

EUROPEAN COMMITTEE

Tuesday 26 March 2002
(*Afternoon*)

Session 1

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EUROPEAN COMMITTEE

5th 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 :

Christine Boch (Scottish Parliament Directorate of Legal Services)

Richard Lochhead (North-East Scotland) (SNP)

Bristow Muldoon (Livingston) (Lab)

Alex Neil (Central Scotland) (SNP)

WITNESS

Mr Jim Wallace (Deputy First Minister and Minister for Justice)

CLERK TO THE COMMITTEE

Stephen Imrie

ASSISTANT CLERK

David Simpson

LOCATION

Committee Room 2

Scottish Parliament

European Committee

Tuesday 26 March 2002

(Afternoon)

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

The Convener (Irene Oldfather): We will make a start. I welcome everyone to the European Committee. I have not received any apologies for today's meeting, but I note that Helen Eadie is with us again. Welcome back, Helen. It is nice to see you. We have missed you.

Dennis Canavan (Falkirk West): Are the other MSPs who are not members of the committee coming?

The Convener: I imagine that they will come a little bit later, as they have said that they would like to come along for the minister's visit at 3 o'clock. We will just push on with the agenda and try to get through as much of it as we can before the minister comes at 3.

Item in Private

The Convener: The first item on today's agenda is to consider taking item 8 in private. The item refers both to our draft work programme and to the meetings that we held in Brussels, which were held in private. Are committee members agreed?

Members indicated agreement.

Executive Briefings

The Convener: Item 2 is to discuss the Executive's briefings pre- and post-European Council and Council of the European Union meetings. The clerks have prepared a paper on this for us, of which pages 1, 2 and 3 provide background information. The main proposals are given from page 4 onwards. The proposals would enable the committee to do two things. First, as we said, we want to place in the public domain material on Executive activities that take place before Council meetings. Secondly, we want to involve this committee a bit more and to enable it to pick out items with which we want further involvement. I ask members whether they are generally in agreement with the proposed procedures as outlined from page 4 onwards.

The main recommendation, in paragraph 14, is that the committee meets the Deputy First Minister at the start of each new presidency of the Council of the European Union. We are starting with that today, but we intend to have it as a regular item on the committee's agenda. The committee has asked for that in the past, and paragraphs 14 and 15 outline a procedure for that. Do members agree to it?

Members indicated agreement.

The Convener: Paragraphs 16, 17 and 18 are about having briefing papers prepared and giving the committee advance notice of the dates of European Council and Council of the European Union meetings as far in advance as possible. The suggestion is that notice of at least a calendar month should be given. We accept that last-minute changes might be made to meeting dates and agendas, although provisional agendas would be helpful as such information would assist and inform the committee. Do members agree to the recommendations in paragraphs 16, 17 and 18?

Members indicated agreement.

Sarah Boyack (Edinburgh Central) (Lab): It is important that we get advance notice of those meetings, so that we can pick out what issues we might want to prioritise. Paragraphs 18 and 19 mention the attendance of Scottish ministers at Council of the European Union meetings. It is not so important to know a month in advance whether a Scottish minister will attend because that decision may not be made until the final meeting agenda is known.

There is nothing to stop ministers giving oral evidence to the committee before a Council of the European Union meeting, and I support paragraphs 16, 17 and 19. When I was a minister, there were times when I would have said a month in advance that I was definitely going to something, to which I then did not go. There were

also times when I could have said that I definitely was not going to something to which I then went. That recommendation is a question of judgment.

The Convener: I understand that things sometimes happen in the Parliament and that a judgment would have to be made on whether it would be more important for a minister to be here—for example, for a vote or an item that is relevant to the minister's portfolio. I am sure that there will be such exceptional circumstances. However, in the main, the principles in the paper are the right ones.

Dennis Canavan: I understand the point that Sarah Boyack is making. Sometimes there are unforeseen circumstances and a minister who intends to go to a meeting may not be able to go. However, paragraph 18 is fairly flexibly worded. It says that the information

“should also contain an indication as to whether a Scottish Minister will, or intends to, attend the meetings of the Council of the EU.”

That is flexible enough and we should accept it.

Colin Campbell (West of Scotland) (SNP): It is important that we can, within reason, insist on paragraph 19, although that will not always be the case. That is addressed later, in paragraph 22. We will probably come to it in the course of the discussion. In the interests of transparency and of the Executive's being seen to be as transparent as it can be, it is important that the minister can be brought in to fill us in on what is coming up.

Ben Wallace (North-East Scotland) (Con): I agree with the concept that the ministers should indicate whether they intend to attend Council meetings. However, I also agree with Sarah Boyack—the idea of a framework or time scale should be removed. We should expect them to inform us before going to Council meetings, whether that is six weeks or two weeks in advance. The idea of imposing a timetable of at least one calendar month is impractical and inflexible, although I think that we have a right to expect to be told in advance whether they are going to attend.

