

EUROPEAN COMMITTEE

Tuesday 12 February 2002
(*Afternoon*)

Session 1

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EUROPEAN COMMITTEE

3rd Meeting 2002, Session 1

CONVENER

*Irene Oldfather (Cunninghame South) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Sarah Boyack (Edinburgh Central) (Lab)

*Colin Campbell (West of Scotland) (SNP)

*Dennis Canavan (Falkirk West)

Helen Eadie (Dunfermline East) (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 Hub

Scottish Parliament

European Committee

Tuesday 12 February 2002

(Afternoon)

[THE CONVENER *opened the meeting at 14:04*]

Item in Private

The Convener (Irene Oldfather): Good afternoon, colleagues. Welcome to the third meeting this year of the European Committee. I have received apologies from Helen Eadie.

The first item on today's agenda is consideration of whether to discuss item 7, on our work programme, in private. Does the committee agree to discuss item 7 in private?

Members *indicated agreement.*

European Council

(Scottish Executive Briefings)

The Convener: The next item is discussion of issues relating to pre-Council and post-Council meetings, including how the Executive reports to the committee. As we said in our report on governance, we have had an on-going discussion about that. We would like a mechanism to be set up to enable the committee to have a dialogue with ministers before Council meetings. We would also like to have some sort of report after the meetings, so that we can contribute to the debate and judge the outcome of the meetings as they relate to matters that are within the Scottish Parliament's remit.

As the paper that members have in front of them indicates, the previous First Minister was keen that the Parliament should be informed about what happens and invited officials to draw up procedures. We should discuss the detail of what should happen. The clerk has posed a few questions to the committee about how it would like to proceed.

Colin Campbell (West of Scotland) (SNP): It is important that we have a mechanism that is recognised by the Scottish Executive. In the past, when I have lodged written questions to the Executive to try to ascertain who has spoken to whom about what during preparations for European meetings at which the Scottish Parliament was to be represented by the United Kingdom, the subject has always been clouded in secrecy. The Executive has been reluctant to let us know who spoke to whom or what they spoke about, as if that was some kind of secret business. I am glad that we are now talking about a mechanism for improved communication. I would like to think that, in principle, where there are items of great interest to the people of Scotland, there might be some way in which we can make a meaningful input and have some mechanism for reporting back.

The Convener: Thank you, Colin. I have a few comments, but I will let Nora Radcliffe in.

Nora Radcliffe (Gordon) (LD): I have a couple of points to raise. First, we have seen the report that the House of Commons European Scrutiny Committee receives after meetings, but I wondered what it receives before meetings. I notice that all the March meetings of the Council are close together at the beginning of the month and wonder whether that is a regular pattern. That would dictate whether we have to have weekly or monthly meetings on the issue.

Secondly, do we have to do all the work ourselves or should our job be to alert other

committees of any topics that are relevant to them? To spread the load a bit, could each member of the committee shadow one of the subject committees?

The Convener: Thank you, Nora. Those are important points.

Sarah Boyack (Edinburgh Central) (Lab): The trick is to follow regularly what is happening in the various Council meetings, which occur every quarter and just crunch on. It can take a year and a half before a substantive decision is reached on a subject on the agenda. We need to track that subject through the process and work out at which point we might want to lobby MEP colleagues or stakeholders in Scotland.

Council meetings happen in a sort of run of several weeks, so we have to work out which ones we are interested in. Every now and then we perhaps have to take stock, consider the agenda of each meeting and decide what we will follow through. We could spend all our time reading the minutes, when what we should do is pick out the strategic issues. I would very much support that. It would have been useful on occasion when I was a minister to have come to a meeting of the European Committee to discuss something that we were doing. The trick is also partly about getting the Executive to see that the committee might be useful.

I would certainly be keen for the committee to scan the minutes that the UK committee receives when it is tracking Council meetings. It would be crazy for our clerks to have to replicate everything. We must use whatever information is out there, pick from it and try to track things through. We have to find the right process for doing that.

Once the mechanism is set up, we can decide whether we need to meet more frequently. If we track Council business seriously, we will pick up more issues than we do at present. That will mean that more meetings will be generated, as more discussion and scrutiny would be generated. I am not against that, but we need to achieve a balance in deciding what we want to focus on and then set ourselves an agenda.

The Convener: Before Dennis Canavan comes in, I want to say a little about the system that is in place for the Committee of the Regions. As a member of that committee, I receive the briefing papers from the United Kingdom permanent representation to the European Union. Those papers are also sent to the English local authorities that are represented in Brussels. UKREP provides position papers on issues that might be of particular interest to the UK Government. The papers set out the implications of and intentions behind issues and develop the arguments involved in them. They highlight any

particular problems that might arise in the UK from implementation.

We could ask the Scottish Executive for a monthly or fortnightly report, which would be produced along the same lines as the UKREP papers, but which would identify issues that are relevant to Scotland. That would mean that, when we consider those issues, we could decide whether we want to deal with them or whether we should refer them to other committees.

Dennis Canavan (Falkirk West): It is important that our committee gets reports back from Council meetings, especially the meetings that are attended by Scottish Executive ministers. I note that annexe B to paper EU/02/03/1 is a specimen report made by a Westminster minister to the House of Commons European Scrutiny Committee. The report is short—one page—and I am sure that, if our clerk, convener and deputy convener were to look through such reports to identify issues on which we would want to focus, we could haul the relevant minister before us for questioning on the detail and implications for Scotland of decisions that are taken at Council meetings. That would be an improvement on the opportunities that we have at present.

