight to retain it. However, if the system has to go, we need to

put in place some criteria against which to measure its replacement. I tried to set that out in my response. The criteria that we must use are: that we ensure that young players are protected; that we ensure that training and development of players is encouraged; that we maintain the importance of competition and contract stability; that we use transfer fees and compensation payments as part of that; and that we create a proper transitional period, so that the clubs can introduce the new system sensibly. Although I would argue for the retention of the present system, those are the criteria that I would like to be put in place if there is to be a change.

The Convener: We must comment on the protocol, which would require a major political initiative across the European Union. Such a protocol would require discussion at the intergovernmental conference. Is there any evidence from beyond the UK—there has been some discussion of the matter in Germany—that there is political support for a protocol?

Mr Higgins: About a month ago, I was told that most countries in the EU support the idea. The only exceptions are the UK and Denmark. I was surprised—I thought that there would be more resistance to it. People in sporting federations are trying to engage with politicians instead of ignoring them and they recognise the importance of the matter, especially to smaller countries. Scotland does not often appear on the international stage, but that happens in football, through our top domestic clubs playing internationally. That is often when recognition is granted to a country. When the Soviet Union broke up, one of the first things that the smaller countries did was to establish international football teams. Now we know about Latvia—to our cost.

The special protocol has been accepted in principle by many EU Governments and the devil will be in the detail. We hope that people will agree to the protocol at the Council of Ministers and in France, as it requires unanimity. It is not a matter of majority voting, so we must convince our heads of Government. The Department of Trade and Industry wrote to us a few months ago, saying that it would not support a special protocol. The DTI's argument was that, if such a protocol is granted for sport or football, every other industry will queue up for such a protocol. However, where exemptions currently exist—I have alluded to broadcasting—there are special cultural identity issues, which we think are apparent in sport as well.

The Convener: Let us be clear. Does everyone understand the protocol, or do the French understand it differently from the Germans?

Mr Higgins: The SFA has looked into the matter in detail over the years. An amendment to an article of the Treaty of Rome would be far too time

consuming and would take much longer to pass through the bureaucracy. A special protocol was regarded as a shorter-term solution that would be more easily understood.

The Convener: So everybody is talking about the same thing when they talk about the protocol. No matter what country you were in, people would understand the detail of what you are talking about.

Mr Higgins: If we explained it in their respective languages, they would.

The Convener: There would not be different versions of the protocol.

Mr Higgins: At European level, the football federations and players associations all understand the principle of the protocol. I presume that they have relayed that understanding to their respective politicians and Governments.

Mr Gold: It would be unique if everybody had the same understanding—that does not happen in most walks of life and I am not sure that it would happen in this case. That in no sense detracts from the case for having a protocol, but it will be slightly more difficult if everybody has to speak from the same dictionary.

The Convener: I remind members to indicate to whom their questions are addressed. Several members want to speak.

Irene Oldfather (Cunninghame South) (Lab): I do not have a great deal of expertise in this area, but I have heard some persuasive arguments this afternoon. This is clearly a unique situation and we need to recognise it as such.

I was going to ask about the position of other member states, but I shall pick up another point, which Sandy Bryson mentioned. Towards the end of his evidence, he said that a task force was being set up, which may offer a way forward. Could Sandy say something about the remit and membership of that task force? On finding a way forward for the committee—how we can exert an influence and where the points of influence are—might that be something towards which we, other politicians and the European Commission could direct our attention or our report?

Mr Bryson: The transfer task force is chaired by Per Omdal. The nature and membership of the task force is set out in the section entitled “Latest Developments” in the papers that we submitted, which members have.

Irene Oldfather: I thought that the task force was to report by 31 August.

Mr Bryson: It is to report by 31 October.

Irene Oldfather: If the task force is beginning to take on a key role, would it be appropriate for the

committee to send its report to that task force as well as the European Commission?

Mr Bryson: That would not do any harm. We are for anything that might be seen to help.

The Convener: We will agree to do that.

15:15

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I was interested in the tension between clubs trying to develop players as a product or income stream, for want of a better word—people are shaking their heads, but some of the paperwork suggests that clubs do that—and clubs trying to get players they have developed to remain with them long term. Do all clubs agree—as we have been told today—that a version of the current system should stay? What about the implications for part-time and junior football? Witnesses will appreciate that—coming from Ayrshire, having the initials CJ and representing Cumnock—part-time and junior football are important to me.

I am also interested in the notion of protocols and in getting support back to the grass roots. As a football supporter, I wonder whether there has been any discussion about initiatives such as supporters direct, which is happening south of the border. Does Martin Rose have any views on how fans could be more involved in the process?

I was interested to note that the submission from Aberdeen FC suggested that

“football is the national sport and is much more geared to public ownership than any other industry.”

Has there been any discussion about that and is it likely to feature in the protocols?

Mr Rose: Transfer fees are only one aspect of football. They are the focus of today’s discussion and of the Commission’s involvement, but there is much more to football. Tony Higgins referred to the comments that were made by the French sports minister, who acknowledged the wider role that football plays.

When we consider what happens to transfer fees, we must consider the knock-on effect on the rest of the game. At its previous meeting, the committee did not want to drift on to more general football matters—initiatives such as supporters direct and the way in which football is structured in this country—but those matters are related to transfer fees. We cannot dig out one element of the structure and hope that the rest will remain in place. Transfer fees are a serious issue.

When people talk about players being sold, it is sometimes as though they are saying that the clubs are lucky and that the players just appear at their door. The wastage rate has been mentioned

today. Clubs are heavily involved in producing players, very few of whom bring money back to the clubs. That is important.

We could discuss many issues in relation to the supporters direct initiative. The Scottish Independent Supporters Coalition and the Scottish Federation of Football Supporters Clubs are making submissions to the Scottish Executive in support of the supporters direct initiative and in support of allowing fans to have more involvement in clubs.

When we talk to the European Commission, we must focus on the fact that transfer fees do not affect only the big clubs—such as Real Madrid and the £37 million that it paid—but all clubs in Europe. We must stress the part that sport can play in society and the development of our young people. As members will know, football has an important part to play in health standards. We must be careful to ensure that we do not remove an element of the hierarchy that will cause the whole structure to fall down.

The Convener: Does anyone want to comment on junior football?

Mr Bryson: On a more light-hearted note, junior football in Ayrshire is very much alive and kicking and a few of the junior clubs in Ayrshire are probably in a far better financial position than some of the second and third division clubs. We will see whether a pyramid system will be introduced, whereby the top junior clubs can progress into the higher levels of the game.

Mr Higgins: Football might be the brand leader, but we talk about a protocol for sport because the changes will apply to all sport. When I raised the matter at a meeting with the Institute of Professional Sport in London, cricketers were aghast at the thought that the directive might apply to them. However, it will apply to all sports—team sports in particular. If a player is paid professionally, whether at junior or senior level, the directive will apply to them.