The Convener: We are all agreed on the principles and we acknowledge that circumstances can change. If we agree the paper today, we will forward it to the Executive for comment. We will listen to any pertinent comments that the Executive has.

We move on to consider joint ministerial meetings and meetings of the ministerial group for European co-ordination—MINICOR. The principle is the same and the idea is that, where possible, we would get information ahead of time.

Ben Wallace: I understand what paragraph 22 is trying to achieve. However, I do not want it to be

perceived that there would be a presumption that the minister would not attend unless specifically asked. I notice that paragraph 22 says that

“Appearances by a Minister to give oral evidence will not be the norm and it is the intention that they be infrequent.”

That is rather ambiguous. I would rather that there be no presumption. The committee requests for proper reasons that ministers attend, not as some cheap political stunt. If something is of interest, the committee should exercise its right to request a minister's attendance. If that means that the minister has to attend frequently because there is an intergovernmental conference in 2004 and each subject is of interest to us, then it would have to be frequently.

Paragraph 22 must be less ambiguous and must say that we reserve the right to call the minister.

The Convener: That is fair enough. I would be happy to add a sentence to that effect, which is in keeping with the practices of other devolved administrations. I was not able to be at the meeting with the House of Commons European Scrutiny Committee, but I understand that those were the kinds of matters that came out of that meeting. It is important that we exercise the same accountability that is being exercised in other Administrations.

That takes us to paragraph 24, which is about post meetings. Again, the paragraph is fairly self-explanatory and also follows on from the meetings that we had with the House of Commons European Scrutiny Committee and information that we have received from the Welsh Assembly about the sorts of post-Council meeting information that those administrations receive.

That is something we have been working towards for some time. Do members agree to the terms of paragraphs 25 and 26?

Members indicated agreement.

The Convener: Do members have a preference for direct reports or for the use, for example, of parliamentary questions? Obviously, there are different ways of doing this. The Welsh Assembly does it differently from the House of Commons European Scrutiny Committee.

Sarah Boyack: The information published should be easily accessed by MSPs and members of the public. Something should be put on the record after each Council meeting that can be made widely available so that people know what has happened at Council meetings. I am less concerned about the mechanism, but the information should be publicly accessible and regular.

Mr John Home Robertson (East Lothian) (Lab): Ideally, the form of information should be at

our discretion. Sometimes when ministers discuss something that might hit the headlines they want to come back and make a statement about it. Conversely, there may be occasions when they would rather not say anything. There is something to be said for giving the European Committee some say in whether a report is oral or written.

Nora Radcliffe (Gordon) (LD): I find the use of parliamentary questions for such purposes a very Westminster thing to do. It seems a ridiculous and unnecessary mechanism.

The Convener: I agree. A letter or a report sent directly to the committee and then—following Sarah Boyack's point—placed in the public domain is the way forward. Perhaps we could amend the paper to reflect that.

14:15

Mr Home Robertson: Hold on. There is a slight contradiction between Nora Radcliffe's comments and those of Sarah Boyack. A parliamentary question might be pedantic, but at least it ensures that the information is universally accessible and that people know where to find it. A letter that is sent to the committee clerk might not be as easily accessible. Let us pause and think about that.

The Convener: I was suggesting that such a letter would form part of the committee papers and would therefore be in the public domain.

Colin Campbell: A letter could be recorded in the minutes of the committee meeting. If there were any substantial shortcomings, they could be followed up by PQs to get specific information.

The Convener: That ties the committee into the process in a helpful way. Parliamentary questions can be asked by any member.

Ben Wallace: I agree with John Home Robertson that there is a point to parliamentary questions. When a member lodges a parliamentary question it starts the clock ticking. The member puts down a marker about when the question was asked and when an answer is expected. We are all used to the process taking more than two weeks, but if the report were to go through the committee we might be left wondering where it is or when it will arrive. We would have to check the reasons why it had not come to the attention of the civil servants or had not got to us in time. However, once a member has lodged a parliamentary question it is in the public domain and it has to be answered by a target date.

Helen Eadie (Dunfermline East) (Lab): I would prefer the letter or report to come to the committee because a parliamentary question is not always effective. I prefer to write to the minister and get a letter, because I always receive a more fulsome response when I do that. Often, when a member

lodges a PQ, it is only the member concerned who notes the answer. I would like the committee as a whole to be linked to the responses.

Mr Lloyd Quinan (West of Scotland) (SNP): I am not in favour of using PQs, although I appreciate what members are saying. In order to make the system work, the PQs would have to be lodged by the convener of the committee, for the information of the whole committee. That would establish a precedent to be used by all committees.