Even more important than post-Council reports is the need for the committee to have pre-Council input before decisions are taken. I note in the briefing paper that the agendas of Council meetings usually come into the public domain only a few days before meetings. However, the dates of meetings are known well in advance. I suspect that the general agenda—if not the detail—is also known well in advance. Feeding into the process at the pre-Council stage would give us the opportunity to invite Scottish Executive ministers to appear before our committee so that we could hear the Executive line. It would also give us the opportunity to suggest what the Executive and UK Government line should be at Council meetings.

The Convener: Dennis Canavan is right. I understand that general information is available ahead of time about the sorts of issues that might be on the agendas of Council meetings. The timetables for meetings are planned over a period of months. Sarah Boyack suggested a tracking process to monitor the business of those meetings.

Even when we do not have the detail that is available in the agendas, I am sure that it will be possible to get an indication of the subject matter that is to be discussed. That could include reform of the common agricultural policy, which is an important issue. If we know about the subject matter in advance, we can make an input or direct information to the relevant committee—the Rural Development Committee, for example, if the subject matter concerns the CAP.

14:15

Mr John Home Robertson (East Lothian) (Lab): Just as Sarah Boyack has experience of how the system works from the point of view of transport and the environment, I have a bit of experience on the fisheries council.

Dennis Canavan is right: the report back after the Council meeting is useful as far as it goes, but by definition it refers to history. Our job is to protect the Scottish public interest—that is what this Parliament is for. That means influencing Executive ministers and giving power to their elbow, where necessary, to ensure that they achieve what our people need.

The issue is complicated, because the nominal headline agendas of Council meetings are not the same as the detailed negotiating positions, which can evolve quickly and at the last minute. We need to devise mechanisms for expressing the opinion of members of the Parliament to ministers and civil servants before they engage in pre-Council discussions in the UK, with UKREP, for example. Further down the line, we should not make the process so complicated that we tie ministers in knots and prevent them from being effective. Negotiation is about tactics—people cannot declare their hand on everything before they start. We should seek to convey priority messages to ministers and officials well in advance of Council meetings. We must then trust ministers to get on with the job when they get there.

The Convener: There are a number of different approaches that we could take. One suggestion is that we await the information from Whitehall and then do the work ourselves. Another possibility is that we ask the Scottish Executive to provide us with a list of issues that may impact on the Parliament's work.

I favour the latter option. We want to get more involved in the process. I suggest that in the first instance we ask the Scottish Executive to provide us with information fortnightly or, if that is not possible, monthly, to tie in with meetings of the committee. If the Executive identified for us in advance issues that may be included on the agendas of Council meetings and that are relevant to the work of the committee and the Parliament, we could decide whether we wanted to invite ministers to appear before us to talk about those issues and what discussions we wanted to have with other committees.

Do members want to proceed in that way? If we do not, I suspect that we will end up examining every document from Whitehall, which could be time consuming for the clerks. We should also limit our work to issues that we can influence and that fall within our remit.

Ben Wallace (North-East Scotland) (Con): I agree with a lot of what John Home Robertson said about negotiations and ministers' needing not to show their hand in advance. As Sarah Boyack said, we must be careful about what reports we get. I am not sure whether the information should come from the Scottish Executive or Whitehall. Perhaps the Scotland Office, with its new staff, could do the work. After all, the Scotland Office's role is to liaise with Whitehall and to inform us of what is happening there. The Scottish Executive has acknowledged that it is short of staff to work on European issues, so to give it another burden might not be the most efficient course either for it or for us. I suggest that we pen a letter to Helen Liddell—in French.

Given that Scottish ministers have observer status at Council meetings, it would be reasonable to ask them to say why they did or did not attend a particular meeting in Brussels and whether they sent a position paper to the relevant UK minister prior to that meeting. We want to scrutinise ministers' actions. As John Home Robertson said, it is not easy for us to scrutinise the Executive's position in advance of Council meetings, because that is part of the negotiating process.

The Convener: I accept that it is not easy to scrutinise the Executive's position in advance of Council meetings, but I believe that it is important that we inform its position. In our report on governance and the future of the European Union, we decided that we would seek the opportunity to engage with ministers to inform the Scottish input into discussions at Westminster. There are ways in which we could do that.

Sarah Boyack: The trick is deciding on which issues we want to intervene. We can see from the agenda that the committee has been working on for the past couple of years that it has been dealing with fishing, governance, environment legislation and Post Office liberalisation. The committee has regularly tracked a stream of issues in different ways. We need a hit list of about five or six topics.

I remember what happened when I attended Council meetings. I saw the agenda for a meeting and thought that I wanted to go to it. After getting agreement to go and getting the papers a couple of weeks before the meeting, I realised that the topic that I wanted to pursue would be dealt with in two meetings' time, but was on the agenda at an early stage of discussion.

The committee might decide to look at what is coming up at the Council meetings and kick off the discussion before the issue gets to negotiation point. Ben Wallace is right. We do not want to pile into negotiations in the last two days, but we want to be able to influence the strength of Scotland's negotiating position as part of the UK framework.

We have to decide which issues we want to follow up. Issues such as fishing will always blow up, but we know that there will be regular discussions on fishing and that quotas and decommissioning are big issues for Europe to deal with. We could probably pick a number of core issues and track them.

The problem is in trying to cover all the various Council meetings. Interesting stuff goes on in the health council, for example, but we do not have the resources to track all that. We need to decide what we want to track and get co-operation from the Executive and UKREP to allow us to do that effectively and efficiently. That will depend partly on their good will.