David Mundell (South of Scotland) (Con): I want to hear views on two points that have been put to me. From the outside, it appears that there is a net outflow of transfer fees from Scottish football as a whole. The big money is going out of Scotland and is not being used in Scotland to nurture talent. Some people would argue that Scottish football could benefit from the abolition of the transfer system because, rather than leaving Scotland, all that money would be retained, which would have knock-on benefits for the game.

My second point follows on from Cathy Jamieson's point and relates to football outwith the Scottish Premier League and the Scottish Football League. Are Martin Rose, Tony Higgins and Sandy Bryson convinced that the transfer system

has a direct benefit for teams that are not part of those two leagues and that they—rather than the 40-odd front-line clubs in those leagues—see the benefit of the development work that they do?

When we talk about football in the community, we are not talking only about league clubs. Cathy Jamieson talked about Ayrshire. The teams from Dalbeattie and Annan are as important as the two or three league teams from the south of Scotland. I accept what the witnesses have said about the effect on league teams, but can they say categorically that the transfer system benefits teams that are not in the league?

The Convener: Let us take the second question first, which I think Martin Rose wants to address.

Mr Rose: I can deal with both questions. To some extent, there is a vicious circle. David Murray is on record as saying that he would rather spend his club's money on Scottish players. However, as I mentioned in my presentation, such changes to the transfer system as are suggested might mean that even the large clubs say, "Why should we invest millions in youth development if we are going to lose the players?" Unless there is a stable environment within which clubs can develop their young players, there will be difficulties.

I do not have the figures, but it might be that, because of the way in which the transfer system operates and the influx of foreign players, filtering down of transfer fees has less impact. In decades past, a lot of money circulated because Scottish clubs bought players from other Scottish clubs. There is less of that than there used to be.

We have to ensure that the situation where clubs decide not to develop their own players, but rather increase the number of their players from abroad, does not become a vicious circle.

I should stress again that everybody—schools, the South of Scotland League, the Premier League and so on—is involved. Because everyone depends on everyone else, we need a structure in which everyone can operate at appropriate levels. Transfer fees are still important to clubs in the second and third divisions.

The Convener: Does anybody want to comment on the net outflow and whether scrapping of the transfer system would benefit Scottish football?

Mr Thomson: There has been much transfer activity and a lot of money has changed hands between junior clubs. In fact, over the years, a number of junior clubs have signed players from the senior ranks for substantial transfer fees and have given them high wages, signing-on fees, lump sum payments and so on. Some clubs in the second and third divisions have sold players to the juniors for quite a bit of money.

Mr Bryson: There is a healthy transfer system at the lower levels outwith the four national divisions—there is movement in the South of Scotland League and the East of Scotland League. However, the crucial issue is youth development. Although there will be a high fall-out rate, the minor clubs will benefit from players who do not make it to the top but who, through youth development, have received the correct training and have the correct approach to and outlook on the game. Only a small percentage of players will make it to the top, but we must not forget the recreational side of football and the fact that many players play for enjoyment. We do not want to lose such players and there is still a place for them in the lower levels.

Mr Gold: I return to my point that money either circulates or evaporates. In Scotland, money circulates.

I disagree with Sandy Bryson's comments about the number of foreign players in Scotland. When we set up the Scottish Premier League, we made it clear that more players would need to come in from abroad to raise the standard of the game in the short term. However, we seek to develop young Scottish players to counteract that. I am here because I fear for our approach to youth academies and the amount of money that would need to be ploughed into them. I fear for the community aspects of the academies and the leagues for players aged between 13 and 21 that we have set up to develop young Scottish talent. Although it is true that money is probably being spent more on bringing players into Scotland, money is still circulating, as in the cases of Kenny Miller and others that we have heard about. However, we need a strategy to develop young players. I hope that, if anything damages such a strategy, the committee will support us in persuading our European colleagues that what they are doing is dangerous.

Allan Wilson (Cunninghame North) (Lab): I agree that youth development is the key and that the future of the football academies is particularly important. However, if football seeks a special protocol or dispensation, it will be unlikely to win support if it also retains the existing transfer structure. Transfers distort the competitive position, because a big club can buy the best player of a smaller competitor. If there were a choice between transfer fees and compensation fees, I would choose the latter—that would redirect money back into youth development. That way, we could develop our indigenous talent rather than rely on foreign imports.

Mr Gold: I disagree fundamentally. The rich will get richer, which will mean that there will be a bigger difference between clubs at the top and clubs at the bottom. Success in terms of people

coming through the gates, television moneys and so on will give the bigger clubs a greater competitive advantage.

The point is that young Scottish talent has been missing for two or three generations. In the 1960s and 1970s, when there were some very famous Scottish players, there was greater competition because there was a conveyor belt of young Scots talent. The compensation system would make the game smaller and the big clubs bigger.

15:30

The Convener: Do any of you have a different view?

Mr Higgins: The politicians would argue that if we abolish the transfer system or if some exempted status is given to football, more money should be given to grass-roots development. The task force that was set up by FIFA has proposed tentatively that there should be no international transfers of players under 18. The UN Commission on Human Rights has noted that in Italy last year, about 5,500 foreign minors—mainly from Africa and south America—signed trial contracts with Italian clubs. Only 1 per cent went on to sign full contracts. In most circumstances, those young players are given no vocational or educational training and are simply cast adrift in a foreign land without the money to return home.

That is one of the reasons why we argue for an indigenous rule—although I know that Lex Gold would not. If we want to retain a compensation or transfer system, there has to be some provision for young players. An indigenous rule on youth development would mean that the big clubs would not chase young talent all over the world. For example, last year, thousands of African kids were brought to Belgium and France for trials. They were not signed, but were left to find their own way home. Politicians must address that issue; the UN commission has addressed it and, as I said, the FIFA task force has recommended that there should be no international transfers of players under 18.

Mr Gold: I have no problem with that.

Mr Bryson: Lex Gold said that the big clubs would get bigger under a compensation system. For that very reason, it is crucial that we have a strong youth development policy—that is the only way forward for smaller clubs.

The Convener: I move now to Fiona McLeod and Brian Monteith. I am not sure whether the two of you are here on free transfers from the Education, Culture and Sport Committee or whether you are trialists for this committee.

Fiona McLeod (West of Scotland) (SNP): We do not charge for our services.

Convener, I request that the Education, Culture and Sport Committee be included in the list of organisations to which you send the report that you discussed earlier.

The Convener: I have already indicated that to the clerk and have told the convener of the Education, Culture and Sport Committee that we will send that committee a copy of the report.

Fiona McLeod: As the afternoon has gone on, I have become more and more concerned that we are in danger of talking ourselves round in circles and not finding an answer. I take issue with the close link that has been made between the argument for the transfer fees system and investment in youth development. No one has proved conclusively that there is such a link.

Mr Gold: There is a negative of that position.

Fiona McLeod: The current system does not guarantee youth development. We just have to consider the example of TV fees. The SPL decides how much money to give the SFL, which then decides how much to spend on youth development, or otherwise. South of the border, after the threat of a High Court ruling, 5 per cent of money has been guaranteed for grass-roots football.