The Convener: It is important to tie the answers back to the committee and to put them in the public domain. It may be that in some cases it would be easier to use a parliamentary question and we could ask for a report in other cases, where we would like more detailed information. We could use both methods.

Lloyd Quinan's suggestion that the questions be lodged by the convener and come back to the committee might be one way to ensure the general availability of information, rather than tying it too tightly into the committee process.

Mr Quinan: It is something that you could suggest at the conveners liaison group, convener. I am sure that other committees are discussing whether there should be a mechanism whereby a convener could lodge a PQ on behalf of a committee, which would be subject to different rules to those for parliamentary questions lodged by ordinary members.

The Convener: I think that we have general agreement on two principles: first, we want to put the information in the public domain and secondly, we want the committee to be able to review European Council and Council of the European Union meetings. The process may be one of trial and error. The paper contains a recommendation that the whole thing is subject to review after six months.

Paragraph 30 is about liaison with other parliamentary committees and trying to involve committees proactively. That is a theme that the committee has been developing over the past few months. I mentioned in private session, just before the committee opened to the public, that the conveners liaison group will today discuss European matters. That is an opportunity to take paragraph 30 forward.

On paragraph 31, the committee has indicated that it wants to be actively involved in the work of the intergovernmental conference over the next year to 18 months. The paragraph is about establishing a dialogue on the conference between the committee, the Executive and UK members of Parliament.

Do members have any further comments to

make? The rest of the paper is self-explanatory, about review and indicating that we agree to formally transmit these views to the Executive for its agreement.

Helen Eadie: Last week, I managed to go along both to hear Jim Wallace being interviewed by the House of Commons European Scrutiny Committee and to the informal session afterwards. The view was expressed during the informal session that it would be quite useful if the House of Commons European Scrutiny Committee and this committee had a means of coming together from time to time to discuss issues that relate to the agendas for the IGC or the Council meetings. I know that the chairs of committees already meet, but the feeling was expressed at that meeting that it would be useful if the two committees could meet collectively.

The Convener: We could learn a lot from other committees. The difficulty is the practicality of that. A meeting of the chairs of committees is coming up next month. Perhaps at that we could discuss possible opportunities for that kind of liaison. It is certainly a good idea that the clerks keep in touch with what is happening on the other committee agendas and that there is a great deal of sharing of information, even when it is not practical for all the members of the committees to meet. When opportunities present themselves we should certainly try to take them up.

Ben Wallace: If we adopt the procedures outlined in the briefing paper, it will improve scrutiny and the position of the committee. It should make us better than any of the other UK European committees, as we have looked at some of the best practice from the Welsh and from Westminster. Those procedures will get us closer to decision-making, which is done at the Council of Ministers. This procedure will be good for the committee. I hope that we get everything that we want in it and that it will become even more useful.

The Convener: I agree with Ben Wallace's comments. This is a step forward for the committee. I am delighted that consensus has broken out. Can we formally agree the paper?

Members *indicated agreement.*

Sarah Boyack: The introduction in the briefing paper mentions the accessibility of the explanatory memoranda. What is the process for our seeing explanatory memoranda? I know that we receive scrutiny documents and that those are passed on to other committees. Are you in possession of explanatory memoranda at that point? Do the explanatory memoranda go to the committees that are asked to consider the issues?

The Convener: We used to get explanatory memoranda for priority scrutiny items when we undertook scrutiny under the headings of priority

scrutiny and routine scrutiny, but we have changed the way that the committee works. Perhaps the clerk will say something about the information that is available.

Stephen Imrie (Clerk): I confirm that when we bring a document to the attention of another committee, it receives the whole document and the explanatory memoranda. A complete set of European documents and explanatory memoranda is held in the Parliament's documentation centre on the ground floor of parliamentary headquarters. The clerks also hold a set. I can certainly make explanatory memoranda and original European Community documents available to any member. Other committees receive the complete set of documentation.

Water Framework Directive

The Convener: Item 3 is on the water framework directive. Members made a number of suggestions at a previous meeting, when we considered the report in great detail. Today, we have brought the report back to the committee, having made the amendments that members requested. Several issues were raised on matters such as abstraction charging, flood protection and private water supplies. I want to check with members today that they are satisfied with the amendments as we have drafted them.

Nora Radcliffe: Can we make a small change to page 11? Although a part of our visit to the north-east was based on the water framework directive, another part of it was not. Our meeting with representatives of Huntly business centre was not connected with the directive.

The Convener: That is fine. Do members have any other comments?

Ben Wallace: I note the point that we should have more involvement with other committees when the water services and environment bill comes before the Parliament in May, or at least assist them in examining policy options. I want to make that point more strongly. When the bill is passed, there will certainly be scope for a more imaginative policy of Scottish solutions to Scottish problems. Perhaps we should make it clearer to the subject committees where they can or cannot pressure the minister to consider alternatives.