Ben Wallace: If ministers knew that they could be brought before the committee and asked why they did not attend a meeting or whether they informed the UK position, they would be more likely to offer the information to the committee. For example, I would have asked Sarah Boyack, as a minister, why she did not attend a meeting. If she had known that she would have to explain why she decided not to go to a meeting—perhaps the issues under discussion had nothing to do with Scotland—things would have been easier for us and her. It would be easier if ministers had constantly to respond to us and to tell us why they did or did not attend meetings.

The Convener: The point that Sarah Boyack is making is that, if we were to cover every item on every agenda and ask a minister about every issue, we would be here every day of the week. The suggestion that we decide priority issues is good. The best way of doing that might be for the clerks and me to look at the agendas of meetings that are coming up. We could try to have informed discussions with and get early intelligence from UKREP and the Executive about the big issues that are to be discussed in Europe between now and the August recess. We could have a list of such issues with recommendations about areas that we might want particularly to influence.

We have had a useful discussion. The best way of proceeding is not to try to do everything. We have to get a feel for what is coming up, how we can receive intelligence on it and how we can influence the process. The clerks and I will bring a proposed structure for that to the committee as soon as we can assimilate all the information. That might not be in time for the next meeting, but we will discuss it as soon as possible. Is that agreed?

Members indicated agreement.

Water Framework Directive

The Convener: Colleagues will recall that on 11 September 2001 the committee agreed that we should consider the scope for a different implementation of the water framework directive. I understand that the Executive will introduce that directive soon as the water environment and water services bill. My understanding is that, on the bill's introduction, a lead committee will be identified and the bill will begin its parliamentary process. The committee could add value to the overall scrutiny of the directive and the bill. We have been discussing that in our past few meetings; it is consistent with our role of considering how to implement EC and EU legislation.

The briefing paper that is before members sets out where the Parliament might consider implementing the original directive's provisions differently in Scotland. Although the paper's main audience will be members of the lead committee when that is appointed, it will perhaps interest other MSPs who have an interest in this subject. I ask Stephen Imrie to take us briefly through the report's main point.

Stephen Imrie (Clerk): I should record my thanks to the committee's legal advisers for the bulk of the work on the paper. As I am in no sense an expert on environmental matters or on community law in this area, I am indebted for that advice, even though the paper is in my name.

The main point of the paper is to explain where flexibility is possible in EC/EU directives and other forms of European legislation and to indicate specifically where there might be flexibility in the implementation of the water framework directive. The second page of the paper sets out the nature of a directive and how it allows member states discretion in certain areas as to how they achieve the directive's objectives.

The water framework directive is broad in nature, but it has an unusual stress on achieving water quality and quality standards. Assessment of quality is different from setting targets, standards and other forms of emission control, and that aspect of the directive allows some flexibility.

On a general level, the paper points out the possibility not only of derogations and exemptions from directives, but of going beyond their provisions. In other words, we can put things in or do things differently instead of taking things out. For example, a desire for higher environmental standards could lead to a policy decision to move beyond the minimum standards expressed in the directive.

As I said, the water framework directive stresses water quality. The technical detail is set out from paragraph 25 of the paper onwards. The directive emphasises a river-basin approach to improving water quality standards and contains a series of basic and supplementary measures that member states can decide to introduce. Paragraphs 36 and 37 detail control measures, and paragraphs 38 to 41 deal with the recovery of costs for water services.

The directive also strongly emphasises participation with and consultation of not only people who will be affected by it but people who have an interest in the area. There is also a degree of flexibility over sanctions, as paragraphs 47 and 48 set out. Furthermore, tables in the paper detail the quite long timetable for implementing certain aspects of the directive.

I am happy to provide further technical information if members so wish and to answer any questions that they might have. I am sure that my colleagues will do the same.

Directives usually allow for flexibility, but the water framework directive is fairly unique, in that its emphasis is on water quality rather than on specific targets and standards. Going beyond the minimum standards would be possible in many areas, but that would be a policy decision, which the lead committee will want to consider when the bill is introduced.

The Convener: Do we have any information about the likely timetable for the bill's introduction? Will it be introduced in mid-May?

Stephen Imrie: I believe so.

The Convener: I assume that the lead committee will be the Transport and the Environment Committee.

Stephen Imrie: That is likely, but the Parliamentary Bureau must decide. I would not be too surprised if that committee is chosen, but the matter has not yet been decided.

14:30

Mr Lloyd Quinan (West of Scotland) (SNP): Could the Scottish Parliament information centre provide us with a map of the geographic areas that will be affected by the proposals? There is much talk of river basins, but I want to know where we get our water from and where it goes.

I am aware that Scotland has a huge number of private water sources, which were not addressed by the Water Industry (Scotland) Bill. I would be interested to know whether the water framework directive will cover such water sources and how they will be affected.

Dennis Canavan: When the lead committee has been identified, it will find the information in

the paper on the water framework directive very useful. Perhaps the paper could be supplemented with more detail. For example, it refers to the visit that some members made to Islay and to the north-east of Scotland. I took part in the visit to Islay.

The Convener: I wondered who that was.

Dennis Canavan: We met representatives of the whisky industry, which is important not only to the Islay economy but to the whole Scottish economy, as it has many implications for jobs and for the balance of payments. As far as I can gather from my discussions with people on Islay and elsewhere, the whisky industry is unanimously of the opinion that the water framework directive could have a detrimental effect. The industry claims that the directive would bring additional costs and bureaucracy with no great advantage either to the industry or to the consumer. Paragraph 37 of the paper states:

"The WFD allows Member States to exempt abstractions or impoundments from these controls, but only when these have no significant impact on water status."