If you consider the Helsinki report and the Lehne report, the EC and the European Parliament are moving towards saying, "We won't abolish transfer fees if we can't guarantee youth development." Maybe they are saying it the other way round: "We want to see a guarantee of youth development in football." They are looking to football to come up with some of the answers. We have not come up with any answers today.

I am worried by the press release from 13 September, which says:

"Transfer Task Force meets for the first time".

Football in Europe has known for two years that it has this problem. Can we hear some concrete proposals? I want to be sure that we have something positive at the end of this process: to have in place a clear system of youth development for football, with almost guaranteed resourcing and financing.

Mr Bryson: Whether we like it or not, the task force is discussing that at present and is working towards putting forward concrete proposals. We will have to wait until 31 October for those proposals and take it from there.

I must stress that youth development has been going on for several years now in the association, via the Scottish Football League and the Scottish Premier League. In conjunction with the Football Trust, the association has put more than £2.25 million towards its own youth development award

scheme, with gold, silver and bronze awards. I am sure that members will have heard of that. We have moved on since then. There is now a flourishing youth initiative—David Thomson touched on it—which was introduced by the Scottish Football League. The Scottish Premier League has its own youth initiative, to which the association contributes through coaching facilities and so on.

Fiona McLeod: If I may interrupt briefly, can you explain why we need transfer fees to keep all that happening?

Mr Bryson: There has to be an incentive for clubs to produce young talent. A club invests money in young talent and, if a player is good enough, they will move to another club. Where is the incentive for clubs to spend time and a considerable amount of money on players when players are free to walk away and there is no recompense to the club for all that time and money?

Fiona McLeod: Is there an alternative to transfer fees to provide that compensation?

Mr Higgins: Football has to convince the European Commission that compensation will be related to the training and development of the player. According to the European Commission, the transfer fee notion is finished now—there will be no more transfer fees in future. The clubs will have to convince the Commission that the system that they wish to set up will reflect compensation for the training and development of the player. As Sandy Bryson said, we will have to wait until the end of October to see the proposals and until the end of the year before the Commission accepts the proposals as relating to compensation.

The reality, as far as we are aware, is that the Commission will not accept the transfer system as we know it. Many of the clubs and federations would wish to see the retention of the current system. According to the Commission, that will not be the case. The football task force has been established to try to answer the arguments that have been put forward by the European Commission.

Mr Gold: I will take the broad principle first, then the specific situation in Scotland. On the broad principle, it is a question of incentive for clubs to bring on youngsters. As I said in my opening address, if there is to be nothing in return, clubs would be better engaged hiring more scouts—not developing players, but poaching them. That is what is likely to happen if there is no incentive, which is why I say to Fiona McLeod that the negative is the driver here.

On the specific situation, we should be clear about the difference between the transfer fee for those over 24—of which David Thomson gave a

fine definition—and compensation payments for younger players. Our position is clear: it takes a lot of money—we are talking millions—to develop an academy. It costs millions to run an academy. It costs more if it is done as a community venture, bringing in youngsters from the neighbourhood. That is what we are seeking to do in Scotland. Seven or eight clubs have developed plans to do just that. The threat on the transfer fees will cause some of them to pause. That should cause the committee to pause.

We do not believe that the transfer fee system should go. We should seek to encourage the European Commission to that view. It is possible that we will find a differential approach on the transfer fee, where it is by mutual agreement. Bear in mind that at the moment the footballer has to sign the contract, so he is not sold against his will. There are degrees of pressure there, which I will not go into here. There are other possibilities on top of that mutual agreement, which we would be willing to explore with the European Commission. However, we still need to be persuaded that the Commission has got it right in what it is seeking to do.

I feel very keenly the importance of recognising that this would be a disincentive to develop youngsters. Three or four years ago, I stood on platforms and got brickbats from everyone in Scottish football because we were setting up a new league that was taking as its core the initiative of developing youngsters. We were not saying that the SFL or the SFA were not doing that, but that we needed to do more. I am unequivocally of the view that we were right to do so.

There is a misunderstanding on television moneys. I think Ben Wallace asked me how much money goes into the grass roots. I said that we spend about 10 per cent of our income supporting divisions 1, 2 and 3, whereas in England about 5 per cent goes from the English Premier League into divisions 1, 2 and 3, and about another 5 per cent goes into the grass roots. I have discussed with the SFA the need to do more for the grass roots. We have been discussing a couple of things with David Taylor. I have a particular idea of my own, which I would like to see developed.

We are keen on developing the grass roots and developing youngsters. I can only repeat that—unless they change—the EC's proposals that I have heard about will place all that at risk.

Mr Brian Monteith (Mid Scotland and Fife) (Con): Thank you for your kind words, convener. I am sure that many people consider me not so much a free transfer as a reject.

I notice from your summing up that you talk about the consistent view that comes from the panel giving evidence. That is partly a reflection of

who they are. I suspect that there are limitations on time, but it may be useful at some point to receive some input from agents—whatever we think of them, I am sure that they would have a contribution to make on the views of individual players—and from broadcasters, who, it has to be said, are the largest investors in football. I am sure that they have an interest to declare.

I may be at a disadvantage but, having read all the evidence provided by the clerks and given what we have heard today from the panel, I cannot help thinking that we need to have Mario Monti's comments before us. There seems to be some discrepancy—not least in press reports—between his views and those of Commissioner Reding. That was brought out quite well by the panellists. Mr Gold, who has said that he is not one for apocalyptic comments, said that ending transfer fees might be devastating. We heard Mr Thomson, I think, say that it could be catastrophic. It would be useful to ascertain more exactly what the Commission's proposals are. We could probably take a safer steer on what Commissioner Reding has said as a fine-tuning of Mario Monti's views.

I am sorry to say that I have quite a few questions. I would like to try to pin down exactly what is meant by a transfer fee, as the evidence that has been submitted has contained a lot of woolly thinking on that point.

It strikes me that, like employees, players have contracts with a club and that what differentiates them from an employee of a solicitor's firm, a factory or whatever is not so much that they cannot leave or move, or that compensation in the form of contracts being bought out cannot be made, as that they are registered with a club.

The transfer is fundamental in ensuring that the registration papers move from one club to another. Why else could it be that many players find that the transfer fee is significantly larger than the value of their contract? I argue that that surely gives the club a bargaining position: the club has an indentured labourer—someone who belongs to it—until the registration papers are transferred.

Is it the case that the European Commission is trying to get at payment for registration rather than the terms of the contract? If so, it is attacking the registration system.

15:45

The Convener: If you have a second question, Brian, throw it in now, as we are running out of time.

Mr Monteith: I have four other questions, one of which I could return to.

The Convener: Okay, but we must move on.

Mr Bryson: As Brian Monteith correctly noted, the transfer fee is paid when a transfer takes place between two clubs of a player who is under contract to one of them. The player cannot move until there is agreement between the clubs. However, the system works two ways and I am sure that Tony Higgins will agree that the contract gives a player security. A player who is under contract may be happy to have the security of a three-year contract or whatever.

