

# **EUROPEAN COMMITTEE**

Tuesday 26 February 2002  
*(Afternoon)*

Session 1

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# CONTENTS

Tuesday 26 February 2002

|  | <b>Col.</b> |
|--|-------------|
| <b>ITEM IN PRIVATE</b> .....                                 | 1383        |
| <b>REMIT</b> .....   | 1384        |
| <b>OZONE DEPLETION</b>                                       |             |
| <b>(EC REGULATION 2037/2000)</b> .....                       | 1395        |
| <b>PETITION</b> .....  | 1396        |
| Trade Liberalisation (Impact on Health Policy) (PE320) ..... | 1396        |
| <b>CONVENER'S REPORT</b> .....                               | 1399        |
| <b>SCRUTINY</b> .....  | 1402        |

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## **EUROPEAN COMMITTEE**

### **4<sup>th</sup> 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

#### **THE FOLLOWING ALSO ATTENDED:**

Alison Coull (Scottish Parliament Directorate of Legal Services)

#### **CLERK TO THE COMMITTEE**

Stephen Imrie

#### **ASSISTANT CLERK**

David Simpson

#### **LOCATION**

Committee Room 3



## Scottish Parliament

### European Committee

Tuesday 26 February 2002

(Afternoon)

[THE CONVENER opened the meeting at 14:00]

### Item in Private

**The Convener (Irene Oldfather):** Good afternoon, colleagues. Welcome to the fourth meeting of the European Committee of 2002. Now that we are quorate, we will make a start. I have received apologies from Helen Eadie and Ben Wallace. I understand that Nora Radcliffe has to attend another meeting on behalf of Euan Robson and will be a little late.

Item 7 relates to continuing discussion of our future work programme. Do members agree to discuss it in private?

**Members indicated agreement.**

**The Convener:** Before we move on to item 2, I take this opportunity on behalf of the committee to thank Juliette Tandel, our visiting researcher. This is her last week with us and she will soon head back to Germany to complete her studies there. We appreciate the support that she has given to the team and wish her all the best.

**Dennis Canavan (Falkirk West):** Hear, hear.

**The Convener:** That was a good, traditional Scottish send-off from Dennis.

## Remit

**The Convener:** Item 2 on our agenda concerns the committee's external relations remit. A paper has been circulated to members. It is fairly straightforward and outlines the position that we want to encourage the Procedures Committee to take in relation to extending this committee's remit. Members will recall that we discussed at our previous meeting how we could push that along. The clerks have produced a paper, which I hope we will agree to and refer to the Procedures Committee today, which should expedite matters.

We have with us Alison Coull, from the Scottish Parliament directorate of legal services, who will be able to answer any questions. However, the paper is fairly straightforward and I hope that we will be able to agree it. It gives effect to our discussion of how formally to extend our remit.

**Dennis Canavan:** I agree in principle with the proposed change to standing orders, which would extend the committee's remit to allow us to deal with broader aspects of external relations rather than only European Union matters. However, I am not sure about the wording for the proposed changes to standing orders. I presume that that wording comes from the Procedures Committee—is that the case?

**The Convener:** No. The paper was prepared by our clerks and legal advisers. The intention is to forward the paper to the Procedures Committee. Alison Coull, the legal adviser who assisted with the preparation of the paper, is willing to answer any questions.

**Dennis Canavan:** I am not sure that the wording of the proposed changes is ideal. The paper proposes the addition to rule 6.8 of standing orders of a new paragraph 1(d), referring to

“the development and implementation of the Scottish Administration's links with Europe and countries outside Europe”.

First, what is meant by the Scottish Administration? Do we mean the Executive, or do we mean the Executive and the Parliament?

Secondly, on links with countries that are outside Europe, it is almost as if we are relegating those countries to an inferior status. If we are to draw a distinction between our existing role and our proposed extended role, that distinction should not be between European countries and countries that are outside Europe. Surely the distinction should be based on the European Union, because there is a difference between countries that are in the European Union and those that are in Europe. I hope that I am not being pedantic in commenting on those matters. I would prefer us to develop and implement the links that the Scottish Executive and the Scottish Parliament have with the European Union and the rest of the world.

**The Convener:** I call Lloyd Quinan, followed by Colin Campbell then John Home Robertson.

**Mr Lloyd Quinan (West of Scotland) (SNP):** Colin Campbell had his hand up before I did.

**The Convener:** I did not catch that.

**Mr Quinan:** I always defer to the teacher.

**Colin Campbell (West of Scotland) (SNP):** To talk about countries in Europe—or the European Union—and the rest of the world does not at first seem to be prescriptive, but what about international organisations? Are we entitled to, or do we wish, to foster relationships with international organisations per se?

