

EUROPEAN COMMITTEE

Tuesday 8 May 2001
(Afternoon)

Session 1

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EUROPEAN COMMITTEE

6th Meeting 2001, Session 1

CONVENER

*Hugh Henry (Paisley South) (Lab)

DEPUTY CONVENER

*Mr John Home Robertson (East Lothian) (Lab)

COMMITTEE MEMBERS

*Colin Campbell (West of Scotland) (SNP)

*Dennis Canavan (Falkirk West)

*Helen Eadie (Dunfermline East) (Lab)

*Irene Oldfather (Cunninghame South) (Lab)

*Mr Lloyd Quinan (West of Scotland) (SNP)

*Nora Radcliffe (Gordon) (LD)

*Ben Wallace (North-East Scotland) (Con)

*attended

CLERK TO THE COMMITTEE

Stephen Imrie

ASSISTANT CLERK

David Simpson

LOCATION

The Chamber

Scottish Parliament

European Committee

Tuesday 8 May 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:07*]

Items in Private

The Convener (Hugh Henry): Good afternoon and welcome to the sixth meeting of the European Committee in 2001. First, I ask whether we agree to take items 6 and 7 in private. Is that agreed?

Members *indicated agreement.*

EC/EU Legislation (Implementation)

The Convener: Agenda item 2 concerns the implementation of European Community and European Union legislation in Scotland, in particular the Scottish Executive's proposal for revised procedures. Members will recall that the committee's role is not just to scrutinise the Executive's activities in protecting Scottish interests; we also have an important role in scrutinising plans for the practical implementation of such legislation in devolved areas. The recent members' business debate on the water framework directive highlighted that issue, and there are further issues regarding the implementation of the various regional development funds.

Members will recall that we received a positive response from the Executive to our request for regular updates to allow us to monitor progress. I remind members that the end point of failure to implement such European directives would not just be the Scottish Executive facing a case in the European Court of Justice; if the case were to go against the Executive, that could involve some serious money in the form of penalties. I am aware of a current case in England, relating to the discharge of waste. The debate that may follow would be about who was responsible: the people who discharged the waste, or the Governments. There is an onus on us all to ensure that directives are implemented properly; if they are not, we can face horrendous fines.

The Executive's proposals consist of the establishment of a central database of salient information and activities from across the Executive, with regular reports on progress. I will leave my remarks at that, and invite any comments or questions from other members on the papers before them.

Dennis Canavan (Falkirk West): Could the clerks tell us whether annexe B was drawn up by the Scottish Executive, by the clerks, or by a combination of the two?

The proposed timetable, as worded in annexe B, is a bit ambiguous. It is important for us to have notice of the proposed means of disposition and authority, particularly the use of section 57 of the Scotland Act 1998, whereby the United Kingdom Government or Parliament would, in effect, implement European Union legislation for the whole of the UK. I am not against that in principle: if there is a common interest and if there is not a specifically Scottish dimension to a statutory instrument, it might make sense for that statutory instrument to cover the whole of the UK, which

would short-cut things. The committee ought to have the opportunity and the time to check whether there is a specifically Scottish dimension to instruments. We might want to propose to our Parliament or to the Scottish Executive that a particular piece of EC legislation has a strong Scottish dimension and that we would like it to be dealt with differently in Scotland.

I question the wording of annexe B. For example, paragraph 6 says:

"It is proposed to include the following information for each Directive ...

- Means of transposition and authority used".

Are we just to be informed of that after the event, rather than before it? Surely we should be informed of the proposed means of transposition and authority before they have been used. Similarly, on the next page of the annexe, the first bullet point of paragraph 7 mentions, among the information to be included,

"date(s) by which EC legislation must be transposed".

Presumably, that means the deadline that is set down by the European Commission, or whatever, but we should also be informed of the date of the proposed transposition by the UK Government. Specifically, I refer to cases that will use section 57 of the Scotland Act 1998, under which the whole of the United Kingdom is embraced, rather than legislation for Scotland being dealt with separately.

The Convener: Before I invite Ben Wallace to speak, I ask Stephen Imrie to answer some of those points, especially the first question about annexe B.

Stephen Imrie (Clerk): The paper was drawn up by the Scottish Executive executive secretariat, but in collaboration with officials from the Parliament. Although the text is that of the Scottish Executive, the thoughts and input into it have been a joint effort. The paper arises from a previous discussion in committee, when we were asked to consider the various options by which the committee may be better informed and to return with proposals. The details in annexe B have arisen from a joint effort.

The Convener: We will leave Dennis Canavan's other points for now and return later to the implications of the timetable as set out in the paper.

Ben Wallace (North-East Scotland) (Con): In relation to section 57 of the Scotland Act 1998, I think that we should go further. Perhaps the mechanism should include a version of a Sewel motion, or the European Committee should have to give its approval for a directive to be dealt with at a UK level. I am thinking about the way in which the Food Standards Agency interprets EU

directives more strictly in Scotland than in England; I am sure that that also happens vice versa. As a unionist, I believe that many issues are best dealt with on a union-wide basis. However, if different parties were in power in Scotland and in Westminster, one can imagine that the mechanism that we are discussing could well be used to get things in by the back door. The UK Treasury is the body that is fined if any part of the UK fails to implement a directive, but it is important that we be allowed to delegate that power back to Westminster if we want to. I do not think that Westminster should be allowed to assume that that would be okay. We should have at least a rubber-stamp role.

14:15

Irene Oldfather (Cunninghame South) (Lab): Paragraph 5 of the "Implementation of EC Obligations" document says that quarterly reports in table form would be produced for the committee. I understand that section 57 has been used in about four instances. Would it be possible to get information on those instances?