The Convener: When I speak to other committee conveners today, I certainly intend to say that the committee wants as far as possible to provide advice and support on European matters. The report is a good first step towards that aim. When the lead committee on the issue is identified, it will find that the report is helpful and provides a good start to its work.

Dennis Canavan: Paragraph 57 refers to the visit to Islay, in which I participated, and mentions the people that we met. Paragraph 58 then says:

"Firm representations were made ... on the Water Framework Directive".

I am not sure that that is strong enough. All the representatives of the whisky industry to whom we spoke expressed great concern about the directive's potential detrimental effects on that industry. Our report, which I hope will be read by members of the Executive and MSPs before the stage 1 debate in the chamber, should more accurately reflect people's concerns, particularly those of the representatives of the Scotch whisky industry.

The Convener: Would it tighten matters up if we added something to paragraph 57?

Dennis Canavan: Yes. Instead of the phrase "firm representations were made", we could say that "concern was expressed".

The Convener: Okay.

Ben Wallace: I want to mention something that I noticed about this particular directive. The Executive could be criticised for its consultation procedure prior to the bill's introduction in May. In most of the consultation documents, the distinction between what is and what is not up for consultation is not made clear. I know that I always talk about nitrate-vulnerable zones, but Nora Radcliffe and I have many constituents in the north-east who are not aware of which elements in the document they can influence and which are simply a fait accompli because the water framework directive already enshrines them in law. In any future consultation documents—on this or any other topic—the Government should make it clear which aspects are subject to EU directives, because it is no good blaming the Commission for something that the member state has signed up to.

Furthermore, what is the Executive's room for manoeuvre? For example, once the Executive is satisfied that a distillery's water extraction does not contribute to pollution, it is able to say whether the need remains for a testing regime or for subscriptions towards policing the matter. The Commission is not forcing the Executive into that position.

We have to try to stop the practice whereby the Executive or Government wriggle out of their responsibility by blaming a directive that often turns out, when you read it, to be pretty loose and to offer a fair amount of discretion. This is the first example of consultation coming a bit too late down the line. The Executive has tried to merge the directive and the draft bill and I am sure that a number of us will be raising points when the bill comes to Parliament. We should set a precedent for further directives.

The Convener: There is sometimes room at the margins for negotiations. Sometimes it is difficult to be firm and fixed because you want to keep as many doors open as possible. However, I understand what you say.

14:30

Ben Wallace: The directive has been agreed to and we are discussing legislation that has resulted from it. Directives are usually very clear about what is permitted and what is being asked for. Once that has been agreed by the member state, there is nothing that we can do to change it. What we can do is ensure that the Executive's responsibilities are made clear.

Colin Campbell: I draw members' attention to paragraph 39, which states:

"The WFD allows Member States to exempt abstractions or impoundments from these controls".

Part of the European water abstraction legislation was designed for southern mainland Europe rather than for the wet climate of the west of Scotland, which is, of course, totally different. However, it is clear that liability for running things lies with member states. Exemptions can be made—that is what the whisky industry is looking for, and the paper industry in Scotland is in a similar position.

The Convener: There will be a long and on-going debate on this issue but I think that we have provided a useful start. I know that members will continue to participate in the debate throughout the stages of the bill, regardless of which committee is the lead committee. I hope that our committee will continue to have role.

We are running a little ahead of schedule and the minister is not due to arrive until 3 o'clock. It would be helpful if we could push ahead, so do members agree that we should now take item 5, which is the convener's report?

Members *indicated agreement.*

Convener's Report

The Convener: I have a few items to discuss with the committee today. We will discuss the Brussels visit later, but I put on record our thanks to the clerking team of Stephen Imrie, David Simpson and Nick Hawthorne for all the work that they put into making it such a successful visit, and our thanks to Liz Holt of the European Commission and Dermot Scott of the European Parliament for all the hard work that they put into arranging meetings for us.

We have received a follow-up letter from Wendy Alexander on the euro. I suggest that the committee note the contents of the letter and thank the Executive for clarification of the denomination in which, and the means by which, payments of EC funds are received in Scotland—members will remember that we queried that. Furthermore, I suggest that we welcome the fact that MSPs can be involved in the Scottish economic and monetary union co-ordination group. The responses have been positive developments resulting from the letter that the committee sent to the minister. However, members may wish to express regret that the recommendations on information campaigns for young people and vulnerable sectors have not been agreed to. I notice that the minister says that the recommendations were inappropriate "at this time", so there may be a glimmer of light on the horizon.

Dennis Canavan: Towards the end of her letter, Wendy Alexander refers to the Scottish EMU co-ordination group and says:

"If it were decided at that point"—

that point being June of this year—

"that the group should continue, consideration would be given to inviting representatives from the Parliament to join the group."