**The Convener:** Are you thinking of NATO?

**Colin Campbell:** As it happens, I was not thinking of NATO in particular. Can we talk directly to the World Health Organisation, the United Nations or the European football association, or whatever it might be called? I draw a distinction between such organisations and nations or countries.

**The Convener:** I will let other members make their points before we ask the legal adviser for guidance.

**Mr Quinan:** I share Dennis Canavan's reservations. I also share Colin Campbell's concern that the word "countries" seems prescriptive—I would prefer to use the word "structures", unless there is an agreement or concordat between the committee and the Executive that clearly lays out what is meant by "countries". That is an important point, because we need to deal with pan-national structures as well as countries.

**The Convener:** It is important that we do not stray into reserved matters. However, I accept the points that colleagues have made about the limited definition and about the use of the term "Scottish Administration". I will ask the legal adviser about that in a moment.

**Mr John Home Robertson (East Lothian) (Lab):** The convener has just raised the point about which I was worried when I first read the document. What does the term "Scottish Administration" mean? Does it refer to the Executive or to the Parliament, or to both? That should be made clear.

I am not really bothered about the references to countries and whether they are inside or outside Europe. I presume that "countries" is a collective term that could mean any collection of countries. I would have thought that, under that definition, we would be able to look at the Executive's discussions with international organisations. However, we need legal guidance on that point.

**Alison Coull (Scottish Parliament Directorate of Legal Services):** I will try to deal with all the points that have been raised, starting with those on the reference to "Scottish Administration".

The standing orders are drafted on the basis that the committee would scrutinise the Executive's role in international relations, rather than scrutinise any role that the Parliament might have in that area. "Scottish Administration" is the legal term that covers the Scottish Executive's ministers and civil servants. The term "Executive" is often used to cover civil servants and ministers but, under the Scotland Act 1998, the correct term is "Scottish Administration". That is reflected in the Parliament's standing orders, which talk about committees having the power to scrutinise any aspect of the Scottish Administration's policy. Therefore, the legal point to note is that that definition covers the Executive's ministers and the civil servants.

**Mr Home Robertson:** Therefore, it covers both.

**Alison Coull:** Yes.

**Mr Quinan:** When is the Parliament's international relations work scrutinised and by whom, if that is not done by the European Committee?

**The Convener:** The Parliament—

**Mr Quinan:**—has an external liaison unit.

**The Convener:** I see what you mean.

**Mr Quinan:** I am glad that we are all awake now.

**Mr Home Robertson:** Who scrutinises the scrutinisers?

**Colin Campbell:** That question is important.

**Dennis Canavan:** The issue is interesting. I am grateful to the legal adviser for telling us the meaning of the term "Scottish Administration". I did not realise that such a distinction was made. I thought that the term "Scottish Executive" covered ministers plus civil servants, but apparently it does not.

**Alison Coull:** Colloquially, the term is used to cover ministers and civil servants.

**Dennis Canavan:** That is interesting. Does it include the Parliament?

**Alison Coull:** No.

**Dennis Canavan:** A department of the Parliament deals with external relations. We will discuss that next week with Paul Grice, the Parliament's chief executive. All sorts of activities are being undertaken. I have complained in the chamber and elsewhere that decisions about the Parliament's external relations with other

Parliaments have been taken rather clandestinely, rather than openly and democratically. Important issues of accountability are raised, and I would like the European Committee to have some responsibility for overseeing the work of the external liaison unit of the Parliament and the external relations function of the Scottish Administration.

**The Convener:** Is there a precedent for parliamentary committees scrutinising Parliament officials?

**Mr Home Robertson:** The Scottish Parliamentary Corporate Body is covered.

**The Convener:** Technically, the external liaison unit is attached to the Presiding Officer. Is that unit really the Presiding Officer's cabinet? Perhaps Stephen Imrie can shed some light on the matter.

**Stephen Imrie (Clerk):** In the internal parliamentary structures, the external liaison unit is in the office of the chief executive, who is the Clerk to the Parliament—that is, Paul Grice's office. The unit supports the activities of officials, including the Clerk and people like me, in external relations. It also supports the Presiding Officer and the Deputy Presiding Officers in their functions. The members of that unit are parliamentary officials and not civil servants in the way that the term has been used before.

**The Convener:** Will Alison Coull shed light on the question that I asked? Is there precedent for parliamentary committees to scrutinise parliamentary officials rather than members of the Executive and civil servants?