The lead committee could consider whether some accommodation could be made for the whisky industry. I do not know whether, under the terms of the directive, it is possible to exempt an entire industry or to let each distillery be examined on its own merits. I suppose that one would need to bear in mind the local water table and so on. However, we should certainly draw the attention of the lead committee to the effect that the directive and the bill could have on one of our most important industries.

The Convener: Thanks, Dennis. That is an important point. Although I did not take part, I know that several members participated in the Islay visit. As well as Dennis Canavan and Hugh Henry, did Colin Campbell go on that visit?

Colin Campbell: Yes, I did. Despite the fact that the distillery—whose name escapes me for the moment—takes its water from its own land to make its whisky, it will be obliged to pay an extraction tax. The abstraction tax seems far more suited to countries where rain is less plentiful than it is in Scotland.

Since our visit, I have also attended a presentation by another industrial group—from memory, I think it produced paper—that is a great user of water. Again, that group felt that the imposition of an abstraction tax would make an already marginal industry even more marginal.

The Convener: Given the fact that the committee met representatives of the whisky industry during the visit, it is important that members' views about the visit are recorded. I think that Dennis Canavan's suggestion is quite right. Perhaps we need to expand our paper a bit

more so as to inform discussions with the lead committee.

Ben Wallace: The paper is exactly the kind of thing that I have been wanting the committee to produce. It is a very good document, and I thank the legal team, because they have had to look through directives that make most people's minds boggle. I notice that the water framework directive draws together 11 directives. At the previous meeting, I raised my worries about the nitrates directive—covering nitrate-vulnerable zones—which I see is incorporated under the water framework directive.

I would be interested to know whether the lead committee realises—I am sure that it does—that the water framework directive is in fact 11 directives in one. It is a huge piece of legislation. The clerk has raised some points about the possibility of going

“beyond the requirements of the WFD”.

Another way to describe that is gold-plating, against which we should be on our guard. The environmental lobby is often, or at least sometimes, at the forefront of gold-plating. It seems from the document that there are three points of further investigation, for either the lead committee or this committee. The Scottish Environment Protection Agency should be asked whether it has followed the technical specifications that are contained in the appendix to the directive to define the areas or river basins that are vulnerable. Have even those technical specifications been gold-plated? If so, have the necessary tests been carried out to define the various regions?

The new nitrate-vulnerable zones map shows that the area concerned is huge. I cannot imagine that SEPA has tested across the 700 square miles of the zone—or whatever it is—in the past year in accordance with the directive. The scrutiny of SEPA and of its role in defining those areas ought to be vetted. It is the interface that either this or the lead committee should investigate. I would certainly recommend that the lead committee get one of the documents that has been produced for us. That is exactly what this committee should be about.

The Convener: I think that Ben Wallace is quite right—this is the kind of thing that the committee has been wanting to get involved in. Given that the lead committee has not yet been identified in this case, we could do some preliminary work so as to pass over to the lead committee an informed paper. I think that the recommendation is for us to revise the paper and elaborate on it a little. In so doing, we can reflect the comments made by members today.

Sarah Boyack: I agree with Ben Wallace that the briefing paper is excellent, as it gives us an understanding of what the water framework directive is all about. Given the all-encompassing nature of the directive and the extent to which it requires an holistic approach to be taken in Scotland, the paper is useful in that it helps us get a sense of the choices that will have to be made when the Executive puts a bill together.

A couple of things struck me following some of the comments that members have made. One relates to the cost and pricing of water. The document says:

“By 2010, Member States must have water-pricing policies in place.”

I cannot believe that that will be a straightforward issue, which everyone will be happy about. The Water Industry (Scotland) Bill, which will bring us a new, unified water authority, is currently going through Parliament, but the committee that picks up this matter will need to explore issues such as pricing and give them quite a lot of thought in relation to fairness, justice and economic factors. The costs and benefits of doing things in different ways will need to be explored.

It is vital to consider the points that Stephen Imrie made in his introduction about participation and consultation. A piece of legislation such as the water framework directive, which specifies actions that must be taken by 2010, 2013 and so on, always seems to be very remote, but if businesses know that actions are required over such a time scale, they need to understand what changes are involved and will have to take place in other European countries. The issues of cost and participation are vital, and the lead committee needs to get a handle on them at an early stage so that people get involved in the process.

An issue relating to the water framework directive that is mentioned only in passing in the briefing paper is flooding. Scotland does not lack water, but our problem is flooding. In river-basin management planning, there must be a focus on flooding, which is a huge economic problem. If we get a new development wrong, a generation will have to suffer. Flooding and climate change need to come on to our agenda.

My last point is about Ben Wallace's comments about gold-plating. The briefing paper mentions sanctions and article 23 of the water framework directive. It says that there is no requirement on member states to impose a specific form of sanction to keep people in line. However, paragraph 48 of the briefing paper mentions an issue that Europe has taken more seriously over the past few years, especially with Margot Wallström as EC commissioner for the environment. That issue is ensuring that directives

are implemented.

The balance of how sanctions will operate is critical. It is not enough to say that we have a framework; we have to convince Europe that we have a sufficiently robust framework. That is why Ben's points—I know that Nora Radcliffe, too, has an interest in the issue—about how and how often water quality is measured, and nitrates, must be discussed in the context of ensuring that what is done in Scotland will satisfy European requirements.