As David Thomson said, a compensation fee is paid when a player is out of contract. It covers the loss of that player's services and is linked to training and development and so on in certain cases. A transfer fee is paid when a player is under contract to club A but club B wishes to procure the player's services. Before club B can speak to the player, it must agree the transfer fee with club A. Once the fee is agreed, club B can discuss terms with the player, following which the player's registration is transferred, if you like.

Mr Thomson: While we have explained the mechanics of the transfer system and the compensation system, I will touch on the point that was made about the player being registered.

Players are not registered with the club; they are registered with the football body, which is very unusual—although it is perhaps not so unusual in sport. For example, a player with Falkirk, Hibernian or Motherwell will sign a fixed-term contract of service that details all remuneration. It is agreed between the player and the club and lodged with the relevant football authorities: the SFA and either the Scottish Premier League or the Scottish Football League.

I mentioned that I was employed by the Scottish Football League 20 years ago, when I received a flimsy piece of paper that stated that I could give four weeks' notice—or three months' notice or whatever—or my employers could give me three months' notice. Unlike an ordinary employer-employee relationship, a football contract is for a fixed term, and both the club and the player are willing signatories to it. The club and the player are required to agree mutually to terminate the contract. That can be done either through payment of a transfer fee, where there is a willing club or buyer, or with immediate effect if the club and the player agree mutually to cancel the contract. The player would then be free to sign for another club without a transfer fee being payable.

Ben Wallace: I want to clarify that point about the transfer fee requiring the consent of both clubs. It is consistently argued that a player could change sides in the middle of a tournament, but that could not happen because the club that had the contract with the player would not consent to the transfer. If a contract is drawn up correctly, players cannot be poached. In other words, if a

club has made efforts to draw up a decent contract, is not it the case that players cannot be poached?

Mr Gold: The point about poaching affects only young players. It is not about people under contract; it is about going around picking up talent.

On the system of registration, I draw the committee's attention to the evidence submitted by Hibernian Football Club, paragraphs 14 to 19 of which clearly spell out the system. If members are in any doubt, they should refer to that submission for an explanation of the system that we are discussing.

Ben Wallace's first point dealt with players changing sides during tournaments. If the new rules were to allow players to break a contract by buying out the remaining time, the impact on competition and on the success or failure of clubs would be devastating. If we were to head in that direction, clubs will look for built-in safeguards, such as a year's notice on either side and so on. There are all sorts of ways of dealing with those changes, but we must also find a way of dealing with the potential problems, to which I drew members' attention.

Mr Higgins: Inevitably, if the European Commission so decides, contract fees will relate to the player's wages. I think that we all agree that the special protection of young players is important. We also realise that, in relation to the special protocol, the development issue is almost separate from the transfer fee issue. The Commission would be right to ask, "How can you ask for £5 million for a player who is 32 and who you signed a year earlier? What training and development have you done with a player of that age?"

There is consensus around this table on the youth element, meaning players who are aged up to 21, or to 24. We are worried about contracts being watered down. The great mass of ordinary players are given a fair degree of security in their football contracts, which are fixed term. If contracts were watered down significantly, clubs would take the view to which Lex Gold alluded: they would implement rolling contracts, such as monthly contracts. From our point of view, problems would arise when a player was injured. If a player were seen as having no value to a club for six months, the club may, under employment law, release him. At present, that does not happen to any great degree because of the fixed-term arrangements.

We would be worried for the great mass of ordinary players if their right to terminate a contract was affected by the European Commission.

The Convener: I will bring in Sylvia Jackson. If we have time, I will come back to Brian Monteith.

Dr Sylvia Jackson (Stirling) (Lab): I am sorry not to have heard everything that has been said. I was late because I was at another committee meeting.

I was interested in the point Fiona McLeod made about youth development. I understand what is being said about clubs, investment in the players and the necessity for compensation, but we received evidence from Falkirk FC—I am from Stirling—which talks about the idea of a football academy.

I thought that the idea was to have wider coverage than just Falkirk FC and that the football academy would take in the Forth valley area. How does the club fit into the idea of a football academy—or the sports institutes that are pertinent to Stirling? Should we consider other ways of funding areas of youth development work?

Mr Gold: I would be delighted if the Scottish Parliament were able to find funds to help develop the national sport—that would be superb.

As members will have gathered, I am an advocate of youth development. I am not familiar with the Falkirk model, but other clubs throughout the country are developing models. For example, Kilmarnock FC is developing an innovative approach that draws in the community. The same is true of the Hibernian development, which will be based in Midlothian. It is also true of Motherwell and of all seven clubs that have made proposals. We have been pushing the Scottish Executive to develop football partnerships so that this can get going. It has been hard and we are still not there, which is frustrating.

We see the development of our youngsters as part of community development and as part of a wider development with the SFA. We have been talking to the SFA about how we develop our youngsters in a more seamless way, like the Dutch. We are keen to buy in to that. A lot of the barriers from the past are evaporating. We are on the verge of developing a first-class approach to youngsters and their development in football. That is why I am so concerned about the Commission's proposals.

The Convener: Brian, do you have a quick question?

Mr Monteith: Yes. I was very taken with the response to my initial question and I would like to explore it further.

Registration makes football different from other forms of business. You could say that that is what makes it a sport. Might contracts change if the transfer system is affected by the European

Commission? For example, covenants might be brought in to contracts. I do not know whether covenants are in contracts at the moment, they are common in business. The idea is to prevent someone leaving a business and working for a competitor for six or 12 months. As an example, covenants could be in the contracts of Didier Agathe and Kenny Miller, to limit them moving to clubs within the same league. Clubs could waive covenants for compensation. Terms can be built in to contracts to allow clubs to be compensated and therefore make up for what they might lose from the transfer system.

Mr Thomson: Is not that more of a restraint on movement than what is in place at present?

Mr Monteith: Covenants are allowed in business, so long as they are reasonable. You have to prove reasonableness, which is where there is some debate. I have been affected by covenants, as have many people in business. Covenants exist, but you have to show reasonableness.

Mr Higgins: You were not going to cross the floor of the Parliament, were you?

Mr Monteith: No. [*Laughter.*]

Allan Wilson: We hope not.

Dennis Canavan: If it is permissible under European law to have a contract of employment and to stipulate within that contract that there is a minimum period of notice for terminating that contract, have you sought legal advice about the possibility of making the minimum period of notice one or two football seasons?

Mr Higgins: That is one of the issues that the football task force will address. We have to address the fact that football is a global game. If every country's contract system of registration is different, it will make it difficult for the game to be administered properly. Currently, we are working on the principle of a model contract for Europe—and, I hope, a worldwide contract—so that players are protected in their employment on a variety of issues.