**Alison Coull:** I am unaware of any such precedent. The job of the committees tends to be scrutiny of the Scottish Executive's policies.

**The Convener:** We might be straying a little.

**Mr Quinan:** The Equal Opportunities Committee has discussed the Parliament's hiring and firing policies. The issue is not whether we will set a precedent, but whether we are performing the functions that are required of proper scrutiny. We have found a gap that requires to be filled. I advise the committee not to consider precedent, because we have discovered an arm of the Administration and of the Parliament that is not being scrutinised.

**The Convener:** The unit is not an arm of the Administration in the sense of the Scottish Executive, but it is an arm of the Parliament. Is it a parliamentary committee's responsibility to scrutinise another part of the Parliament? I need to take legal advice on that, because I am not sure whether that is our responsibility. Perhaps Alison Coull will assist us.

**Alison Coull:** I have had a chance to look at standing orders. The Equal Opportunities

Committee's remit covers the observance of equal opportunities in the Parliament which, I presume, is why it has considered that. I do not think that any other committee has a role similar to that, so it would be unusual for a committee to undertake such scrutiny. However, the Equal Opportunities Committee has a role in examining the Parliament.

**Dennis Canavan:** Surely it is the case that the servants of the Parliament—the parliamentary officials—are, whether they are in the external liaison unit or any other part of the Parliament's administration, accountable to the Parliament as a whole?

**The Convener:** I would have thought that they are accountable through the chief executive.

**Mr Home Robertson:** They are accountable also through the Scottish Parliamentary Corporate Body.

**The Convener:** Yes, they are accountable through the corporate body as opposed to a parliamentary committee. That is my assumption.

14:15

**Dennis Canavan:** The corporate body is, in a sense, a parliamentary committee that is accountable to the Parliament as a whole. The European Committee is a parliamentary committee and we must report to the Parliament as a whole. Our membership is approved by the Parliament as a whole; therefore we are accountable to the Parliament as a whole. I do not see any legal or constitutional difficulty in saying that we should have some responsibility for monitoring the work of the external liaison unit, provided that whatever we report is put to the Parliament as a whole for approval or otherwise.

**The Convener:** We are straying into technical issues about the chief executive's role in controlling his staff and relaying matters back to the special corporate body.

**Sarah Boyack (Edinburgh Central) (Lab):** The matter is not mentioned in the brief because the ambit of the brief is a change to standing orders in the light of the new external affairs remit, first for Jack McConnell and now for Jim Wallace. The remit was a first. We are getting into thinking about how to make different parliamentary officials accountable. It is not really the officials that Dennis Canavan seeks to make accountable, but the work of the Parliament. There is an issue about how the Presiding Officer exercises his functions. Dennis Canavan is shaking his head, but we have discussed the matter before, when Dennis brought it up. We have a choice. If we want to go down the route that Dennis suggests, we will have to discuss the matter for another couple of months, because we could not make the decision unilaterally at this meeting.

The drafting of the remit meets our broad requirements. Dennis Canavan raised a wider point about how Parliament works, which came up in the Commonwealth Parliamentary Association meeting before Christmas. That is a different issue from scrutiny of the Administration.

**The Convener:** The matter is for the Procedures Committee. We are expressing an opinion. We asked for the briefing paper so that we could push things along by agreeing the committee's position and sending a statement of that position to the Procedures Committee. I want to push on with that because, otherwise, we will have to reopen the whole issue. I would rather agree today to extend our remit to take on the role that we originally wanted to extend it to include, which is scrutiny of the Executive.

**Mr Quinan:** When we find that there are gaps and spaces we should not rush into doing things just because we want to get on with them. I do not agree that we would be setting a precedent. The change to the Equal Opportunities Committee's remit was based on its recognition that it could not carry out its functions if it ignored equal opportunities issues within the Parliament and its structures. We have discovered exactly the same hole.

The matter has nothing to do with the responsibilities of the chief executive. The chief executive has responsibility for the external liaison unit on a purely mechanistic managerial basis. The external liaison unit involves itself in a great number of things on behalf of the Parliament—that means on behalf of us—but there is no scrutiny of it.

**The Convener:** John Home Robertson.

**Mr Quinan:** I have not finished.

Rather than simply going along with what we currently have for the sake of time—by which we are not hugely pressured—it is vital that we get things right. We are in the first session of the Parliament and there is an unquestionable requirement for scrutiny.

**Mr Home Robertson:** Dennis Canavan raised a fair point about ensuring that there is scrutiny and co-ordination of external decisions by the Parliament or on behalf of the Parliament by the Executive or the external liaison unit. However, we are dealing with a separate area. The draft amendment is intended to give the committee the authority to scrutinise matters beyond the external affairs element of the minister's functions as he described them to us. That seems logical.