It is important to argue a case effectively. However, there are many difficult issues for different constituencies buried in the directive. We will not be able to fix that, but highlighting that for the committee progresses the argument and I would like the report to tease out such issues.

Mr Home Robertson: It might be helpful if we or our staff could tease out the issues and perhaps advise the lead committee that is going to deal with the proposed bill on the scope for flexibility. This is one area of policy where Scotland is different to the rest of the EU.

Paragraph 49 of the briefing paper, on the implementation strategy, points to the need for member states "to work together". There are good reasons for that because, on continental Europe, even small amounts of abstraction or pollution accumulate and do terrible damage upstream or downstream or wherever. Scotland is not quite like that. Therefore—to pick up Dennis's point—it would be dotty to impose gold-plated requirements on water abstraction or discharges from a distillery in Islay, which would make no difference at all.

We should look for any scope for flexibility to take account of the circumstances on our islands and more remote coastal communities in ways that could avoid unnecessary cost without compromising the environmental imperatives. It would be useful if we could help our colleagues in that direction.

The Convener: That is a valid point.

Nora Radcliffe: Two words that the convener said struck a chord with me—preliminary work. We are talking about the proposed bill, but there is a stage before the bill. Rather than waiting for the lead committee for the bill, the committee might find it interesting to discuss with the minister the Executive's thinking on how the bill will implement the water framework directive. Where does the Executive think there might be opportunities for flexibility and where does it feel constrained? It might be a useful exercise to explore why the bill arises from the directive and what the ministerial thinking is on that.

The Convener: It occurred to me to invite some written comments that could be incorporated into

the committee's revised report. We have to be a bit careful that we are not treading on the toes of the Transport and the Environment Committee. Having said that, although we expect that that committee will be the lead committee on the bill, that has not yet been confirmed. There is an opportunity for us to undertake some preliminary work that could assist and inform discussions in the future and help the lead committee in its deliberations. It could ensure that the views of the industry and SEPA are taken into account.

Can we agree that we will bring a revised report back to the committee, taking account of the points that members raised today about costs and participation? We will have another look at the draft report before we agree it as a final report and send it to the lead committee. Is that a sensible way to proceed?

I think that it would be worth while to incorporate into the revised report comments from the industry and ministers. John Home Robertson's point about flexibility is important. We should ask ministers and representatives of the industry to reflect on flexibility.

14:45

Mr Home Robertson: The briefing paper makes it clear that we should find out the scope for derogations or exceptions or exemptions—whatever the correct term is—for particular geographical areas. It is worth teasing that out to discover what can be done and whether a fair framework can be set up.

Ben Wallace: Could we write to SEPA to extract from it its set of technical standards? The EU's set of standards is attached in appendix A. Although it is not our job to compare those figures, if we send both sets of figures to the Transport and the Environment Committee, it will be able to compare them.

The Convener: Do members agree to write to SEPA and the Scottish Executive on the matter to ask for comments? We will at least append those comments to the report. John Home Robertson is correct that we must find out what flexibility there is on regional implementation and expand that section of the report.

Mr Quinan: I want to make a plea that we ask specifically about the nature of private water supplies both for industry and for those that are not related to business. I understand that there is an extraordinary number of such supplies in the Aberdeen area. That is an interesting subject.

Mr Home Robertson: That is a big growth area. Because of the increased charges for water supplies, many businesses and, I suspect, an increasing number of private households, drill

wells. If the directive covers private supplies, people should be aware of it.

Mr Quinan: The key point is that the directive requires certain standards, which will apply to the many hundreds of separate supplies. Will it be viable for people to maintain those supplies? As Sarah Boyack said, 2010 is not that far away in business terms.

The Convener: Sarah's point was a good one. Given the lead-in planning time that businesses require, 10 years is nothing. The sooner that we distribute information on the matter, the better.

Nora Radcliffe: The situation in the north-east is peculiar because it is a rural area with people in it; other rural areas are empty of people. The thousands of houses and farms with private water supplies in the north-east are an historical feature that is peculiar to that area. We should flag up that problem.

The Convener: Perhaps we should enlist the assistance of SPICe to research some of the issues that have been raised and to ensure that the results are incorporated in the revised draft report.

The discussion has been useful. The revised draft report will be brought back to the committee.

Petition

Fishing Industry (Fixed Quota Allocations) (PE365)

The Convener: Item 4 is on petition PE365, which is from Mr Iain MacSween. We asked for further information on the petition, particularly on the definition of property rights. Does John Home Robertson, who was interested in the petition, feel that it is appropriate for us to deal further with it or should we refer it to the Rural Development Committee?

Mr Home Robertson: I know a bit of the background to the petition; it involves a rather circuitous argument. The petition refers to fishermen's property rights over fish stocks. It identifies the problem of some fishermen selling their property rights to people in other countries. The petitioners cannot have it both ways: either they have the property right or they want to do away with it. The briefing paper summarises the issue and the committee cannot usefully say any more about it. The petition is the responsibility of the Rural Development Committee.

Ben Wallace: The issue of quota hopping and the transfer of licences is related to the green paper on the common fisheries policy, work on which is being done by the Commission and the member states. The committee's report "Reforming the Common Fisheries Policy: a Blueprint for negotiations" indicated that we frown on the practice, but it recognised that the practice relies on people who sell licences.

The Convener: There is a market for them.

Ben Wallace: Regional management would change that.

Mr Home Robertson: It might change it, but it might give rise to further problems if people demand compensation for the loss of their property rights. The issue is fraught with difficulties.