The problem is that lawyers are always involved in drawing up contracts. Currently, agents and lawyers draw up the remuneration package and other details regarding the player's salary, movement, expenses and so on, but the basic contracts are the same. That means that the game can be governed. If there are too many legal requirements in a contract, in certain circumstances it would be difficult for the SFA or the SPL to take disciplinary action against a player, because his contract may be drawn up such that the governing body has no role. He might say, "I am not accepting the discipline laid down by the governing body, and the club will

have to accept that before I sign the contract." The game would be difficult to manage if contracts were open to such diverse interpretation.

Football managers have problems with their contracts. They have unique contracts. Kenny Dalglish is talking about suing Celtic, because he will have an individual contract with Celtic. It would be almost impossible for the sport to administer 200,000 professionals throughout the world if they had unique contracts. That is one of the major problems and it arises because football is a global game. We are working with FIFA and UEFA to try to establish a model contract, under which all players would have certain rights, with adaptations based on local labour law. If lawyers were involved in the drawing up of each contract, that would create havoc for the governance of the game.

The Convener: Lex, do you wish to comment on that?

Mr Gold: The point is, why start creating other approaches when the current approach works pretty well.

16:00

The Convener: Thank you all for prompting a full discussion. This is one of those issues that we could spend two, three or four times as much time on and still not get to the heart of it. Brian Monteith and Fiona McLeod have introduced other elements that are not necessarily within the remit of this committee.

I will try to summarise so that we are clear about what has been said today. You are all opposed to the current proposal and are concerned about the consequences, such as the fact that it will make rich clubs richer, it will affect the grass-roots development of the game, it will threaten full-time employment, it could create unemployment and it would prejudice investment in youth development.

Mr Higgins: Yes, on the basis of the European Commission's initial statement that the unilateral right to termination would be the way forward for football.

The Convener: So we are all right until there. At the moment, the Scottish Premier League wants the current system to be retained. The SFA has indicated that it would prefer to retain the existing system.

Mr Bryson: We certainly would.

The Convener: Lex Gold has said that he does not want to contemplate an alternative because the current system should be used. The SFA supports the current system, but if push came to shove it would think about alternatives.

Mr Bryson: I am not saying that at the moment. Our aim is for a special protocol.

The Convener: So the SFA and the SPL are saying the same thing, and are calling for the current system to be retained.

Mr Gold: I also raised the issue of what the criteria might be for judging a different system.

The Convener: I will come back to the protocol in a minute, but what is the SFL saying about the current system and the protocol, David?

Mr Thomson: We are saying the same as the SFA and the SPL. We want the system that is currently in place, but we accept that that may not be possible.

The Convener: And you do not want to look at an alternative until such time as negotiations have been exhausted.

Mr Thomson: Yes, that would be the case until we find out the proposals.

The Convener: Martin, as the fans' representative, are you closer to Tony Higgins's view that the current system will not continue and that the protocol should be considered?

Mr Rose: Yes. My comments were based on the assumption that the Commission will remove the current arrangement. If the current arrangement stays, I would have points to make about how it operates and its impact on finance in the game. My comments were made against a backdrop of the removal of the current system. I would have different comments if the current system were to remain.

The Convener: What is the players union's view?

Mr Higgins: Our view is that the system will change. We have to ensure that we have the best possible solution, and the way forward is a special protocol.

The Convener: So you and the fans' representative are saying that whatever comes out should demonstrate that there will be investment at the grass roots and in youth.

Mr Higgins: Yes; there should be special protection for youth players.

The Convener: Generally, all of you want to protect young players and youth development and continue to see investment.

Mr Gold: It is also fair to say that we are all in favour of the protocol that Tony Higgins spoke of.

The Convener: As part of the negotiations, or as a fall back?

Mr Gold: It has to be seen in that context. There should be a protocol for sport that indicates that it is different.

The Convener: So even if the current system is retained, you would still support a protocol.

Mr Gold: Yes.

Mr Higgins: Yes.

The Convener: And there is a tactical difference about what the Commission will or will not accept.

Mr Gold: I would like to add one other thing: we have said unanimously that we would like to have the support of this committee against the European Commission's proposals.

The Convener: Thank you for your time—it has been helpful. We have other important business to discuss, but we will take a break for a few minutes first.

16:04

Meeting adjourned.

16:09

On resuming—

The Convener: The next item on the agenda is our discussion of the draft report that Maureen Macmillan has prepared.

David Mundell: Convener, may I ask what will happen next with the football inquiry?

The Convener: We will prepare a draft report. We are getting differing indications about the deadline, but we will try to have something available for our next meeting, based on the written evidence and on today's discussion. I hope that that will happen within a fortnight.

Ben Wallace: Will we discuss that at the next meeting?

The Convener: Yes.

Dennis Canavan: That is two weeks today. Will that give us time to get our submission in?

The Convener: It should do. However, we will not have time to make extensive revisions or to drag things out. We will have to finalise the report.

Aquaculture Industry

The Convener: Maureen Macmillan has been waiting patiently. I am not sure whether Fergus Ewing was so enchanted by the previous discussion that he has decided to stay on, or whether he came specifically for this agenda item—welcome, Fergus. I ask Maureen Macmillan to take us through her paper and its key findings, after which we will ask questions.

Maureen Macmillan (Highlands and Islands)

(Lab): As they say: now for something completely different. The report starts with the background and the terms of reference. We wanted to examine the effect of the European regulations on the salmon farming industry and other fish farming industries. The terms of reference give a potted history of infectious salmon anaemia and viral haemorrhagic septicaemia, their effects, and the response of the Executive.

Page 3 shows the specific aims of the report—to examine the incidence and clinical effects of ISA; the current regulations; the impact on the industry; waste disposal; the support from the Executive for affected businesses; insurance for the industry; the comparison with Norway; and possible future developments. For VHS, the aims are more or less the same, but are not as extensive, because the disease has appeared only once and the industry does not have the history of VHS that it has of ISA.

On page 4, the main body of the report begins. The introduction emphasises the importance of the salmon farming industry to the Highlands and Islands: it provides 6,500 jobs and is worth around £500 million a year. It is extremely important, economically and socially, in the west Highlands and in Orkney and Shetland.

The report points out that the diseases are virulent as far as fish are concerned, but pose absolutely no threat to human health. ISA was first recorded in Norway in 1984. It is transmitted through water by means of material such as blood and mucus. The disease came to Scotland in May 1988. It was classified as a list 1 disease. Consequently, tough control measures had been put in place to prevent and control its spread in any farm suspected of harbouring the disease and its neighbours. Those measures had been put in place in Europe as a result of the disease appearing in Norway and they had a severe impact on the Scottish industry.

Although VHS is classified as a list 2 disease, if the disease is found, the control measures are as draconian as those for ISA. VHS is harmful to white fish, and the reason why it was included in the report is that, with more and more of the

aquaculture industry thinking of farming white fish such as turbot and halibut, we do not want the same to happen to the white fish industry as has happened to the salmon industry.

On the confirmation of the presence of ISA, the initial response was the setting up in 1998 of a joint Government and industry working group, which reported earlier this year. I will come to that later. The working group tried to establish the measures required to prevent further outbreaks of ISA or to minimise their impact; it reported in January 2000.