We are still waiting for a reply from our legal adviser on a question that we raised about whether the term "countries" includes international organisations. I assume that it does.

**Alison Coull:** Yes. I think that the point was summed up at the beginning of the discussion. The definition is wide enough to cover groups of individual countries.

**Mr Quinan:** What is the definition of "countries"? Scotland is a country. That may sound pedantic, but the issue is important. It is all very well to talk about countries, but many people do not recognise countries.

**Colin Campbell:** That is true.

**Mr Quinan:** What definition are we using? Is a country defined by the people who live in a geographical area or by people who wish to live in a geographical area? Is a country a member of the United Nations? We should remember that this is a legal matter and a decision will be binding.

**Alison Coull:** I think that the intention is for a fairly flexible interpretation of what a country is. The standing orders are a legal document, but they are not in the same category as legislation. They are internal working rules for the Parliament. In general, a purposive interpretation would be given to them. If the committee has specific concerns about how the term "countries" is determined, I am happy to go away and reconsider the matter in the drafting.

**Sarah Boyack:** When we are scrutinising work, it is up to us to decide what we think countries are—that is a reasonable way of operating. We should either accept the proposed changes and ask further questions about who will scrutinise external affairs work, as exercised by the Presiding Officer, or kick everything into touch and reconsider the matter. We do not have much of a choice. I raised the issue of timing because, at the previous two meetings, members have been anxious to get on with scrutinising work in the Executive's external affairs remit.

**Mr Quinan:** We have talked about the matter for about a year and have waited for proposals for at least eight months.

**Sarah Boyack:** That is precisely why I raised the point.

**Mr Quinan:** That is fine for you. We have dealt with the matter for quite a long time and I am not prepared to go along with something that does not satisfy the many hours of discussion that we have had in the past year.

**The Convener:** To be fair, we have not discussed scrutinising the Parliament's external affairs remit—that is new. We have discussed scrutinising the Executive. It is valid to raise the matter and consider where the scrutiny function of the external affairs arm of the Parliament should lie. That is right and proper.



**Mr Quinan:** At the beginning of the discussion, three people at the table did not even know who was running the unit or that we had one.

**The Convener:** It is right and proper for Dennis Canavan to raise the issue and that we should discuss it. Do we want to return the paper? There is an assumption, given that we are meeting the chief executive next week—

**Dennis Canavan:** On 20 March.

**The Convener:** On 20 March. There is an informal assumption that the committee will have a monitoring role. I think that the unit is happy to report to us and enter into dialogue with us. I do not see anything that would necessarily preclude us from continuing that scrutiny or monitoring of the external liaison unit informally. We have already arranged a meeting on that. I would be happy for that to continue informally, but do we want to send back the paper and change it?

**Dennis Canavan:** Would there be strong opposition from other quarters within the Parliament if we were to suggest the addition of the proposed paragraph 1(f) to rule 6.8 of the standing orders? That would include the monitoring and co-ordination of the international activities of the external liaison unit of the Scottish Parliament. We could put that down as a marker, as we will discuss the matter with Paul Grice on 20 March. If in the light of that discussion the committee feels that there would be strong resistance to an additional paragraph and that insistence on its inclusion would delay the implementation of the rest of the changes to the standing orders, we might decide to withdraw the proposed amendment or not proceed with it at that point. We could perhaps keep it on the back burner for a future occasion.

**The Convener:** That might offer some possibilities.

**Mr Quinan:** As Dennis Canavan said, we have talked in black and white about having to send back the paper. We are talking about a proposed amendment to the standing orders; we can amend the amendment without sending back the entire paper. What Dennis Canavan suggested makes an awful lot of sense. If we are going to go down that road, can we consider the content of paragraphs 1(d) and 1(e) and get back to what we discussed originally—the development and implementation of the Scottish Administration's links with Europe and countries outside Europe? Will we consider the structures of that? I wish that I had your faith in the informal structures with which I have had no contact but of which you seem to be aware, convener. That is all very well at the moment, but we are setting precedents for others.

**The Convener:** We are developing as we go along and I think that we are taking positive steps. We are bringing in the chief executive to discuss external affairs for the first time in the two and half years in which the committee has been operating. That is a positive development.