Stephen Imrie: Information relating to the use of section 57 and the four instances to which the member refers was passed to Parliament in the form of an answer to a parliamentary question. At a previous meeting, the committee felt that that was not the best way of informing Parliament. With the Executive's assistance, we can compile information on the previous instances.

On Mr Canavan's point, the intention is to enable the committee to have early warning of proposals to use section 57 of the Scotland Act 1998, rather than to inform the committee after the event. That will allow the committee to consider plans for implementation and transposition.

Mr John Home Robertson (East Lothian) (Lab): Will that be written into the procedure, or will it be a gentleman's agreement? That is an important point.

Stephen Imrie: I understand that the material presented to members in annexe B is supposed to set out the details of transposition intention. The material that we get from the Executive in tabular form will contain that detail, but we can clarify the language that is used in the proposals to ensure that the situation is clear.

Mr Home Robertson: I agree with what Mr Canavan said earlier. There might be a temptation in certain quarters to use section 57 as a catch-all means of enacting legislation. Probably, in 99 per cent of cases, that will not be a problem, but it is important that there is a clear mechanism to ensure that the committee gets notice of such use of section 57 and that we have an opportunity to say whether we think that the case should be dealt

with in the Scottish Parliament.

The Convener: Are we under any pressure to sign this off by a certain date?

Stephen Imrie: We do not have a tight timetable as the roll-out period in the Executive is quite significant.

The Convener: It would be worth while putting to the Executive the points that have been raised this afternoon and asking for further clarification. We would not be able to deal with the matter at our next meeting, but we could do so at the meeting after that.

Mr Lloyd Quinan (West of Scotland) (SNP): I agree that we need to get further information from the Executive, but until we know what everyone on the committee actually thinks, that would be of limited use. We are making a decision that will affect not only the next few years of this Parliament; we are tying the Scottish Parliament into an arrangement for the foreseeable future. That is a huge responsibility and there should be further debate around the key principles of the issue. We have to think about what will happen in 30 years, not what will happen next week or after the next election. What we are discussing sets the relationship between us and Westminster. I can see great potential for conflict around this matter, which could be used as a political football. We have to approach the matter from a clear and principled stance that should be the collective stance of the committee. We need time to debate seriously the principles, rather than simply the proposed mechanisms. That is important.

The Convener: We will seek further information from the Scottish Executive and inform it of the comments that have been made this afternoon. However, there would probably be no controversy about setting up the database and we can inform the Executive that we are quite happy for that to proceed. We need to take some time to reflect on what happens thereafter.

Dennis Canavan: We need a clearly defined early-warning system to be built into the document before we give it our full agreement.

The Convener: We will defer a decision on this matter until we have received further information.

EU Governance

The Convener: Agenda item 3 deals with our forthcoming inquiry into EU governance. Members have before them the draft terms of reference, and will recall that we have agreed to inquire into the future of the EU and the means by which it operates, and the role that Scotland can play. I point out that, tomorrow, there will be a debate in the chamber on Europe.

We have tried to firm up the ideas on which we should focus and to ensure that, as well as seeking answers to some of the questions about Scotland and the EU, our inquiry includes some innovation. The terms of reference include a suggestion that we establish a Scottish European forum some time in the autumn, so that the legitimacy of the Scottish Parliament can be given to a body that pulls together various strands of life in Scotland from the public, private and voluntary sectors. We can add our weight to the encouragement of positive debate on Europe and are better placed to initiate that than any other body in Scotland. Clearly, we need to develop that role in conjunction with our MPs and especially our MEPs across the political spectrum, who have all been constructive.

We must also discuss the plans for a practical case study of how a piece of EC legislation is taken through the governmental system in Scotland and the UK. Having spoken to some of the officials in the European Commission, I am aware that they are interested in the work that is being done in Scotland and in our principles of access and their implications for the general debate on governance. The European Committee and the Scottish Parliament can contribute much to the general debate. As part of that process, we will have at our next meeting 10 or 11 representatives from the Committee of the Regions who are keen to develop their perspective on governance and to engage in dialogue with this committee. That meeting will be unusual, in that we will share much of it with a body that was set up to deal with European legislation and treaties.

Ben Wallace: Is it appropriate to discuss the scope of the inquiry, which is mentioned on page 5 of the draft terms of reference?

The Convener: Yes.

Ben Wallace: I thought that our discussion of governance of the EU would tie into the European Commission's development of its governance arrangement. Some would call the arrangement a constitution—it is the framework on which we were briefed in Brussels. Some of the suggested themes could be part of a public relations exercise on how we get the message across about the role

of the media in promoting a constructive debate. Should that be part of a governance inquiry? Would not it be part of an inquiry on how we present the role of the EU in Scotland? The draft remit seems slightly confused about the governance aspect. Are we talking about the governance that the Commission is examining, or how the EU governs in Scotland or implements law that affects Scotland? I would like to clear that up.

The Convener: The Commission's work programme is referred to on page 1 of the draft terms of reference. To help address questions about governance, the Commission agreed to focus on six areas of work, which included:

"Broadening and enriching the public debate on European matters".

The Commission considers that a significant part of the governance debate.

Mr Quinan: We must examine the concepts of governance, but our debate must contribute to the likely discussions in 2004 at the intergovernmental conference. What is being discussed in mainland Europe—but not in the UK—is not the Commission's role. Everything that I read in European newspapers suggests that the Commission is reaching the end of its life. It will change. It strikes me that our going over the ground of an organisation that may not exist in two or three years would be an ineffective use of our time. Our report would give a history lesson on what the Commission did and is doing but will not do in two or three years.

We must consider the proposals from the main European Governments about the development of a constitution in 2004. To be honest, our spending time trying to find out what the people of Scotland think about the EU would be a waste of resources, because we are not System 3 or MORI. We could not answer that question.