The next part of the report deals with the effects of the regulations on the industry: the depressive effect on the market; the fact that stock became uninsurable; the vulnerability of small, local farmers and the drop in prices at the supermarkets—the supermarkets used the ISA outbreaks to push down prices.

16:15

The industry was particularly concerned about the harm done to sites that were designated as suspect, when such sites often proved to be clear of the disease. Newspapers carried headlines that claimed that a killer disease was suspected in such and such a farm; that had a significant impact.

The financial impact was considerable. The process of fish slaughtering had to be tightened up because of the spread of the disease. However, most significantly, a plethora of litigation arose around the issues of compensation and insurance.

Environmental considerations were also expensive because everything had to be tightened up—all waste materials and packaging could carry the virus and were therefore subject to strict controls. The effluent from the industry had to be treated and the preferred method—ozonisation—is expensive. We must consider how that is to be funded.

The industry in Scotland has been compared unfavourably with that of Norway. The Norwegian method of dealing with the disease—control rather than eradication—was seen to be much friendlier to the fish farming industry. As paragraph 51 of the report suggests, ISA seems to be returning to Norway. A question mark hangs over the success of the Norwegian approach; only time will tell.

The report outlines the relevant Community legislation. It is fairly technical, including the various directives that deal with fish farming and an explanation of their purpose. Directives refer to the placing on the market of aquaculture animals, which must show no signs of disease; eggs and gametes must come from disease-free fish and so on. Council directive 93/53 relates to the control of

fish diseases and aims to ensure a rational development of the aquaculture sector and to contribute to the protection of animal health in the Community. The directive requires certain control measures to be introduced as soon as the presence of the disease is suspected and further measures when the presence of the disease is confirmed.

Vaccinations were prohibited, but there has been a derogation that means that we can now use vaccines if we can find efficacious ones. The report sets out the measures that must be taken if the disease is suspected or confirmed on a farm.

Council directive 2000/27 takes a more flexible approach than the previous two directives. We have spent some time writing to the Executive to find out what is meant by “flexibility”. Members have copies of the correspondence from the Executive. The derogation came through the European Parliament Fisheries Committee to which Ian Stewart Hudghton MEP was acting as rapporteur. He submitted a report asking for a number of significant changes to be made to directive 93/53. That was undertaken with the co-operation of all Scottish MEPs. The correspondence from the Scottish Executive rural affairs department outlines what the new flexibility means.

Council decision 90/424 on the absence of Community financial assistance is quite important. Livestock farming receives assistance from the Community if, for example, there is an outbreak of swine fever; other diseases such as anthrax and foot-and-mouth disease qualify for Community financial assistance. Currently, ISA and VHS do not qualify for such assistance. Fish farmers have no recourse to compensation from the European Community. That decision seems rather capricious; it is difficult to understand why fish farmers should be treated differently from other farmers. One of our recommendations is that we lobby Europe to include fish diseases in categories for compensation.

Vaccinations are dealt with in paragraph 88 of the report. Although vaccination is allowed, we do not have an efficacious vaccine. We have had correspondence with SERAD on where and when such vaccinations could be used.

Page 15 of the report sets out our recommendations on the legislation. We are seeking action at Community level to add ISA and VHS to the list of diseases qualifying for Community financial assistance. More generally, we want Community regulation of expenditure in the veterinary area to become more transparent and consistent. The Community approach to the availability of financial assistance is rather capricious. Control measures to combat certain diseases qualify for financial assistance, whereas

other measures do not. However, both the Community system for fisheries and aquaculture and the common agricultural policy must support the general objectives of EC article 33.

The Scottish Executive could do more to explore all possible avenues for alternative Community funding. We mention the financial investment for fisheries guidance—FIFG. There might be some measure of flexibility in structural funds. Perhaps the Commission could change the relevant regulations to allow structural funds to assist in dealing with pathological risks in aquaculture.

The Scottish Executive's response is laid out from paragraph 100 onwards. Initially, the Executive provided the industry with a limited compensation package. The industry could not use that package because it required match funding. About £9 million was offered—I am not certain of that figure. That was extended to farms that were indirectly affected, such as farms that had been suspected and which had suffered financial losses—that was not covered in the original proposals.

The Scottish Executive then proposed a financial aid package to help people to restart their businesses. The report includes comments by John Home Robertson, on compensation to people who had lost their jobs—he turned down that suggestion.

The European Commission agreed to the £9 million aid package. I note that the UK Government could have decided to compensate farmers for those losses and that such a scheme would probably have been considered compatible with the EC treaty, as it would have met the criteria in the guidelines. Paragraph 111 explains that further.

We want to find out where the compensation scheme is heading. At the moment, not many people seem to have access to it. We want to ensure that it is not too bureaucratic and that there are no hurdles for people to clear.

Although the threat to Scottish aquaculture cannot be underestimated, a number of positive steps can be taken, both here and at Community level. We recommend that we follow the example of good husbandry that is outlined in the report of the joint working group, which included representatives of both the industry and the Executive. At Community level, further and detailed attention needs to be paid to the legislation that currently exists, to see what further financial assistance is available. We recommend strongly that ISA and VHS be added to the list of diseases that are covered by decision 90/424 and that qualify for financial assistance.

We urge the Scottish Executive to ensure that all avenues of support have been examined and to

press the European Commission to change the relevant regulations to allow structural fund aid to be used to combat pathological risks in aquaculture. We welcome the restart initiative, but we want to ensure that the process is straightforward and that assistance goes to those who need it most. We ask to be kept up to date annually on the progress of the scheme.

The material appended to the report relates to litigation about compensation that is pending. Those are European convention on human rights cases and are currently being heard by the European Court of Justice, which means that they are sub judice.

Was not that fascinating?

The Convener: Thank you very much. This is an extremely comprehensive report, containing a great deal of factual detail. You have obviously taken time to get an overview and to get behind some of the details of the issue. I would like questions to concentrate on the report's conclusions and recommendations.

Before I invite questions from members, I would like Maureen Macmillan to clarify something. In paragraph 112, you recommend that the committee be kept informed on a yearly basis so that it can judge the effectiveness of the aid scheme. Does that mean that there will be a yearly report?

Maureen Macmillan: I meant that the Executive would tell us what is happening. It could simply send us a note that would indicate whether the scheme was being accessed. The scheme is designed to run for three years and we have already reached the end of the first year. So far, there have been only three applicants. *[Interruption.]* I have just been informed that the Executive has to submit an annual report to the Commission.

The Convener: We could ask for a copy of that report.

My second query relates to paragraph 113, in which you say:

"The Committee would like to ensure the method of applying for grants is not overly bureaucratic and that ultimately farms get the right amount of money they deserve."

That sounds fairly subjective. Is there an objective way of determining what farms deserve?