I turn back to the matter in hand, which is the paper before us. Dennis Canavan has suggested that we add a paragraph to the standing orders. We had hoped that we could agree the paper today, finalise it and send it to the Procedures Committee. At our previous meeting, members were anxious that we should progress quickly. There is no question about that, but we have raised a point that requires clarification. I would not be averse to adding a sentence that refers to the Parliament's external liaison unit, sending the paper to the Procedures Committee and having further discussions next week.

**Mr Home Robertson:** We could have discussions about the drafting with the Presiding Officer and the chief executive. I am quite comfortable with what has been proposed; it is sensible.

**Mr Quinan:** Why is the committee seeking the right to scrutinise? Do we wish to enter into discussions? I do not understand.

**The Convener:** My view is that we have a role to scrutinise the Executive and civil servants. We have opened up a new discussion today about whether we have a role in scrutinising parliamentary employees. We might well do.

**Mr Quinan:** The issue is the same for the Equal Opportunities Committee. The Rural Development Committee does not have to scrutinise parliamentary employees because, as far as I know, no one is farming on the roof of the building. However, the Equal Opportunities Committee had to consider the processes for hiring and firing people and the way in which we treat staff. In exactly the same way, we have discovered that an area that is part of our potential remit is not being scrutinised.

**The Convener:** The matter is ultimately for the Procedures Committee to decide.

**Mr Quinan:** On our recommendation.

**The Convener:** We can reflect our discussion today by adding a sentence referring to the external liaison unit of the Scottish Parliament and we can enter into further discussion with the Procedures Committee and the chief executive. I would like to have a clearer understanding of the legal situation on whether committees can undertake that sort of scrutiny of parliamentary employees.

**Mr Quinan:** The Equal Opportunities Committee does that because it fits in its remit.

**The Convener:** That is a policy issue, however; it is a wee bit different.

14:30

**Sarah Boyack:** Perhaps it would be better to use the phrase “the external relations work of the Parliament”, which sounds like the framework that is used on the equal opportunities side. It would refer both to the external liaison unit and to the general work of the Parliament in external relations. We need to think about the terminology. I would prefer a wider, catch-all phrase.

**Dennis Canavan:** I agree. That is why I suggested that the additional paragraph should read “monitoring and co-ordinating the international activities of the Scottish Parliament”. We might want to add “and its external liaison unit” to make the wording all embracing.

**Mr Home Robertson:** I anticipate difficulties with the Scottish Parliamentary Corporate Body, although I do not disagree with anything that has been said in the discussion.

**Colin Campbell:** We all agree. We have brought the subject up—let the SPCB kick it about for a bit.

**The Convener:** I am concerned about whether a parliamentary committee is entitled to scrutinise activities of the Parliament. As Colin Campbell says, we have uncovered something that needs consideration. However, I think that we should proceed with caution.

**Alison Coull:** The issue is new. The proposed new standing orders were drafted on the basis of the committee’s discussion about scrutinising the affairs of the Executive. I would want to consider the wording of any suggested additional paragraph in detail. I would like to be clear about any legal implications arising from adding the point about scrutiny. I would have to take it away and think about it.

**The Convener:** That is only fair. Does the committee agree that Alison Coull should take on board the comments that have been made today, with the proviso that we inform the Procedures Committee of our discussion and of Dennis Canavan’s suggested amendment and that we need to investigate the legal implications?

**Members** *indicated agreement.*

**Colin Campbell:** This is really pedantic, but it stems from the fact that I am on the Subordinate Legislation Committee. Could we include a footnote directing people to a definition of “Scottish Administration”? If the revised standing orders go out to the rest of the world as they are, they will

raise questions.

**Alison Coull:** Standing orders have tended not to include footnotes of the sort that are included in statutory instruments. However, there is a case for giving an explanation in a commentary with the standing orders.

**The Convener:** Okay. Thank you.

## Ozone Depletion (EC Regulation 2037/2000)

**The Convener:** We move on to item 3. At a previous meeting, we agreed to ask the clerk to put together a paper on the implementation of the ozone regulation. The main issue is the impact on local authorities in relation to the disposal of fridges and other white goods. The clerk's paper provides some background and suggests questions that we might want to ask the Executive. Do we wish to invite officials or the minister to speak to the committee or would we be satisfied with a written reply? What are members' views?

**Dennis Canavan:** We can write to the minister, asking what the Executive is proposing to do about the problem—looking for detailed answers to specific questions—and then decide, in the light of the Executive's response, whether to invite someone to give oral evidence.

**The Convener:** That seems sensible to me. Does the committee agree with that suggestion?

**Members** *indicated agreement.*

## Petition

### Trade Liberalisation (Impact on Health Policy) (PE320)

**The Convener:** Item four is petition PE320. Colleagues will recall that this is part of our work programme. The issue was referred to us in the unusual form of a draft report prepared by John McAllion in his role as reporter to the Health and Community Care Committee. The draft report is a private document, therefore we cannot place it in the public domain and we should not quote from it.