The Convener: You are right—we are not conducting an inquiry into the Commission's future—but comment on the Commission must be part of an inquiry into governance, because in the short to medium term, the Commission will have a huge impact on everything that happens in Europe. However, I hope that our inquiry will go wider than that. Scotland's role in Europe must be the most important element.

Helen Eadie (Dunfermline East) (Lab): Lloyd Quinan said that we must take account of events on the European mainland; I think that all members would agree with that. However, he also implied that such developments were not relevant to the people of Scotland and questioned why we should spend resources on ensuring that people are well informed and have the best information to help them to feed back their perceptions of events

on mainland Europe.

Mr Quinan *indicated disagreement.*

Helen Eadie: Although Lloyd Quinan did not say those words, the meaning was implicit. I start from the premise that it is vital that we ensure that people throughout Scotland understand fully the real world in which the European Union and the Commission operate. Lloyd Quinan said that we need to understand what is happening in mainland Europe. When he says "we", does that mean just a select band of people in political circles, or people throughout Scotland? He implies that only those who are well informed can develop the debate, but it is vital that we ensure that the best information, about the facts, is available throughout Scotland. So many of us have seen the myths that are abroad—the straight banana syndrome.

Mr Quinan: You must have missed some of my comments, because that is a complete misinterpretation of what I said.

The Convener: Hold on. The system cannot cope with two people speaking at once.

Mr Quinan: Yes it can.

Helen Eadie: We must engage in the debate as suggested in the draft terms of reference. How many schools engage in debate on Europe? We must ensure that school curriculums take cognisance of events in Europe, because schoolchildren are the stakeholders of the future and need to know how Europe influences them. More important, they need to know how they can influence the debate.

What is important is not us as politicians, but our ability to help people out there to engage in the wider debate. That is why I welcome that aspect in the scope of the inquiry and why I support the recommendations and questions in the draft terms of reference. The views of civic Scotland, how the measures or ideas might be developed to further the debate in Scotland and all the questions that are listed in the draft terms of reference are critical. I hope that members support that part of the inquiry.

14:30

Irene Oldfather: Our debate probably mirrors the debate in Europe. Part of the problem is that governance means many different things to many different people. The Commission's latest work on governance arose from the difficulties that it faced in relation to fraud. The European Parliament held an inquiry into how the Commission allocated jobs, moneys and programmes. As a result of that inquiry, the Commission had to look at itself and reform itself, or it would have gone out of business.

That was the origin of the Commission's present governance inquiry, but the inquiry has broadened significantly. Other groups in Europe can contribute to that governance inquiry. I am in favour of having a tight remit, because otherwise we could do everything. Some issues that we rightly want to investigate, such as engaging civic Scotland, are valid, but we must decide what we mean by governance. We could make a valid contribution to the debate on some aspects, such as how we influence opinions in the Committee of the Regions, how we engage with other regional actors and how we co-operate with our MEPs and other players in Europe.

Many big questions must be answered. We need to be a wee bit careful about the extent of the remit. Having said that, regional government is the tier of government that is closest to the people, so we are uniquely placed to represent the interests of the people in the constitutional debate and other debates that are continuing in Europe. Perhaps we need to focus a wee bit more tightly and decide what governance means to the committee, because it can mean all things to all people.

Colin Campbell (West of Scotland) (SNP): After all that expansive chat, I will try to keep my comments fairly tightly focused. Everything that has been said has some validity. I will follow from what Lloyd Quinan said. Perhaps we should ask whether the governance of Europe, because Europe is moving all the time. It might be a little futile to get stuck with Europe's present position. We should ask whether the governance of Europe and whether Scotland in Europe, in whatever context it finds itself. How far we cast the net in the Scottish context is a matter of logistics, as well as of ambition and a willingness to consult everybody.

The Convener: The point about Scotland's role is taken up in the suggestion for phase 2 of the proposed remit, on Scotland's role in Europe. You suggested asking whether the governance of Europe. The comments about keeping a tight remit would apply to that question.

It would be futile for us to speculate on every view that exists about how Europe should be governed. We need some parameters within which to operate and we must reflect on the current situation and the changes that are taking place. I do not disagree with Colin Campbell when he says that he wants to consider where Europe is going. I would, however, want to put a limit on that, because we could discuss it from now until the next century.

Mr Quinan: That is pejorative.

The Convener: I do not think that it is pejorative.

Mr Quinan: The issue is whether it is worth debating. We should take the time that we require.

The Convener: I am baffled at how you can think that what I said is pejorative.

Dennis Canavan: I do not see how we can discuss, or indeed report on, the governance of the European Union without making specific reference to the present or future role of the European Commission, which is one of the most powerful structures in the European Union. We must consider what we approve and disapprove of in the various power structures that exist, and how we can make them more accountable. I am talking about not only the Commission, but the European Council of Ministers, the European Parliament, the Committee of the Regions, the European Central Bank and the European Court of Justice. I hope that we will consider those institutions and comment on how they are working and how they can be improved. Obviously, when we are considering their future development we should take into account enlargement and qualified majority voting. I hope that we will consider the various institutions and power structures in the EU with a critical eye.

Also, in view of the fact that we are one of the youngest Parliaments in the European Union, I hope that we can put great emphasis on the principle of subsidiarity. Our Parliament is an example of subsidiarity in practice. If there were more subsidiarity around the various institutions of the European Union, there would be more democracy and accountability.

Ben Wallace: I want to return to something that Lloyd Quinan said. The key is the IGC conference in 2004. Page 1 of the committee paper talks about the Commission's work programme. The two key issues for us are covered on page 2. One of those, the Union's contribution to world governance, is too broad a subject for us. However, the other issue is

"the integration and strategic dimension of policies across the continent"

and how we, as a region, fit into that. What is Scotland's position, when it comes to 2004? How do we, as a region, play a role in a reconstructed EU? It is the role of the Government to promote the EU to the public and the role of the Commission to pick up on public opinion and promote its policies. We, as a region, should be able to contribute to the Commission's examination of its relationship with member states prior to 2004. Our position will then be clear.