We should put down a marker to say that representatives of the Parliament ought to be selected in an open and democratic way. All too often, delegations from the Parliament are decided behind closed doors by the mystical Parliamentary Bureau, which behaves like a secret society. The European Committee should use its influence to ensure that that is not the case.

The Convener: Are you volunteering to be the committee's representative on the Scottish economic and monetary union co-ordination group? I would be happy to endorse that.

Dennis Canavan: No. I was talking about the principle.

Mr Home Robertson: Dennis could be the mystic on a mystical body.

Mr Quinan: The second page of the letter from Wendy Alexander mentions the school curriculum. If I remember our discussion correctly, I think we asked whether alteration to the curriculum because of the single currency will have a financial impact. I appreciate that Wendy Alexander is the minister with responsibility for enterprise, which has so little to do with money, and the minister with responsibility for lifelong learning, which has a little to do with education, but it might have been more appropriate if she had answered our questions rather than directing us to the education department.

I am not happy with the minister's answer. The matter has financial implications for local authorities, which was the nub of our question to her. We should take on board the suggestion of asking the education department whether there are any financial implications in the changes to the curriculum because of the single currency. We should also write back to Wendy Alexander to ask whether, in her opinion as minister with responsibility for lifelong learning, the single currency has financial implications for the higher and further education sectors with regard to alterations of material. The minister's reply does not appreciate the point that we made.

The Convener: The committee has discussed the school curriculum in the past. I am interested in the changes that have been made to incorporate the euro into the curriculum. A couple of weeks ago, a secondary school in my constituency did a project on the euro. Kids were encouraged to buy things at the tuck shop in euros. Advances are being made. It might be helpful to write to the Minister for Education and Young People to ask what is happening in the school curriculum and what the programme of implementation is for any changes to it.

Mr Quinan: The issue is potentially broader. In Portugal, as part of the education programme for the single currency—although not as part of the European Union's programme—McDonald's offered money to provide materials for schools that told children how much a Big Mac would cost in euros. I wonder what other members think about that. We know that our schools lack materials, but I would be concerned if there were a back door for McDonald's or any other organisation to provide school books that refer to their products. That already happens in England. I am concerned that it might become part of our kids' education to be told about the euro in Ronald McDonald's terms.

The Convener: In the next two years there will be many discussions on the impact of the euro on the curriculum. We could start by writing to the Minister for Education and Young People to ask about the plans and the programme of implementation for changes in the curriculum.

Mr Quinan: The serious issue is the financial implications of those changes. The nub of the question is whether there are financial implications and whether we can access cash from Brussels for the education programme.

The Convener: I remember that we asked about the PRINCE programme, which was an information campaign, but I am not sure whether we received an answer. Perhaps we should follow that up. The Commission had money available for member states to undertake information campaigns on the euro. Perhaps we could access that too. I do not think that that money was for curriculum changes. I understand that it was for local authorities to use in libraries, for example, to provide information to the public. We can follow up that point on the PRINCE programme.

We move on to the letter from Peter Peacock about delays. Members will recall that we asked about delays in payments from European social fund programmes, which have affected the voluntary sector. I suggest that we note the letter and welcome the steps that the minister is taking to improve payments to the voluntary sector.

I welcome the minister's suggestion that he will deal sympathetically with serious problems and encourage the Executive to keep the situation under constant review. As a member of the Scottish European structural fund forum, the committee has a role in keeping that situation under review. Either John Home Robertson or I will attend the next meeting of that group, at the end of April, when we will continue to raise that problem. I ask members who want us to raise cases on their behalf to tell us about them before the forum's next meeting. Is the recommendation agreed?

Members indicated agreement.

The Convener: I give notice that John Home Robertson or I intend to attend the next meeting of the European Chairs-United Kingdom group, which comprises the chairs of the committees that deal with European matters in the devolved assemblies, of the House of Lords European Union Committee and of the House of Commons European Scrutiny Committee.

I would welcome hearing about any issues that members want us to raise at that meeting. Governance will be on the agenda. Helen Eadie has mentioned opportunities for further networking with members of those committees, which we can certainly raise. I do not ask members to bring up issues now. There is time before the meeting for members to advise the clerk or me of any issues that they would like us to raise. After the EC-UK group meeting, I will be happy to circulate a note on the matters that were discussed and any agreements that were reached. Is that agreed?

Members indicated agreement.

The Convener: The next issue is implementation of the ozone regulation and its implications in terms of the increasing fridge mountains throughout Scotland. I suggest that we note the answer to the parliamentary question that Sarah Boyack lodged. Members will recall that we, too, have written to the Executive about the matter, but we have not received a reply. Do we agree to ask the Executive to provide the committee with a copy of answers to relevant parliamentary questions in the future and to continue to engage with the committee on the issue, which is important?