It is felt that we have a role because the European Commission negotiates trade liberalisation on behalf of member states, but I note from the paper that John McAllion and the Health and Community Care Committee are very much involved in the matter. My recommendation is that we leave the issue to them. Do colleagues wish to express any strong views on our role, as opposed to on the petition itself?

**Dennis Canavan:** We should say that we share the concerns that are expressed in John McAllion's draft report, that we agree with his recommendation that the Health and Community Care Committee should investigate the possible implications for health policy in Scotland, and that we believe that it should relay its findings to the Executive, the Parliament and the people of Scotland.

**Sarah Boyack:** The issue is interesting. I read a lot of the background from the World Development Movement, which provided a useful briefing paper. The issue is that the trade negotiations are not scrutinised much. That is not just an issue for the Scottish Parliament; it is a UK issue that concerns the work that is done by the Westminster committee that scrutinises the work of the European Union. I would be interested in passing the petition to the European Scrutiny Committee, without making detailed recommendations, because the issue is wider than health; it concerns the debate on what the outcome of the treaty agreements will be, because they roll forward regularly. Have we done that before and is there a procedure for doing so? I would be interested to see the UK committee's comments.

The subject of the petition has been raised at UK level in a Westminster early day motion, so there is interest in it. I would like to ensure that the issue is dealt with properly. Given that John McAllion has given us a private report, which does not have the weight of the Health and Community Care Committee behind it, we cannot go into the detail of it.

**The Convener:** We certainly cannot go into the detail of the report because it is a private paper

and it is yet to be discussed by the Health and Community Care Committee. I know that Westminster committees are keen to liaise with Scottish Parliament committees on areas of common interest, so we may be able to examine that route.

**Colin Campbell:** Dennis Canavan's suggestion would be generally supported, but it is the business of the Health and Community Care Committee. I am a little troubled by Sarah Boyack's eagerness to bump the petition to the UK committee, but then I would be, as a matter of principle. We should give whatever modest weight we can to the issue.

**Mr Home Robertson:** At this stage, the report by John McAllion is a draft—it has not been agreed by the Health and Community Care Committee. It might be going too far to endorse the terms of a draft report that has not been agreed by the relevant committee. It would be rash of us to go to that length at this stage, but in general, I agree with the thrust of what colleagues are saying.

**The Convener:** I tend to agree. I said at the beginning that, since the report is a private paper, we cannot discuss its contents, because it has not yet been discussed by the Health and Community Care Committee, although that is due to happen. It is not our place to endorse the report today.

**Mr Quinan:** The fact that the Health and Community Care Committee has not yet agreed the paper does not mean that having read it we cannot have opinions about it. I agree with Dennis Canavan. I also think that it is a dangerous precedent for us to drop the draft report and give it to the Health and Community Care Committee to deal with on its own, when we are seeking representation in Brussels and to the Commission.

It would be worth while for the convener to write to the Commission to support the report's recommendations, assuming that they are supported by the Health and Community Care Committee. She could do that as a separate action on behalf of the committee, merely to bring to the Commission's attention the fact that this is an issue in Scotland and that a petition has been before the Public Petitions Committee and has come to this committee. Conveying that to the Commission would make proper use of our access.

**The Convener:** You are suggesting that, in the first instance, we let the Health and Community Care Committee take a decision on the draft report, after which it will come back to us.

**Mr Quinan:** Yes. Then, if the Health and Community Care Committee agrees, we should write to the Commission—as the petition requested—because the matter has also been before this committee.

**The Convener:** That would not preclude us from acting on Sarah Boyack's suggestion of also referring the issue to Westminster.

**Dennis Canavan:** I realise that colleagues might be reluctant to endorse every detail of John McAllion's draft report, but we could say that we share the concerns that the report and the petitioners express and that we think that the Health and Community Care Committee ought to address the matter.

**Mr Home Robertson:** I am not sure that we would be happy if another committee took it upon itself to recommend that we endorse a draft report that had come to us.

**Mr Quinan:** The Health and Community Care Committee gave us the draft report to read.

**The Convener:** To be fair, Lloyd Quinan suggested that we refer the report to the Health and Community Care Committee and let it take a decision, amend the report as it wants and pass it back to us. We can then contact the European Commission. In addition, when—or if—the Health and Community Care Committee formally adopts the report, with amendments or whatever, we could refer the report to the appropriate Westminster committee. Is that agreed?