Colin Campbell: I want to return to the comment that the convener made when I suggested whether the EU and whether Scotland. It would give immediacy to the contributions of some of the best-informed bodies that have been

involved with the agencies of the EU if we could get their suggestions about whether the EU. We should not discuss that at length and discuss nothing else, but we should not leave it out. We are going somewhere, but we do not quite know where. This is an opportunity for the people of Scotland to feed into that.

The Convener: I do not disagree with you. What I said was that if we start that process, what we are doing must be clearly defined so that it does not drift on indefinitely.

Mr Quinan: I agree with some of what Ben Wallace said, but this is not about us conducting a poll of what people think about Europe; it is about where we—as the European Committee of the Scottish Parliament—see the Scottish Parliament fitting into the governance of the European Union. It is up to us to make up our minds, through debate and through convincing one another of where we want Scotland to be in a future, expanded EU. We talk about 2004 as though it was some faraway time, but it will be on top of us before we know it. Our inquiry has to be based on the contribution that we think we can make to the current debate, not on our analysis of the situation that we find ourselves in.

We have to know, therefore, what the other countries and sub-national Parliaments are doing to contribute to the debate on governance that will come up at the IGC in 2004. The UK Government is not in the least interested in debating that, but everyone else is. Our Sunday newspapers are full of it. The UK is 10 years behind in the debate, because we did not accept Europe in the first place. If the Scottish Parliament is to make a proper contribution, that contribution must be agreed on by the committee and by all parties and it must concern the Parliament's position in relation to the governance of Europe, not what people in Scotland think about Europe.

Nora Radcliffe (Gordon) (LD): To pick up on Lloyd Quinan's point, if we want to involve civic Scotland in the debate we should involve it in the forward-looking debate, rather than the debate on where we are now.

Helen Eadie: How we engage civic Scotland is what I was envisaging when I spoke. I visited a couple of the universities recently and spoke to students and professors who were very interested in European matters. They were dying to have some kind of liaison with the Scottish Parliament. We have people all over Scotland who are bursting with ideas and enthusiasm and who want to be engaged. Lloyd Quinan and I differ somewhat on that. I am always an optimist—I believe that the glass is half full and not half empty. The people of Scotland have embraced Europe. What is perhaps controversial is the euro—that is a different matter altogether.

Scotland, and the UK at a national level—certainly my own party—have positively embraced Europe. I agree with much of what has been said by colleagues about being focused, but I would be sad if we lost that element of how we present the facts to the people of Scotland, as well as listening to what they have to say. That is critical to our assessment of where we are at the moment and how we engage with the mainland players in Europe. That point was made by Irene Oldfather, Lloyd Quinan and others. We need to ensure that we are part of the big game that goes on in Europe. We have always advocated that we need to be in there, playing with the big players, standing up for Scotland and being well informed about the views of the people of Scotland on the matter.

Irene Oldfather: If we all had to identify one big question that we would like the inquiry to address, for me it would be to clarify and consider the role of the regions in an enlarged Europe. That is an important question for Scotland. In an enlarged, culturally diverse Europe of 27 or 30 nations, as opposed to 15, we will increasingly need to define what role the Committee of the Regions, for example, will play in EU law-making. How we engage in that will be important.

14:45

The Convener: There is no disagreement that at some point in our inquiry we must refer to Scotland's role in Europe, the influence we have and the implications for subsidiarity. That is covered in the proposal for phase 2, which also touches on some of the things that Irene Oldfather mentioned, such as the role of the Committee of the Regions and whether there should be a second chamber. In a sense, that is beyond Scotland's role, but nevertheless there is an opportunity to reflect on it.

The proposal for phase 1 touches on some of the points that members have spoken about. There is no doubt that we have to talk to other people across Europe in

“a series of dialogues with key players in Scotland, in the rest of the UK and throughout the European Union.”

We have to find out what governance means to them, as Irene Oldfather said, and look at ways in which to encourage key stakeholders to participate.

As Dennis Canavan said, we have to refer to enlargement and its implications. I agree with what has been said about the Commission. Irrespective of what one may think of the Commission at the moment, and irrespective of what one may think about its future, it exists and it is hugely influential, so we have to address it in anything we do.

I want to know whether we agree on the way

forward. I suspect that the remit may change slightly over the first month or two as we begin to roll out the inquiry, but broadly, are we agreed that we should examine Scotland's role in Europe? Are we agreed that we should take a broader view: not just consider where Europe goes, but consider the role of the Commission, enlargement and the role Scotland's other representatives play? Is the inquiry the appropriate opportunity, as page 3 of our draft terms of reference says, for us to let others know what we are doing in Scotland and the contribution we can make not just to subsidiarity, but to the general process of governance, which is what the paper is trying to say? Are there other views on those issues?

Ben Wallace: As I said at the beginning, the inquiry should not be too broad. I think that we should just address phase 2. We would be biting off more than we could chew if we did phase 1 and phase 3. The meat of the inquiry is phase 2. How often have we seen ourselves bogged down in other things? We should narrow down and home in on phase 2.