Members indicated agreement.

EC/EU Legislation (Implementation)

The Convener: Every two months, we receive a statement from the Executive on the implementation of all directives in Scotland. That is useful because it enables us to see how departments are performing and to monitor late implementation, which we were keen to do. The paper that the clerks have produced is helpful. It sets out observations on the Executive's paper. Does the committee agree to write to the Executive to request further information and invite comment on the points that the clerks make?

Ben Wallace: The Executive's document is formidable. I have read it and I have a few points to raise. Perhaps the fact that officials sometimes do not know what they are talking about is a clue that the Executive lacks resources. Officials use a section that does not stack up to justify UK implementation of a directive. The basic excuse seems to be, "Let's just use section 57 of the Scotland Act 1998."

I do not think that that is done on purpose. It is caused by a lack of resources, a lack of understanding of the complexities and the problem of dealing with the vast number of directives that are coming in. Perhaps we could tag on another question to the Executive, to ask whether the officials who deal with such matters also have to deal with numerous other things at the same time. I would guess that the problem is caused by a lack of resources. It is easy to say, "Just let the UK carry on with it."

The Convener: I agree. There is a shortfall in the information provided to the committee. I was going to suggest that, following through on some of the comments that the clerks have made about specific sections, we should ask for further information and for an explanation of the reasons for the shortfall.

14:45

Sarah Boyack: I agree. After reading through the documents, I feel that some of the responses are almost cryptic; it is difficult to tease out what they actually mean. Given that directives have to be implemented in a certain time scale, I suspect that it has been a useful discipline for staff to go through the paperwork and see where they are, but the process seems to ask more questions than it answers. The key points that the clerks raised cover all the kinds of things that we should be asking. There may be simple answers to some of those questions, but we need to know what the answers are.

The Convener: It is not clear, particularly in relation to section 57, whether the section has been applied at the initiative of the Executive or the initiative of Whitehall. That is a basic piece of information that is missing, so we need clarification on a number of issues.

Ben Wallace: Ministerial approval is required when section 57 is applied. I do not want to add to the work load unnecessarily, but it would be interesting to know whether ministers are asked about that and whether such actions are submitted to ministers before they are agreed to or not agreed to.

The Convener: I have no problem with that suggestion. Another purpose of the report was to provide the committee with information to enable us to scrutinise the reasons given by the Executive to explain late implementation. The reasons should be given and explained in greater detail. A department-by-department scoreboard would give us a clearer view of what is happening across the board. As we get to grips with the new procedure, we will realise what sort of information we need but, at this stage, it is quite clear that information is lacking. The clerks' questions draw out quite well the sort of further information that we need.

Dennis Canavan: Could the clerk clarify whether the use of section 57 requires a Sewel motion to be approved by the Scottish Parliament?

The Convener: My understanding is that it does not. Our legal adviser is here, but she does not have a microphone so she cannot give us that information right now. We can investigate that point, but I understand that a Sewel motion is not required.

Dennis Canavan: So the UK Parliament can unilaterally pass a statutory instrument to implement European legislation on a devolved matter, without the approval of the Scottish Parliament.

Colin Campbell: It would have to go through the Subordinate Legislation Committee.

The Convener: We are now treading on legal ground and we may have to take further advice. I see that Christine Boch now has a microphone, so we can get that information straight from the horse's mouth, so to speak.

Christine Boch (Scottish Parliament Directorate of Legal Services): There is no need for a Sewel motion in having recourse to section 57. The UK ministers can decide at their discretion to implement on a UK-wide basis any Community instrument in devolved areas. There is a lot of information in the concordats about the use of section 57 to implement a Community obligation in a devolved matter via a UK instrument. Basically, it is envisaged that section 57 will be used largely

at the initiative of the Scottish ministers. The Scottish ministers would ask their UK counterparts to implement a particular Community obligation in an area where Scottish ministers have responsibility for implementation.

Dennis Canavan: So the Scottish Parliament is not involved at all.

Christine Boch: It is not envisaged that the Scottish Parliament would be involved. However, there is nothing to stop the Scottish Parliament being involved, and I think that the European Committee proposed to scrutinise the use of recourse to section 57.

The Convener: That is one of the reasons why we were keen to look into the matter and get procedures set up, so that proper scrutiny and accountability could take place. Today's paper is the first draft of how we could go about that. It is also a first stab at getting the information back from the Executive. However, the committee clearly feels that there is a shortfall and that we need to develop the procedure further. With the agreement of members, we shall write back to the Executive requesting that further information, which we can review at the next meeting, when we will have cases of the use of section 57 to discuss. Do members agree to that course of action?

Members indicated agreement.