**Members indicated agreement.**

## Convener's Report

**The Convener:** We move on to item 5, which is the convener's report. I have a few items today, the first of which is to note the latest developments in our timetable for visiting Brussels. I am not proposing that we discuss the matter now, but members could perhaps let the clerks know of any comments that they have, as time is marching on. I know that the clerks will be happy to accommodate any last-minute changes if necessary. If members cannot attend meetings because they are making their own arrangements, perhaps they could keep the clerks up to date with the things that they will be doing separately from the committee.

I am sure that most members now know that our report on governance will be debated in Parliament on Thursday morning, 28 February, instead of tomorrow afternoon. I think that our debate will have more time by being on Thursday morning. I suppose that that is a bonus for us. I hope that committee members will be willing to come along and contribute to the debate. If members let the clerks know whether they will do so, that will make it easier to work out how much speaking time members might have. I am assuming that most committee members will be able to come along and participate.

**Dennis Canavan:** Are we now getting the whole of Thursday morning?

**The Convener:** No. I think that the Standards Committee has an hour of the time. Perhaps the clerk has an update.

**Stephen Imrie:** My latest understanding is that the Standards Committee debate and our debate will share Thursday morning. I will update members if the situation changes.

**Dennis Canavan:** Will the time be shared equally?

**Stephen Imrie:** Possibly not. The Standards Committee debate might take only an hour, which might leave about two hours for our debate, but that is only a working assumption.

**Mr Home Robertson:** Long speeches will be required.

**Mr Quinan:** Just before I came to the meeting, I was told that it was more likely that our debate would have two and a half hours, for some reason. Will the convener or Ben Wallace open the debate for the committee?

**The Convener:** I intend to open for the committee.

**Mr Quinan:** Will Ben Wallace close the debate?

**The Convener:** As far as I know, John Home Robertson, as deputy convener, will do that.

**Mr Home Robertson:** Will Ben Wallace speak in the debate?

**The Convener:** I hope that all committee members will speak.

**Mr Quinan:** For clarification, will Ben Wallace be speaking for the Tories or as a committee member?

**The Convener:** Well—

**Mr Quinan:** That is a difficult question. I just wondered whether anyone knows.

**The Convener:** I do not know. Part of the reason for putting the matter on the agenda was to check whether people were willing to speak in the debate so that we can plan the time accordingly. I assume that all members of the committee will speak.

**Mr Quinan:** Obviously, the SNP will be taking part in the debate, but you cannot expect Colin Campbell and me to endorse the entire findings of the report, although we were very kind and—

**The Convener:** Well, you agreed to it all.

**Mr Quinan:** We did not, actually.

**Colin Campbell:** I certainly did not.

**Mr Quinan:** Some of the wording with which we seriously disagreed was not changed in the final draft, but that is another matter. We chose not to produce a minority report or to press matters to a vote but that does not mean that we agreed with everything in the report.

14:45

**The Convener:** All members of committees feel the same about reports. We all give and take and negotiate in the interests of producing a report to which the whole committee can sign up. Everyone is in the same position. Fortunately, we had no divisions and the committee agreed the report.

I hope that members will speak in the debate and, as I have heard nothing to the contrary, I assume that Ben Wallace will be there as well.

The next item on which I want to update members is the European members information liaison exchange network—EMILE—meeting. We had a useful debate about the reform of the common fisheries policy and agreed that we would try to raise the matter when we go to Brussels next week. I hope that John Home Robertson will lead that delegation so that we can take a team Scotland approach on the issue of fishing. Sarah Boyack and Lloyd Quinan were at the EMILE meeting as well. Would either of them like to add anything?

**Sarah Boyack:** Jim Wallace was more positive than I expected him to be on our getting advance

notice of issues that will come up at meetings of the Council of Ministers. We have been discussing how we can scrutinise what is happening in Europe from a distance when, by the time a directive is finalised and must be implemented, all the negotiations have taken place. We need to track issues that we are interested in and so we must hold Jim Wallace and his officials to that offer of working in dialogue with us.

**The Convener:** That reminds me: we have arranged for Jim Wallace to come to our meeting on 26 March. He will give us information on the state of play of the situation between the UK Government and the Spanish presidency.

**Mr Home Robertson:** Something that I became aware of when I was the minister with responsibility for fisheries was that other member states are becoming uneasy about the operation of the Hague preference, which guarantees a share of the total allowable catch to Ireland and the United Kingdom. From what Ross Finnie has said recently, I gather that that feeling of unease is building up and that a number of European states now want to revisit the Hague preference. If that agreement were watered down in any way, it could have a serious impact on our fishing interests. It is useful that the issue has been flagged up and I am sure that the minister is doing work in relation to it. We should be properly briefed and I hope that the clerk will be able to get some up-to-date information so that we can discuss the issue with officials next week.