The Convener: We could go round in circles for ever. We have already agreed that we will appoint an adviser to consider how we proceed with the case study, which is phase 3. We are agreed on phase 2, so the only question is should there be an investigation into the issues beyond Scotland's role in Europe? From the soundings that I have taken, I think that there is agreement that the inquiry should be broader than just phase 2. Colin Campbell, Dennis Canavan and Helen Eadie have referred to that. I accept what Ben Wallace said about being focused, but at the moment I am at a bit of a loss—

Irene Oldfather: Phase 1 is a legitimate thing to do, although I do not know whether it should be part of the inquiry. Engaging with young people in schools and with the media in relation to Europe and becoming involved with civic Scotland is all very useful and should be accorded quite a high priority, but I wonder whether doing that would hold back the results of the governance inquiry if at the same time we were trying to conclude what we hope will be a meaty submission to coincide with the work of the European Commission and presumably other regions and actors across Europe.

The Convener: The thing that I am struggling with is the fact that on the common fisheries policy, for example, we said that we would like to find out how relevant people feel Europe is to them and the practical implications of the CFP. I cannot see how asking for the views of people in other regions and nations in Europe on governance could fail to add to the work that we do. The whole question of—

Irene Oldfather: I have no problem with that,

but what is listed in phase 1—

The Convener: Hold on a minute, Irene. One at a time. That is what is suggested in phase 1.

Helen Eadie: In terms of phase 2 and phase 3, if we want to be in a really strong position and to be able to convince others on mainland Europe and elsewhere that our report is important, the very fact that we have done the basic work of going out to our communities to find out their views on what the way forward ought to be would only strengthen our final submission. I know from my dealings with them that people across Scotland are very positive about Europe, but they would like to know what is taking place in Europe and how they can be part of it. Whatever our report recommends, I hope that we will be able to recommend to people throughout Scotland the ways in which they can play a part in Europe.

The Convener: I suggest that we are agreed on Scotland's role in Europe. We have already agreed to the case study and taking on an adviser for it. We agree that it would be helpful to have a Scottish European forum and that we should take a lead in that, but the series of visits and other areas of dialogue should be refined. We will come back to them. I cannot help but think that we need to engage in dialogue not just in Scotland, but elsewhere. Parameters have to be placed on that. Colin Campbell is right: we have to look at where Europe is going, but we also have to examine the role of the Commission.

Mr Quinan: What will be the parameters on who we will speak to? Are we going to speak to national parliaments, sub-national parliaments, parliaments with the same powers as us, parliaments that have more power than us, parliaments that have been going for 25 years, or parliaments that have been going for five years? Will we go to Northern Ireland? Will we go to Wales? What about the variations in the Spanish state? Will we speak to the Länder? Will we speak to Denmark? It is so vague.

The Convener: I have already said that we will come back with a clearer definition of who we will speak to and when. Lloyd, we could have that debate on just about everything we do. We could have had that debate on the common fisheries policy or structural funds. On every issue, there could be a never-ending debate about who we should speak to. That would be a recipe for getting nothing done. We have agreed on the principle of governance. We have to move forward. I suggest that phase 2, on Scotland's role in Europe, must be developed. We have already agreed phase 3 in principle. I also suggest that we should adopt the proposal in phase 1, for a Scottish European forum, but beyond that, once the adviser is in place, we will come back with specific proposals on how we should promote dialogue and take

evidence as we go forward.

Irene Oldfather: Your proposal for the next meeting is good, convener. It would move phase 2 forward. I would not want to suggest that we should not take evidence. In fact, it will be crucial to phase 2 to take evidence from people such as members of the Committee of the Regions, and to build into that a geographical and political spread. I do not have a problem with that. There is some overlap, for example in the emphasis on the series of visits to schools and so on. That is a useful thing to do, but should perhaps take second place to what we have agreed.

The Convener: I have already accepted that we will try and work out the dialogue process as we move forward. That is not fundamental to the rest of the report—it is a mechanical detail that we can resolve.

Mr Quinan: Members of the Committee of the Regions are coming. Will we be speaking to the Assembly of European Regions?

The Convener: No. We have the Committee of the Regions, which is recognised in European treaties. There is a problem with the future of the Assembly of European Regions. I know that several bodies have withdrawn from it and there is some internal debate about its future. The AER is not recognised in the way that the Committee of the Regions is.

Mr Quinan: You could say that about the Scottish Parliament, which is also not recognised.

The Convener: Except for the fact that we sit here. If we are going to say that we do not recognise ourselves—

Mr Quinan: I am not talking about our point of view. I was assuming that you were talking about being recognised by the European Union, convener.

The Convener: There is a plethora of bodies in Europe that we could invite if we applied that logic. We could be here until this time next year talking to them all. The Committee of the Regions has a certain status. There are issues about its role; the minister and others have made some suggestions about how it may be reformed. Those suggestions, although fairly controversial, are part of the political discussion.

Members of the Committee of the Regions are coming to give evidence. If at some point we think we need to talk to a range of other European bodies, we can consider that, but at the moment that option is not on the table.

Helen Eadie: Sometimes, when a member says something in a debate such as this, another member misunderstands what the first member said. When I talked about young people, I did not

intend that members should go round schools; I meant that we should invite representatives of young people to come here and give evidence.

I understand what Lloyd Quinan is saying about the Assembly of European Regions. The only thing I would add is that there might be some merit in inviting some of the other local government organisations in Europe that have a very high standing, such as the North Sea Commission, which is well respected by the Scottish Executive and local authorities across Europe. There might be some value in considering the longer term and hearing from bodies that have been around for 20 years or so, such as the Conference of Peripheral Maritime Regions of Europe and the North Sea Commission.

The Convener: I am sure that we will be able to contact some of those bodies.

Do members agree to the broad terms of the remit, reflecting the discussion that has taken place? We will spend some time trying to refine phase 1 and ensuring that we refer to the role of the Commission, as Dennis Canavan suggested.

Dennis Canavan: What timetable do we have in mind, bearing in mind that the European Commission is publishing a white paper in a couple of months' time?

The Convener: The suggested timetable is on page 8 of the briefing.