The Convener: The committee has taken a general view—we expressed our opinion in our report on the common fisheries policy. However, the matter is for the Rural Development Committee, so we will pass it on.

Ben Wallace: As a way of helping the petitioner, we could perhaps write to the Commission to find out how the discussions on cross-flagging and quota hopping are going. The Commission recognised those problems when it came to us and said that it was considering measures to prevent them. We could prompt the Commission to see how far it has got with that.

The Convener: What do other members feel?

Mr Quinan: I am not sure that this is an issue for the Rural Development Committee. It is a rural matter, but it hinges on legal issues. It is about a definition of Scots law in relation to European law and international law on property rights. It has nothing to do with the Rural Development Committee and will only be bounced from that committee somewhere else. I recommend that it should be passed on to one of the justice committees if we do not consider it further.

Mr Home Robertson: Lloyd Quinan is right.

Mr Quinan: There is no question about it. The issue is one of definition. The petition makes it clear that the issue is about

“ascertaining with whom the property rights to the Nation’s fish stocks lie”.

That is a purely legal matter, not a policy matter.

Nora Radcliffe: The final paragraph of the e-mail that expanded on the information that we received seems to suggest that, when a vessel is decommissioned, its allocation is handed on. Surely that defeats the whole purpose of decommissioning. If we are going to ask questions of clarification, we should try to do so fairly quickly.

The Convener: Shall we agree to refer the petition on to one of the justice committees, asking it to consider those specific issues?

Mr Quinan: Can we get Christine Boch’s confirmation that it is a legal matter? Would it be possible for us to have a graph that tells us exactly where this fits into the bigger picture leading ultimately to the Commission?

The Convener: You have made a good argument and persuaded us that the petition should be referred to one of the justice committees. John Home Robertson agrees with you. We have cross-party support for that suggestion.

Mr Quinan: We frequently get that. What are you giggling about?

The Convener: We will refer the petition to one of the justice committees and ask for a report back to this committee on its views about the issues that have been raised.

Dennis Canavan: I presume that the Public Petitions Committee received the petition first. Did that committee send it to us alone or to any other committee for comment?

The Convener: Christine Boch informs me that it would be appropriate to refer the petition to one of the justice committees. Dennis Canavan’s question is whether it has already been referred to one of those committees.

Stephen Imrie: Although the petition has been with the Parliament for some months, it has not been referred to one of the justice committees. The Public Petitions Committee referred it to us when we were deep in the throes of an inquiry into the common fisheries policy.

The Convener: We are all agreed that the best course of action is to refer the petition to one of the justice committees.

Mr Home Robertson: I am sure that that committee will be grateful.

Convener's Report

The Convener: I suggested that it would be a good idea for the committee to receive a regular report back from the European Committee of the Regions. We have never received such reports before, but until now the Parliament has not technically had representatives on the Committee of the Regions. This is the committee to which those reports should be made.

I have not provided members with a written report, because I returned from Brussels only last week and because the first meeting of the Committee of the Regions is generally the meeting at which the make-up of committees, positions and chairmanships is agreed. There is not a great deal to report regarding substantive policy issues. However, I am happy to update members on some of the things that happened at the COR last week.

The presidency of the Committee of the Regions went to a Scot, Sir Albert Bore. Although Sir Albert is the leader of Birmingham City Council, he is a Scot—born in Ayrshire, I am happy to say, at Auchinleck. He is a member of the European Socialist Party and will hold the position for two years. Halfway through the COR's mandate, the presidency will be transferred to the first vice-president, Mr Eduardo Zaplana Hernández-Soro, from Valencia in Spain. Mr Zaplana is a member of the European Popular Party, which is basically a Christian Democrat party.

Scots did reasonably well at last week's meeting. Christine May was elected to the bureau of the Committee of the Regions, which is the key ruling group. I was elected as vice-president of the European Socialist Party group, which puts me on to the bureau of that group. Keith Brown, who is the leader of Clackmannanshire Council, was nominated as the European Alliance Group delegate to the alternate position on the convention to prepare the reform of the EU institutions.

Scottish members were also elected to various commissions of the COR. I am on the commission for economic and social policy. The First Minister and Christine May are on the commission for constitutional affairs and European governance. Nicol Stephen is on the commission for territorial cohesion policy, which is a very important commission. Irene McGugan is on the commission for culture and education, Corrie McChord is on the commission for sustainable development and Keith Brown is on the commission for external affairs. Unfortunately, I did not notice to which commission Hugh Halcro-Johnston was elected, as he was not present at last week's meeting.

Ben Wallace: Where is the Conservative representative?

Colin Campbell: That is a good question.

Ben Wallace: I think that you will find that we were stitched up and that we do not have one.

The Convener: That is a matter for the Conservative group.

Mr Quinan: Do the Conservatives have any councillors in Scotland?

The Convener: That is an argument for another day.

I hope that my report on the first meeting of the Committee of the Regions was helpful. I would be happy to identify for members issues that are raised at commission and plenary meetings of the COR. I would be happy to e-mail other COR members, particularly those who are also members of the Parliament, to ask them to advise the European Committee of any issues with a Scottish dimension that could usefully be discussed by the committee.

It will be a few months before things start to happen. The commission of which I am a member will not meet until April. There is another plenary meeting of the COR next month. At that meeting, we will discuss reports and opinions that are still coming through from the previous mandate. The commissions that have been established are all new. There used to be eight of them, but their remits have now been condensed into six. All will consider their forward work programmes at their meetings in April. I would be happy to keep members apprised of what is happening.