Maureen Macmillan: Rather than being so wide that multinational companies could apply for money that they do not need, the gate has been set up in such a way that grants go to people who genuinely need the money. People have to show that their business would go bankrupt if they did not receive this money.

Cathy Jamieson: The language in paragraph 113 is perhaps unhelpful. Could it be changed to say that the money should be targeted at where it is most needed and that people should have to provide evidence to show that they could not restart their business without the grant?

Maureen Macmillan: That is exactly what I mean.

16:30

Ben Wallace: I have to tell Maureen Macmillan what a good report this is. I do not consider myself an expert on this subject, but I now understand what it is all about. I wonder whether we should add a recommendation. If I am not mistaken, ISA is a list 1 disease.

Maureen Macmillan: ISA is a list 1 disease, and VHS is list 2.

Ben Wallace: Norway and Canada do not classify ISA as a list 1 disease. Some of the problems that we encounter with the way in which the EU makes us deal with ISA arise because it is classified as a list 1 disease. Unlike foot-and-mouth disease or anthrax, which are harmful to humans, ISA is not regarded by some advanced countries as harmful, so should we recommend that the EU removes it from list 1?

Maureen Macmillan: I would not go so far as to say that, but the committee may take a different view. ISA is a serious disease for fish and we should try to keep it out of fish farms. As we have noted, the Norwegians treat ISA differently, but it has not yet been proved whether their methods are more successful. Although the incidence of ISA in Norway fell, it seems to be rising again.

Ben Wallace: You say that the Norwegians prefer to approach ISA as a disease that is endemic, whereas scientists believe that we may be able to eradicate it in Scotland. Should we set a time limit after which, if ISA has not been eradicated, we should handle it as an endemic disease?

Maureen Macmillan: That question could be revisited. Although scientists think that the disease could be eradicated, many people in the industry think that it is endemic in the wild. That view has not been proved, but one cannot prove that something does not exist. There has not been a case of the disease since May 1999. There have been a few suspected sites, but nothing has developed.

Ben Wallace: Are we too severe in the UK, in that we name suspected sites?

Maureen Macmillan: I think so.

Ben Wallace: We could recommend that sites should not be named until ISA is confirmed there.

Maureen Macmillan: Yes. Fish farmers feel that a stigma is attached to their sites if they are suspected, even though it may turn out that they do not have the disease.

The Deputy Convener (Cathy Jamieson): Members will have noticed that the convener had to go out to take an urgent phone call. I am now frantically reading his notes. I call Fergus Ewing, who has been waiting patiently.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Thank you for your words of welcome—I have had a very pleasant afternoon.

It is obvious that much work has gone into this report. I endorse what Maureen Macmillan has said about the importance of fish farming to the north of Scotland. I was pleased to read in paragraph 73 of the report—the clerks were kind enough to give me a copy—a reference to Ian Hughton, whose report influenced the terms of directive 2000/27. As we are concentrating on recommendations, I will cut to the chase.

The Deputy Convener: That would be helpful.

Fergus Ewing: It seems that the view adopted in the recommendations is that the Executive has the power to make payments of compensation. The report invites the Executive to explore all possible avenues to make such compensation payments. If such powers are available, as is suggested in paragraph 110, the question arises why those powers have not been used. I would like the report to address that. People in the industry who have talked to me are pretty hot under the collar about that matter, as is manifest by the fact that some of them are busy suing the Government.

Maureen Macmillan: I mentioned the fact that there is legislation that allows the Government to compensate the salmon farmers if it felt that it had the funds to do so and that that was appropriate. The Government offered a package that the industry said that it could not access, as it needed matched funding. Part of the problem is that no money—such as farmers would get for swine fever—is coming from Europe to help. The Government could offer compensation if it wanted to, but it might have felt that the sums involved were too vast.

Some people in the salmon industry felt that there was a European convention on human rights dimension—that is what is being pursued in court. All those cases go back to the time before the Scottish Parliament got its powers, so it was the UK Government and the Scottish Office that were involved.

Fergus Ewing: Paragraph 98 states that there are arrangements under the financial instrument for fisheries guidance for a payment package. I

think that, in paragraph 98, the committee is asking the Executive to supply details of the projects. That would be useful.

Maureen Macmillan: I do not think that we know that there are powers under the financial instrument for fisheries guidance. We want the Executive to explore that.

Fergus Ewing: I am no expert, not having studied the prime documents, but the scallop fishermen, for example, who were here at the first meeting after the recess—a meeting at which I was not present—and other fishing experts and representatives clearly stated that such powers existed and that those powers were not being used to access European money. I appreciate that I have not been fully involved with the report, but it seems important to pin down whether there is European money and, if there is, why it has not been accessed.

The Convener (Hugh Henry): Paragraph 98 should cover that. We want a reassurance that all avenues have been explored. We also want details of the projects that are eligible for assistance.

Maureen Macmillan: I want to correct something that I said. When I said that a European convention on human rights dimension was being pursued in court, I meant an EC law dimension.

The Convener: Okay.

The information that Fergus Ewing is talking about should be obtained by paragraph 98. We are asking for a reassurance that the Executive has explored all the avenues and we want to know what projects are eligible for assistance.

Fergus Ewing: That deals with that point. The other point that is considered in detail in the report is to do with looking to the future rather than the past—seeking not compensation but flexibility in terms of the way in which the member state interprets directive 2000/27. In particular, we want to know whether the Norwegian experience of control rather than eradication is followed.

Although Maureen Macmillan has said that cases of ISA have been reported in Norway this year, a little more quantification might be helpful. Perhaps understandably, that paragraph does not go into a great deal of detail. It is early days yet and I know that it is difficult to obtain the information, but Norway has had ISA since 1984 and has pursued a policy of control rather than eradication with, I believe, some success. It might therefore be helpful to say expressly in the recommendations that the matter should be revisited, as Maureen suggested, rather than couching it in the terms that are in the report and saying that the matter might be given more consideration.

Maureen Macmillan: I am perfectly happy to do that if the committee wants me to. However, in discussions with the fish farming industry, I did not detect great enthusiasm for doing what is done in Norway, although I had expected to. It could be a red herring to say that we should do what Norway does; the fact that ISA appears to be returning to Norway may give credence to that view. This may be something that we want to keep an eye on and come back to in future.

Ben Wallace: If I am not mistaken, Norway is allowed to be more flexible. We are bound by the EU directive on control of list 1 diseases. If we discover ISA, we must, by law, eradicate it. Norway does not have that restriction.

Maureen Macmillan: Norway sells its fish to the EU, so that fish must be of a standard that the EU will accept.

Ben Wallace: Does not the flexibility lie in the fact that Norway has the ability not to have to eradicate if a case of ISA is found? It can control the disease, individually, and sell the remainder of its stock to the EU. We are bound by the EU directive.

The Convener: I suggest that Maureen Macmillan and Fergus Ewing liaise to see whether there is an appropriate form of words that reflects what Maureen means. We need to clarify paragraph 98, but I think that there is general agreement on the sentiment. We need to ensure that we get the information that we require.