Ben Wallace: Will we get a copy of the revised remit before we agree on it?

The Convener: Yes.

Dennis Canavan: Are we confident that our timetable will dovetail with that of the Commission? We would want to feed in before firm decisions are taken on the future governance of the European Union. We do not want to be left commenting on a fait accompli.

The Convener: The white paper will be published during the recess. If we can prepare our plans before then, we will be able to consider what comes out in the white paper and reflect that in our work.

Dennis Canavan: I dare say that there will be enough headings and meat in the white paper for us to comment on.

The Convener: No doubt.

Convener's Report

15:00

The Convener: The fourth item is the convener's report on the progress of the consultation launch with regard to EC proposals for a directive for informing and consulting employees in the EU. At a previous meeting we agreed to launch an urgent consultation on the draft directive. We have written to several trade unions, employer bodies and industry groups. We have heard back from the Scottish Trades Union Congress, the Manufacturing, Science and Finance union and the Transport and General Workers Union. I suggest that we chase up the outstanding submissions and invite several bodies to an evidence session. After that we could write up our recommendations. In any case, we need to report in advance of the meeting of the social affairs and employment Council of Ministers on Monday 11 June, if possible. I do not know whether that is possible in practice, but that is what we should aim for. Is that agreed?

Members indicated agreement.

Scrutiny

The Convener: The next item is scrutiny of European documents.

It is recommended that the following documents be given priority scrutiny:

- SP 1811 (EC Ref No 14373/00 DROIPEN 60)
- SP 2003 (EC Ref No 5851/01 COM(2001) 37 final)
- SP 2088 (EC Ref No Brussels 13/3/01 COM(2001) 139 final)
- SP 2141 (EC Ref No 7260/01 COM(2001) 143 final)
- SP 2150 (EC Ref No 7379/01 COM(2001) 165 final)
- SP 2171 (EC Ref No 7419/01 COM(2001) 109 final)
- SP 2175 (EC Ref No 7262/01 COM(2001) 135 final)
- SP 2156 (EC Ref No 7407/01 COM(2001) 139 final 2001/0076 (COD))
- SP 1866 (EC Ref No 14880/00 DROIPEN 63)

Is that agreed?

Members indicated agreement.

The Convener: There are no documents to be formally referred to other committees.

We are awaiting further information on some matters and therefore the recommendation is that we defer consideration of the following documents:

- SP 1711 (EC Ref No 13464/00 CRIMORG 154)
- SP 2129 (EC Ref No 7408/01 EUROJUST 7)

- SP 2160 (EC Ref No 7059/01 COPEN 10)
- SP 2161 (EC Ref No 7277/01 ENFOPOL 23)
- SP 2098 (EC Ref No 6921/01 COM(2001) 94 final)
- SP 2132 (EC Ref No 7387/01 COM(2001) 144 final)
- SP 2140 (EC Ref No 7272/01 COM(2001) 137 final)
- SP 2154 (EC Ref No 7669/01 COM(2001) 171 final)
- SP 2173 (EC Ref No 7358/01 COM(2001) 141 final)
- SP 1767 (EC Ref No 14245/00 COM(2000) 786 final 2000/0304 (CNS))
- SP 1829 (EC Ref No 5134/01 EUROPOL 1)

Is that recommendation agreed to?

Members indicated agreement.

The Convener: The recommendation is that we take no further action on the documents listed on page 4, but copy them to other committees for their interest only. Those documents are:

- SP 2099 (EC Ref No 6781/01 COM(2001) 98 final)
- SP 2121 (EC Ref No 6906/01 SEC(2000) 382)
- SP 2122 (EC Ref No 6905/01 COM(2001) 119 final)
- SP 2123 (EC Ref No 6921/01 COR1)
- SP 2134 (EC Ref No 6716/01 COM(2001) 124 final)
- SP 2174 (EC Ref No 7340/01 COM(2001) 159 final)
- SP 1886 (EC Ref No 5217/01 COM(2000) 860 final)

Is that recommendation agreed to?

Members indicated agreement.

Mr Quinan: We should dig out SP 1793, "Proposal for a European Parliament and Council Recommendation concerning the implementation of Integrated Coastal Zone Management in Europe" and consider it properly. We still have no description of zonal management from either the Executive or the UK Government. That paper might provide a clue.

Stephen Imrie: One of the reasons why officials suggest that documents such as SP 1793 (EC Ref No 11322/00 COM(2000) 545 final COD 2000/0227) be deferred is that we do not yet have the UK explanatory memorandum—we do not have the statement of the UK's positional policy on the document. It is useful to have both the EC text and the UK Government's position on the document.

Mr Quinan: My key point is that both in the chamber and in committee we have attempted to get a description of zonal management from the civil servants and the minister and, as yet, we have had nothing. When we spoke to our Galician friend and Mr Fischler, they both said that they have no idea what zonal management is all about. I am assuming that if this is a proposal for a European Parliament and Council recommendation, it might tell us what zonal

management, which is going to be an essential part of the common fisheries policy report, means.

The Convener: We can consider it as part of our inquiry and see if it sheds any light.

Mr Quinan: Do we not need it this afternoon?

The Convener: Is that possible, Stephen?

Stephen Imrie: Yes.

Helen Eadie: I know from my work with the North Sea Commission that zonal management was used in planning. It was favoured by local authorities throughout the North Sea Commission area in connection with their planning strategies for transport infrastructure, for example. It was very popular with local authorities in Scotland and England.

As Lloyd Quinan notes, in the context of the common fisheries policy the concept has a different background.

The Convener: Okay.