Dennis Canavan: What discussions have taken place in the Committee of the Regions—and any other committees of which you are aware—on membership of the convention that will deal with the future governance of the European Union? Recently there has been criticism in the media of the fact that the Scottish Parliament will not be directly represented at that very important convention, although it will have some Scottish representatives, through the COR and so on. Can you explain to us in more detail what is going on? I do not recall the European Committee discussing that matter in detail. If it is true that the Scottish Parliament will not be directly represented at the convention, that is a pity.

15:00

The Convener: Convention places are allocated in a number of ways. There are three representatives for the United Kingdom: Peter Hain, Gisela Stuart and David Heathcoat-Amory. They are the three member-state representatives of the United Kingdom on the convention. I understand that a working party will be set up to influence the discussions that the delegation will take forward to the convention. The Committee of the Regions was allocated six full places and six

alternate places on the convention with, one might say, observer status. Those places were divided up among the political groups, and it was up to the political groups on the COR to agree their nominees.

There is a delicate balance between delegations, political groups and member states. The outcome is that there are six full places for the Committee of the Regions. I can really speak only about the discussions of the socialist group, because that is the group of which I am a member. The group was allocated two full places last week, one of which went to Manfred Dammeyer. I have had initial discussions with him. Members will recall that he gave evidence to this committee's governance inquiry as part of the delegation from the COR. Manfred is from North Rhine-Westphalia and is keen to have discussions with the committee. I have advised him that we have produced our governance report and that we will make a copy available to him.

The committee should set a date for meetings. One meeting should be to discuss our governance report with members of the UK delegation. Members will recall that when Peter Hain came to the committee we referred to such a meeting. Subsequently, he wrote to the committee and said that he would be happy to come back and meet the committee. That would be one opportunity to discuss our views with members of the UK delegation.

We could also discuss our views with regional and local government representatives, who will be advising the Committee of the Regions on how to progress. We also have the European members information liaison exchange—EMILE—working group, which is meeting on Thursday. That group is about bringing together members of political parties, local government, the Parliament, the Executive and the European Parliament—all the key players in Europe who are in Scotland—and working together as a team to inform and influence viewpoints. That is a summary of how we arrived at the convention position from the viewpoint of the COR.

Dennis Canavan: Yes, but is it the case that the Scottish Parliament is not directly represented on the convention? How is it that we, as the European Committee of the Scottish Parliament, seem to have been excluded from the prior discussions about who should have the opportunity to have his or her name put forward to be a member of the convention? It seems strange that we read about these things in the media. I have not noticed it on the agenda of our committee. We seem to have missed the boat, and I wonder why. Is somebody deliberately conspiring against us?

Mr Quinan: His name is Romano Prodi.

The Convener: I do not think that there is any conspiracy against us, Dennis. The committee has made clear its view in the governance report that it is our preference to have some direct representation. That report has been passed on to Peter Hain. We have written to him about membership of the convention and he has written back to say that, although the committee will not have direct representation on the convention, he would be willing to come to the committee and to engage in discussions about how the UK will take matters forward. There are two routes into the convention, of which one is the Committee of the Regions. Believe me, other regions in Europe may be asking the same questions today. Not everyone can be on the convention, as only six places were available.

The UK delegation took the presidency of the Committee of the Regions, and once one has a senior position such as the presidency, it is quite difficult to obtain other positions if only two or three are available. The French, the Germans, the Italians and the Spanish all think, "We cannot give everything to the UK. They're doing pretty well. They've got the presidency of the COR." We must negotiate, share and work together in partnership. We might want to argue for our position, but, at the end of the day, we must work with other people. That is what is being done on this occasion.

Dennis Canavan: I must express my gross dissatisfaction. It is a disgrace that the Scottish Parliament is not directly represented on the convention.

The Convener: It would be fair to say that we included in our report direct representation as our first preference. We have written to Peter Hain and Jack McConnell about that, but at the end of the day, the number of places is limited and Parliaments throughout Europe wanted places at the convention. This is about competition. The fact that a Scot is president of the Committee of the Regions and a member of the UK delegation gives us an opportunity to influence the discussion. I am happy to invite him to the committee. Likewise, I am happy to invite to the committee other colleagues from regional Parliaments throughout Europe with whom we are working.

Mr Quinan: I appreciate that offer, but let us face reality. The presidency of the Committee of the Regions is really not that influential in relation to the convention. The chair of the Committee of the Regions might happen to be a native Scot, but his politics are not my politics. It is irrelevant to discuss him—or any other Scot—simply because of where he was born. For example, Andrew Neil is a Scot, but I have nothing in common with him.

The convener said that there are only two ways in, but to say that is to accept the position that has been handed down from above, rather than to

address what is beginning to develop in Europe.

The convention is not going to be as straightforward as Romano Prodi or the large nation states want it to be. There is enormous criticism of and reaction against the structure. Two weeks ago, I attended a meeting in Brussels at which an organisation—with a secretariat and offices—was formed in order to lobby the convention, the Commission and the Parliament on behalf of the stateless nations. The organisation is led by senior members of the Basque Parliament and senior members of local governments of Brittany, Corsica and Sardinia. The meeting lasted all day and involved people who have more experience than we do in this area. They made it clear that the nation states' approach means—as Dennis Canavan said—that we will have no voice. We should not accept, or fail to understand, the implications of a constitution for Europe and how that will supersede current constitutions or, in the case of the UK, the lack of a constitution. The new constitution will change all our lives in the not-too-distant future. The year 2004 is not very far away.