Scrutiny

The Convener: Item 7 is the sift of EC and EU documents. We are using the new system adopted as part of the committee's work on the scrutiny of EC and EU legislation. As you can see, the clerks have classified all the documents into subject areas and by relevance to committees. We will now send the list to each of the committees of the Parliament, bringing the most appropriate documents to their attention. The committees are free to decide whether to investigate the documents. As we have said in recent months, we would like to encourage other committees to look into such documents as much as possible and to come back to us and ask for our advice if they see fit. At this stage, members are asked to note the report. Is that agreed?

Members *indicated agreement.*

The Convener: I understand that the minister has not yet arrived, so I suggest that we suspend the meeting and resume in five minutes. I also welcome Alex Neil and Richard Lochhead to the committee. We are pleased to have you with us this afternoon.

14:51

Meeting suspended.

14:59

On resuming—

Executive Objectives and Priorities

The Convener: Colleagues, I formally reconvene the meeting.

I welcome the Deputy First Minister, who appears before the committee for the second time, and thank him for joining us. I am pleased that there will be a regular briefing on the state of play each time the presidency changes. We look forward to continuing that process with the Executive.

We welcome the paper on Europe and external affairs. We hope to tie up our external affairs remit shortly. I ask the minister to do what he can to ensure that written submissions reach the committee sooner. We received the paper on external affairs late on Friday and most members received the other paper on the policy priorities for the Spanish presidency about an hour before the meeting—some members received it five minutes before the meeting. The committee feels that that does not give adequate time to consider the issues and to prepare properly for the meeting. It would be helpful if the minister could address that issue for the future.

I give the floor to the minister. Members may ask questions when he has finished speaking.

15:00

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): I thank the committee for inviting me again. I am pleased to have the opportunity to discuss the Executive's priorities in respect of Europe and external relations. I will certainly do what I can to ensure that papers are delivered earlier. The explanation for the delay is that the Cabinet agreed on a position only at its meeting last week and one or two details had to be worked out.

Members have the paper that deals with individual portfolios and will note that one of the Cabinet's decisions was that, at the beginning of each presidency, each minister should identify portfolio priorities for work in the coming six months. That was agreed only last week. As that is now part of the process, I hope that, in future, work will have been done in advance of the meetings near the start of each presidency and so the committee will receive papers in advance. I will try my best to ensure that that happens.

When I met the committee in the course of its

inquiry into the governance of the European Union and the future of Europe, I committed myself to coming back to map out the scope of the external relations portfolio and to discuss it with the committee. I do not think that the committee's remit allows it to scrutinise my work in external relations beyond Europe yet, but I am sure that no one will object if I stray into that part of my responsibilities.

The committee's report on governance called for an address on the state of the European Union. I think that the committee referred to the state of play, which is probably less grand, more apt and does not have connotations of other state of the union addresses. I would be pleased to appear before the committee at the start of each presidency. I have made inquiries and I understand that it is often about a month into a presidency before information becomes available in a form that would make discussion meaningful. Therefore, we might have meetings in early September and in late January or early February as part of the process.

Members have the paper that my colleagues contributed on the policy priorities in their respective portfolios, albeit it is somewhat belated. I am sure that members realise that I cannot speak about the details of the paper on behalf of each colleague, but I hope that the committee and other parliamentary committees will find it a useful star by which to steer in considering their priorities for discussion and scrutiny in the coming months.

As I said, the other paper sets out our objectives and priorities in respect of our external relations work. We hope that, like the EU policy priorities paper, it will be a useful basis for the committee to consider areas of the Executive's work on external relations with which it would like to engage. I will go through some of the main points in the paper. I am happy to discuss its content in response to questions and at meetings in the months ahead.

External relations means everything that we do to handle the European Union and international aspects of our devolved responsibilities. I do not have responsibility for everything that falls into that category. As the ministerial priorities paper makes clear, a large proportion of the Executive's work has a significant European Union dimension, including my work as the Minister for Justice. My role as the minister with responsibility for Europe and external relations is somewhat different. It is about co-ordinating the processes and relationships that contribute to our effective handling of European Union business; ensuring implementation of our European Union obligations; maintaining effective relationships with the United Kingdom, the European Union and the European Committee; and trying to promote a team Scotland approach to European Union business.

The three overarching objectives of our external relations work are the promotion of Scottish devolved policy interests in the European Union and internationally; the building of mutually beneficial links with regions and countries of the European Union and beyond; and the promotion of a positive image of Scotland overseas.

Our first objective—the promotion of policy interests in the European Union and internationally—is about ensuring that the Scottish Executive is fully engaged in the process of policy development in the European Union. It is important that my ministerial colleagues and I make every effort to ensure that decisions that are made at European Union level as far as possible take account of Scottish circumstances and concerns. We must work closely with the United Kingdom Government and other devolved Administrations in the United Kingdom to develop the United Kingdom line.