Pages 5 to 8 list the documents on which the recommendation is for no further action. The documents are:

- SP 2158 (EC Ref No 2641-25 EUROPOL)
- SP 2159 (EC Ref No 3710-39 EUROPOL)
- SP 2162 (EC Ref No 7616/01 ENFOPOL 29)
- SP 2164 (EC Ref No 7499/01 COM(2001) 160 final)
- SP 1727 (EC Ref No COM(2000) 786 final)
- SP 1736 (EC Ref No 14174/00 COM(2000) 716 final COD 2000/0286)
- SP 1759 (EC Ref No 14187/00 COM(2000) 785 final 1999/0269 (COD))
- SP 1760 (EC Ref No 14440/00 COM(2000) 77 final 2000/0068 (COD))
- SP 1773 (EC Ref No 14234/00 COM(2000) 791 final)
- SP 2126 (EC Ref No 7183/01 COM(2001) 140 final)
- SP 2127 (EC Ref No 6823/01 UEM 50)
- SP 2128 (EC Ref No 6026/01 COM(2000) 197 final)
- SP 2131 (EC Ref No 6453/01 COM(2001) 116 final)
- SP 2133 (EC Ref No 6248/01 COM(2001) 79 final Vol II)
- SP 2137 (EC Ref No Brussels 27/03/2001 COM(2001) 168 final)
- SP 2138 (EC Ref No 7295/01 COM(2001) 156 final)
- SP 2139 (EC Ref No 7282/01 REV 1 COM(2001) 148 final/2)
- SP 2142 (EC Ref No 7257/01 SEC(2001) 378 final)
- SP 2143 (EC Ref No 7255/01 COM(2001) 133 final - Volume I)
- SP 2144 (EC Ref No 7187/01 COM(2001) 138 final)
- SP 2145 (EC Ref No 7131/01 COM(2001) 126 final)
- SP 2146 (EC Ref No 7549/01 FIN 99)
- SP 2147 (EC Ref No 7633/01 COM(2001) 157 final)
- SP 2149 (EC Ref No 7604/01 COM(2001) 168 final)
- SP 2151 (EC Ref No 7382/01 COM(2001) 174 final)
- SP 2152 (EC Ref No 7596/01 COM(2001) 164 final)
- SP 2153 (EC Ref No 7621/01 COM(2001) 163 final)
- SP 2155 (EC Ref No 7687/01 COM(2001) 175 final)
- SP 2157 (EC Ref No 7560/01 COM(2001) 81 final)
- SP 2163 (EC Ref No 7633/01 COM(2001) 157 final)
- SP 2165 (EC Ref No 7496/01 COM(2001) 152 final)
- SP 2166 (EC Ref No 7445/01 COM(2001) 142 final)
- SP 2167 (EC Ref No 7432/01 COM(2001) 136 final)
- SP 2168 (EC Ref No 7428/01 COM(2001) 158 final)
- SP 2169 (EC Ref No 7425/01 COM(2001) 149 final)
- SP 2170 (EC Ref No 7423/01 COM(2001) 155 final)
- SP 2172 (EC Ref No 7402/01 COM(2001) 151 final)
- SP 2176 (EC Ref No 6189/01 REV 1)
- SP 2130 (EC Ref No 7198/01 COPEN 12)
- SP 2135 (EC Ref No Draft Council Dec. Unnumbered Document)
- SP 2136 (EC Ref No 14109/00 COM(2000) 760 final)
- SP 2148 (EC Ref No 7974/01 COPEN 14)
- SP 1702 (EC Ref No 13635/00 COM(2000) 694 final)
- SP 1707 (EC Ref No Brussels 8/11/2000 COM(2000) 716 final)
- SP 1806 (EC Ref No 14205/00 COM(2000) 765 final)
- SP 1828 (EC Ref No 14908/00 COM(2000) 861 final COD 1999/0259)
- SP 1847 (EC Ref No 14762/00 COM(2000) 838 final)
- SP 1856 (EC Ref No 13289/00 ADD 1 JAI 135)
- SP 1865 (EC Ref No 14722/00 REV 1 COM(2000) 850 final 2)

Is that recommendation agreed to?

Members indicated agreement.

The Convener: At a previous meeting we agreed to draft a letter to a representative of the current presidency of the EU, setting out the committee's view on the importance of preserving rural postal services in Scotland in the context of any plans for liberalisation. In April, the Telecommunications Council announced that it had

"invited the Permanent Representatives Committee to pursue actively the work on this proposal, in accordance with the mandate given by the Stockholm European Council, and present a draft enabling the Council to adopt its common position on this Directive at its next session on 27/28 June."

The Commission's proposal provides for the first phase, which is due to be implemented by 1 January 2003 at the latest. It represents a further 20 per cent liberalisation compared with the

current directive. Further measures that will be decided in 2005 will take effect from 1 January 2007.

The main points are the introduction of new definitions applicable in 2003, the 150g limit, the issue of 2.5 times the basic tariff in the case of weight, price limits for reserved services and the liberalisation of outgoing cross-border mail and the new phase that is proposed for 2004.

Do members have any comments to make about the letter before it is sent? No. There is a typing error, so there is a change in the second to last paragraph. It should state:

“This should seek to support the existing 150g limit”.

Petition

The Convener: The committee will consider petition PE246, which calls for the Scottish Parliament to request Scottish Natural Heritage, the Scottish Executive and the Scottish ministers, as appropriate, not to proceed with the designation of the South-East Islay Skerries special area of conservation.

We have not been invited to consider whether the area should be designated; we have been asked to look at whether the procedures have been followed and the petitioners have been adequately consulted and informed. The recommendations have been circulated. It seems that the procedures have been followed and I therefore recommend that the committee takes no further action, although the Department of the Environment, Transport and the Regions may have something to say about designation.

Dennis Canavan: Can you or the clerk please explain why the petition was forwarded to us as well as to at least one other committee? What is the role of the European Committee as perceived by the Public Petitions Committee?