I suggest that we need to speak to other bodies that are not structures of the European Parliament or Commission. We need to speak to people from Flanders, who are fighting their corner from within a nation state—Belgium—but with the full support of that nation state, which wants total access to the convention for Wallonia and Flanders. There is asymmetry in that approach.

The Convener: The point is that they have not won that argument. Although we could argue about representation, the first meeting—which will examine how the convention will proceed—is in 10 days' time. It is more important to go to the meeting and to argue the points that are important to Scotland than it is to spend time arguing about representation, which has already been decided.

Mr Quinan: It has not been decided—that is the key point.

The Convener: It has.

Mr Quinan: Do you think that the decision about representation is absolutely fixed in stone? It will not remain fixed in stone if Belgium decides to pull out, which has been suggested. Let us be realistic. What is Ireland's position on the matter, post-Nice?

The Convener: The fact of the matter is—

Mr Quinan: Will Ireland participate fully in the convention?

The Convener: My understanding is that Ireland will participate fully.

Mr Quinan: It will on condition that there is acknowledgement that Ireland has rejected the

Nice treaty.

The Convener: That is not a matter for the European Committee. We should stick to things that are matters for the committee. Would another member like to come in before we move on?

Ben Wallace: Although I do not have the same views as Lloyd Quinan, I regret that what was a parliamentary issue at Westminster became a party-political issue. The European Scrutiny Committee at Westminster put forward two nominations, but the parties got hold of the nominations and changed them. It is regrettable that the House of Commons' committee's nominations will not represent the United Kingdom. Jimmy Hood was very upset that he was moved along.

Nevertheless, I would be keen to invite the Westminster representatives to speak to us. We should—as long as he guarantees not to bang on about the euro again—also invite the Minister for Europe, Peter Hain, who is to replace David Miliband.

The Convener: To be fair, Peter Hain was asked about the euro.

Ben Wallace: A deal was struck and it is important that we at least have that access. As far as I know, it is almost set in stone that we cannot send more people. I do not know how many regional governments or stateless nation governments there are in Europe, but if they were all involved, there would be about 700 people at the convention.

Mr Home Robertson: There would still not be a Tory representative.

Ben Wallace: I believe that anything that is decided at the convention will be subject to parliamentary scrutiny in the member states. Then, members of Parliament for the respective parties in this room could feed influence from this country into Westminster. I would expect that. I hope that the five SNP MPs and our MP would be able to do that.

The Convener: It is a good point that we must concentrate on establishing relationships with the various working parties that will inform the discussions through the United Kingdom and the Committee of the Regions. The working group of the Committee of the Regions will meet in 10 days' time and I imagine that the UK working group will meet soon, too. It is important that we influence those discussions. Perhaps we could give the clerk the task of making contact with both groups to identify how to put in place a programme. We could invite the minister and representatives from the UK working group to meet us to discuss our views.

Mr Quinan: I have a question.

The Convener: I want to move on—we have had a good discussion about the matter.

Mr Quinan: It is a very straightforward question. How will we represent the different political views that exist in this country?

The Convener: The European Committee is made up of members of different parties. I dare say that members are well placed to ensure that their views are put to the representatives from the UK Government. You also have Keith Brown—a member of the Scottish National Party—as an alternate. I dare say that you will be able to have discussions.

The European members information liaison exchange network was set up to bring together representatives from all tiers of Government in Scotland. I hope that the European Parliament, local government, the Scottish Parliament, the Scottish Executive and all political parties will play a team Scotland game to advance Scotland's interests. That will be important. Our first meeting is on Thursday. That will provide an input for the European Committee, because the committee will be represented on the EMILE group. There is certainly a clear strategy for the way forward, and we should put in place a timetable for dealing with the issue.

Mr Quinan: I record my disagreement with the statement that there is a clear strategy. I do not believe that there is.

The Convener: Okay.

Scrutiny

15:15

The Convener: Item 6—scrutiny—is the final item to be discussed in public. Members will note that a new system has been adopted as part of the committee's revision of the scrutiny process. The clerks have spent some time classifying all the documents. That is much more helpful to the subject committees, which will be free to decide which documents to pursue. We are merely noting the papers and the new process.

In the paper for the Transport and the Environment Committee, I noticed something that I thought important. On the last page of that document is a proposal to set up a European maritime safety pollution and prevention agency. There was discussion about where that agency might be located, and I do not know whether that has been decided. However, we could highlight that for the Transport and the Environment Committee. I do not think that a decision was made at Laeken, although there was some discussion about the location of agencies.

Another agency is being proposed in relation to veterinary medicines. I have asked to be kept informed of developments. When such agencies are created, if there is a case for bringing them to Scotland, the parliamentary committees and the Parliament could usefully make that case.

Dennis Canavan: The scrutiny paper says:

"The document is sent by the European Committee to each of the Scottish Parliament's committees for their attention."

I am not sure what that means. Is each document sent to every committee or to the relevant committee as identified in the paper?

The Convener: I understand that the document is sent to all the committees. Perhaps Stephen Imrie can clarify the matter.

Stephen Imrie: The phrase "the document is sent" refers to the list—the specific document that is in front of members—rather than the individual papers that are allocated to each committee. Each committee receives the list that is classified as being in its remit and is free to decide on which of the documents it wants to act. Committees can return to this committee, SPICe or the legal advisers for further advice. The committee adopted that system at a meeting earlier this year.

The Convener: Thank you. Item 7 is consideration of our work programme. That is the end of the public part of our meeting. I thank members of the public for attending.

15:17

Meeting continued in private until 16:17.

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