**The Convener:** That is a good point. We have already asked Ross Finnie's department to provide us with a briefing to ensure that we are absolutely up to speed when we go to Brussels next week.

The Danes take over the presidency of the EU in July 2002 and, around that time, we will invite the Danish ambassador to speak to the committee about the priorities of the presidency. We have done that for previous presidencies. We will keep members up to date.

## Scrutiny

**The Convener:** The last item in public today concerns the new scrutiny process. The clerks have classified all the documents according to the committees to which they relate. We will send the list to each committee and bring the most appropriate documents to each committee's attention. It is for committees to decide whether to investigate or take matters further, as they see fit.

**Sarah Boyack:** I would like to ask the clerks for copies of some of the papers, as they raise fundamental issues. I would like us to add a tag to certain documents. I will restrict myself to dealing with those documents that relate to justice and transport. The documents relating to justice raise some issues of major significance that I am not aware of the justice committees' having considered. It is proposed that some of them be referred to the Justice 2 Committee, but it is for the justice committees to decide which committee should consider them. Documents SP 2978 and SP 2979 relate to potentially important matters that tie in with some of the issues that Jim Wallace is pursuing in the Executive. Documents SP 3022 and SP 3040 relate to issues that are worth keeping an eye on.

The biggest issue is the European Police Office—a concept which the Parliament has not yet scrutinised. It is for the justice committees to decide when and to what extent they want to scrutinise the matter, but I would like to flag it up. At some point we will want to scrutinise it.

I also encourage the Transport and the Environment Committee to examine some of the documents listed on page 13 of the paper. They include a raft of documents relating to railways. I know that the Transport and the Environment Committee intends to conduct an inquiry into railways; I suggest that it includes in that inquiry the issues raised by these documents, as they are of major significance to the development of railways in the UK and will have implications for Scotland. Of particular importance are documents SP 3020, SP 3028, SP 3034, SP 3036 and SP 3037. We should be tuned into the issues. We should also ask questions about the remit, functions and funding of any future European railway agency. I would ask the Transport and the Environment Committee to pursue those matters anyway, but given that it is conducting an inquiry into railways, I think that we should ask it proactively to consider the documents.

**The Convener:** I know that the Transport and the Environment Committee has a European away day next Monday, in part to enable it to interface better with some of the issues to which Sarah Boyack refers. The committee wants to establish ways of selecting the documents that are relevant

to the work that it is doing. It is important that the committees begin to develop processes that will enable them to decide themselves which documents tie in with their priorities. Sometimes I worry that committees put to one side the list of documents for scrutiny that they receive from us. It is important that the committees consider actively the implications of some of the documents that are referred to them.

We may want to include document SP 3038—which is entitled, “Communication from the Commission to the Spring European Council in Barcelona: ‘The Lisbon Strategy—Making Change Happen’”—in the documentation for our proposed inquiry into the European employment strategy. Perhaps we can discuss that at our next meeting.

**Sarah Boyack:** I agree with you, as the document provides a useful overview of a large number of issues. It relates to the inquiry that you recommend we undertake.

I suggest that we flag up some European directives to other committees. I am conscious that most other committees do not have the time to engage with Europe, so we should ask them to report back to us on the issues that we highlight. The documents relating to EUROPOL and the railways are fundamental. I read the document relating to rail freight and it was almost like revisiting the Caledonian MacBrayne issue. In a couple of years’ time, a new directive will appear and we will say, “This will totally reorganise the way in which we deal with rail freight in Scotland, but nobody has discussed it.” Now is the time to engage with what is coming down the tracks.

**The Convener:** We could asterisk certain documents and ask committees to attach high priority to them.

**Sarah Boyack:** It is for committees to decide whether to examine the documents that we bring to their attention, but we should flag up important issues that we think they need to be aware of.

**Mr Home Robertson:** I would love to see a copy of document SP 3009, entitled “Initiative of the Kingdom of Spain setting up a European network for the protection of public figures”.

**Mr Quinan:** I can tell John Home Robertson all about that.

**Mr Home Robertson:** It sounds gloriously bizarre.

**Mr Quinan:** It is really nasty stuff.

**The Convener:** That brings us to the final item on our agenda, which we agreed to take in private. I thank members of the public for attending.

14:55

*Meeting continued in private until 15:05.*





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