Stephen Imrie: I refer you to item 2 on the agenda, which relates to implementation of EC or EU legislation in Scotland. The Scottish Executive is under an obligation to designate areas as special areas of conservation. It is within the committee's remit to scrutinise activities related to implementation, which is why the petition was forwarded. The Executive is responsible for implementation and the committee monitors such activities, which is why the Public Petitions Committee referred the issue of whether the procedures had been followed to us.

The Convener: It was obviously thought that the issue involved the implementation of European regulations.

Dennis Canavan: So special areas of conservation are set up under European legislation, not domestic legislation.

Mr Home Robertson: Can I chip in something? The issue is to do with seals. There are few seals in the European Union, but there are a hell of a lot in the Skerries and other parts of the Scottish coast. Scotland has the bulk of the European population of grey seals and common seals. That raises an interesting point because those on mainland Europe or in the Mediterranean might become excited about seals and regard them as important and to be protected, and rightly so.

People in the Skerries and along the Scottish coast, however, would recognise the fact that the seal population is healthy and expanding. Far from

the seals needing to be conserved, other species that are eaten by seals may be in more urgent need of conservation. I do not think that we can consider the petition, but it raises a point of principle.

When decisions are made in the European Union, it is important that account is taken of local circumstances. The fact that there are no seals in the Mediterranean may not be a terribly good reason for requiring a seal population that may have expanded to the extent that it presents a threat to other endangered species to be further conserved in an area such as the Skerries.

I simply offer the committee those thoughts.

The Convener: Is it worth making that point to the Public Petitions Committee? While we do not want to comment on the procedures, there is a general question about the decision-making process, which we hope will take account of local circumstances more specifically.

Mr Home Robertson: Yes. That would be helpful.

Ben Wallace: I believe that such designations are made under a European directive and that they are implemented over a lengthy time scale. Britain is well ahead of many of its European partners on designations, but it is not clear whether the relevant directive set out a clear consultation process or whether such a process has been followed. Checking whether consultation with the community was undertaken by the Administration of the day would fall within our remit, and there is no proof that the correct consultation procedures were followed. Perhaps we could follow that up.

Stephen Imrie: When the Public Petitions Committee referred this petition to the European Committee, it attached its correspondence with Scottish Natural Heritage and the Scottish Executive in which it asked the questions raised by Ben Wallace. The correspondence from SNH and the Executive, which should have been circulated to members in advance of the meeting, sets out the procedures and states whether they were followed.

Ben Wallace: Those two parties could be wrong. We need to see how they transposed the EU directive's consultation procedures. If they did not follow those procedures, they are in the wrong. They cannot be expected to referee themselves—it is for us to do that.

Nora Radcliffe: My point is similar. I find it difficult to disentangle whether the area should be designated a special area of conservation from whether measures will be taken against us if the area is not so designated. Why should we be penalised for not designating an area if it can be

argued that it should not be designated?

Helen Eadie: I am the deputy convener of the Public Petitions Committee and was present when that committee discussed the petition. I recall that George Lyon spoke to the petition and made a number of important points. As with many other directives, it contains some qualifying words, such as, "the directive has given authority for X, Y and Z to happen" and then goes on to say, "but regard must be paid to social, economic and cultural diversity at the local level." The point that was made at the Public Petitions Committee was that paying such regard is not always taken on board, particularly in relation to social and economic issues. That was one of the key points that the petitioners promoted.

It would be valuable to follow John Home Robertson's suggestion and to endorse your recommendation, convener, that the petition should go back to the Public Petitions Committee with that qualification, as it captures the flavour of the views expressed by the petitioners.

The Convener: I will ask the clerk to investigate some of the points that have been raised, including the general point raised by John Home Robertson. I think that we should refer the petition back to the Public Petitions Committee and put it back into the system.

Dennis Canavan: Who were the signatories to the petition? Were they local people?

Helen Eadie: They were locals.

Dennis Canavan: John Home Robertson's comments might cover part of what the Public Petitions Committee asked us to consider, which is laid out in three bullet points in paragraph 3 of paper EU/01/06/7. The third bullet point asks us to consider whether the procedure sufficiently takes into account the views of local communities. Are we going to leave open the other issues that the Public Petitions Committee specifically asked us to consider? Those issues are whether there should be a right of appeal and whether the designation process should be changed.

The Convener: Stephen, do you have any information about who signed the petition?

15:15

Stephen Imrie: Yes. I can advise the committee that the petition was signed by the Kildalton and Oa community council, the Kilarrow and Kilmeny community council, the Kilchoman and Partnahaven community council, Councillor J Findlay and Councillor R Currie.

The Convener: I am not sure whether the European Committee is able to suggest changes to the designation procedure for special areas of

conservation or whether there should be a right of appeal against designation. The suggestion made by John Home Robertson and Dennis Canavan is covered by the third bullet point—the process is not as robust and open to local influence as it could be.

We should reflect on the views that have been expressed and the clerk will try to get some further information. As far as the designation process is concerned, we should feed in a comment that the decision-making process should reflect the views of local communities more robustly than appears to be the case at present.

Mr Home Robertson: It would be fair to say that there is confusion on the targeting of conservation. This particular area has been designated a special area of conservation because of seals, which are under threat from no one—it is a robust population—but in the same area there are other species that are under a lot of pressure. That is particularly the case for the Atlantic salmon—and the seals are eating a lot of that salmon. It could be argued that the salmon need protection, not the seals. There could be some confused thinking about both conservation and consultation.

The Convener: We will give members an update on what we manage to find out.

We agreed to take items 7 and 8 in private. I thank the members of the public for their attendance and move the meeting into private session.

15:17

Meeting continued in private until 16:30.

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