Dr Sylvia Jackson: I have two points. The first follows on from what Fergus Ewing and Ben Wallace have said. Maureen has suggested revisiting the comparison between the Norwegian and the EU approaches, but it would be nice to include something in the conclusions about the state of research. We need to quantify it. That is what Fergus was alluding to. If there is no evidence, we should say that that needs to be addressed.

Secondly, paragraph 45 mentions that fact that the chlorinated effluent from organochlorates is not biodegradable; it can get into the food chain and be carcinogenic. That may be a side issue, but it is important and may be worth flagging up.

Maureen Macmillan: As paragraph 45 says, the Scottish Environment Protection Agency would prefer different kinds of disinfectant, such as ozonisation and particle screening, to be used. That would presumably have financial implications, so we could perhaps make a recommendation on help for people to transfer from chlorination to those methods.

Dr Jackson: Given current concerns about shellfish, fish farms and nutrients, that is an important area.

Maureen Macmillan: Paragraph 45 does not refer to the fish farms themselves so much as to the fish processing factories.

Dr Jackson: It is still effluent, however. Although it is a side issue, I think that it is important. If SEPA thinks that it should be examined, perhaps that should be flagged up in the conclusion.

16:45

Maureen Macmillan: I am happy with that, if other members of the committee are.

Allan Wilson: There seems to be a dearth of labour market information on the people affected—either those working in the industry or those who work in downstream activities. The document says that there are

“approximately 6,500 people working in salmon farming and other associated activities.”

I would like to know what proportion of those people work directly in salmon farming and what proportion are working in other activities. The document goes on to say:

“At present some 10% of Scotland's fish farms are affected.”

What does that mean for the people working in those industries? I have a constituency interest in associated downstream activity, and such information would inform the debate on the support and compensation that some people are arguing for.

Maureen Macmillan: That is a good point and we should develop it.

The Convener: I know that Tavish Scott has some comments on the matter. I suggest that Maureen Macmillan should take into account what we have agreed and discuss things with Tavish, to see whether his proposals are acceptable. Then we can finalise the report at another meeting, but we will discuss only the things that are changed as a result of today's discussion. I suggest that we highlight the paragraphs in which changes have been made as a result of today's questions and comments. If Fergus Ewing has any further comments, he should submit them to Maureen and we shall try to incorporate as many views as possible.

Convener's Report

The Convener: The matter of the applications procedure for structural funds has arisen from comments about the information technology that is being used to process objective 3. It appears that there have been some problems, which I hope have been resolved. However, there is a more general issue about funds. Smaller organisations that have never been through the application system before find it bureaucratic and hard to understand. If we are genuine about opening up funds to as wide a market as possible, we should be examining the simplicity of the system. Unfortunately, comments suggest that, far from becoming simpler, the process is generally becoming more complicated. Using the objective 3 problem as a starting point, the committee should ask various bodies and users to comment on the funding system and see how the process could be simplified.

David Mundell: I support that view. I have raised that point in previous discussions about structural funds. There is a perception, although it is not validated in relation to the allocation of funds, that the usual suspects—the people who know the system—are at an advantage in making applications. That may not necessarily be the case, but that is the perception, so it would be helpful to proceed as you suggest.

Dr Jackson: How would that be processed? How would you call for views?

Stephen Imrie (Clerk to the Committee): If the committee agrees to go down that line, our intention is to target organisations that are in receipt of those awards or are intending to apply for them and to ask for their comments. We also intend to put out a general press release calling for views from organisations that are perhaps not normally involved.

I would be happy to take suggestions from members on other ways to capture as large an audience as possible for the questions that we might ask.

The Convener: As a matter of course, we would want to ask the Scottish Council for Voluntary Organisations whether it could circulate the information. In relation to small businesses, we would contact chambers of commerce.

Irene Oldfather: We could contact higher education establishments.

The Convener: Yes. We could ask them, although the evidence suggests that they have not had too many problems in accessing awards in the past. Nevertheless, their views would still be useful.

Is that agreed?

Members indicated agreement.

The Convener: The next item is about getting the committee's agreement on having an initial discussion on European Union tobacco subsidies.

In recent years, there has been a growing debate about health across Europe. When we consider EU policy, subsidising tobacco growers to the tune of £800 million a year seems to run contrary to EU policy on health and education. It would be worth having an initial consideration of the matter. Irene Oldfather has raised it before and it has been raised with some organisations in relation to health. We might want to comment on the matter, to the European Commission and the Parliament.

Irene Oldfather: Reforms have been attempted over several years, but they have never been terribly successful. There was a big reform of tobacco subsidies in 1992, but £720 million per annum is still spent on subsidising tobacco in the EU. The European Court of Auditors has drawn attention to the fact that the health budget to prevent tobacco-related illnesses is about 0.1 per cent of the tobacco subsidies. That is clearly a mismatch. One could argue that there are economic arguments versus moral arguments.

One of the difficulties is that one of the objectives when the system was set up was to reduce imports of tobacco into the European Union. Unfortunately, the system has not worked, because 70 to 80 per cent of tobacco that is produced in the European Union is exported and therefore goes to third-world markets. If subsidies were stopped tomorrow, tobacco consumption might not be reduced in the European Union, because most of the tobacco that is consumed in Europe is imported. However, we would address a moral dilemma because it is low-grade tobacco that is produced. There is a perverse incentive in the system. It does not matter what quality of tobacco one produces; there is the same subsidy. There is no incentive to produce—if there is such a thing—good-quality tobacco. There is an encouragement to reduce production costs and labour costs and therefore provide low-grade tobacco, which is exported to the third world. There is a moral argument that the committee might want to explore.

The Convener: I suggest that we ask Irene Oldfather to prepare an issues paper and to bring that back to the committee. Is that agreed?

Members indicated agreement.

The Convener: The next item is amnesic shellfish poisoning European testing regulations. The Health and Community Care Committee is discussing that issue, and I recommend that we

consider what, if anything, we should do on that.

Maureen Macmillan: You might not be aware of this, convener, but the matter is being discussed by the Standing Veterinary Committee. Susan Deacon has talked to Commissioner Byrne.

Stephen Imrie: I will find out what information is available and inform the committee as soon as possible outwith the meeting. I hope that there will still be time to pull something together for our next meeting.

David Mundell: There has been some discussion of that issue in the Rural Affairs Committee. People are concerned about different interpretations of the regulations in different EU nations. We appear to operate the most prohibitive regime, whereas others seem to allow their industry to carry on. We need to understand the European dimension and the causes of that inconsistency.

The Convener: Is the recommendation agreed?

Members indicated agreement.

The Convener: Members will have seen the recommendation on new working procedures, which has been circulated. Is that agreed?

Members indicated agreement.

The Convener: Does the committee agree to write to the Scottish Executive about section 57 of the Scotland Act 1998 in the terms set out in the recommendation?

Members indicated agreement.

The Convener: The next meeting of the committee will take place two weeks today, on 3 October.

Meeting closed at 16:56.

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