On issues such as governance and the future of Europe, I take the lead for the Scottish Executive. Debates on those issues are genuinely cross-cutting, as they relate to the way in which the European Union will look and operate in the future. For that reason, it is imperative that we contribute to those debates. Members will know that there has already been a debate in the chamber, to which the committee made a valuable contribution. The issue is current and we will continue to contribute.

On the development of mutually beneficial links with other countries and regions, we are learning from others and exchanging information on policy to ensure that we can improve our policies and practice to deliver the best services that we can for the people of Scotland. Members will know that there has been a significant increase in interest in Scotland since devolution. That has brought with it a great deal of interest in co-operation with the Scottish Executive from countries and regions both inside and outside the European Union. We have taken time to consider those suitors and, so far, have focused mainly on building links with other sub-EU member state regions that have legislative powers. That has been especially useful for the exchange of ideas on the regional agenda in the European Union—the role of regions in the Europe of the future—and has helped to ensure that the matter has been given significant attention in the debate on the future of Europe. We will continue that work and I expect to be very much engaged in it in the weeks and months ahead.

Our third objective—the promotion of Scotland overseas—is about increasing Scotland's profile and promoting an appropriate image of Scotland overseas. As the paper states, the image that we want for Scotland is of a dynamic and modern country that has a well-educated, enterprising

people, stable and responsive political structures, a clean environment and effective transport connections, and a thriving artistic and cultural life, and which is an excellent place to visit.

Several individual ministerial portfolios have a major contribution to make to that effort—for example, in relation to tourism—but we believe that we can all play a part in promoting Scotland overseas. One way in which we can do that is by organising large events such as Scotland week in Brussels, tartan day in the United States next week and Scotland in Sweden, which is planned for October. We have also been doing a lot of work to co-ordinate the promotion of Scotland abroad. We have set up the Scottish international forum, which seeks to bring together those who are involved in overseas promotions in an attempt to create a critical mass for events. It also works co-operatively with the Scotland Office's "Friends of Scotland" initiative.

Those are our priorities, and I look forward to discussing them further with the committee. I am aware that the committee's report on governance and the future of Europe makes it clear that you are keen to be more fully involved in the Executive's discussions with the United Kingdom about specific items of European Union business. There are legitimate confidentiality issues. The need for confidentiality in some circumstances is recognised even in the most open freedom of information regimes around the world. My colleagues and I want to avoid extending legitimate confidentiality so that it becomes unnecessary blanket confidentiality. I look forward to working with members on European Union issues and will endeavour to avoid unnecessary confidentiality whenever I can.

It is my firm belief that, where we can, we should work together to present a collective Scottish view. It is obvious that the clearer the Scottish position can be, the louder and more powerful our collective voice will be. I look forward to working with the committee in the interim and specifically in September, when the Danish presidency will begin. I am sure that our work will be both fruitful and co-operative.

The Convener: I thank the Deputy First Minister. I am sure that we all welcome those introductory remarks.

The committee is considering how links can be formed with other regions in Europe. Does the Executive have a set of criteria for determining the way in which it goes about linking up with other regions in Europe? How do you decide whom you are going to link up with?

Mr Jim Wallace: If you are asking whether there is a procedure that we can pull off the shelf, in which we tick boxes, the answer is no. The

procedure has developed in response to specific initiatives that have taken off and progressed. If one criterion is important, it is—as I said in my introduction—that the areas are sub-member state areas with legislative powers, which are in a similar position to Scotland in relation to the member states. Examples would be Catalonia, Bavaria, some of the German Länder and Tuscany. When an invitation has come from a country or if there has been a relationship in the past—some of the links with Bavaria go back to pre-devolution, Scottish Office days—we have built on that. We have taken individual policy issues and worked them up, and the paper reflects the fact that there are at least two areas where we would like to have a more formal memorandum of co-operation before May.

The Convener: There could be advantages in our following up some of your links, but we are also developing links of our own. Perhaps there will be opportunities for us to share information.

Mr Jim Wallace: That would be very helpful. I want to ensure that, when we are in a position to sign agreements with other sub-member state regions, the committee is well aware of that.

We have developed good working relationships with a full member state—the Republic of Ireland—on issues such as freedom of information. I had a very useful exchange with the relevant Irish minister and the Irish information commissioner. There was also close co-operation between the Scottish Executive, Scottish ministers and their Irish counterparts in considering drugs policy and the Proceeds of Crime Bill that is currently being debated at Westminster. We are trying to find examples of good policy practice, perhaps where there are traditional trading links or where there are trading opportunities for Scotland. Generally, we are trying to promote an atmosphere of friendship.

The Convener: Thank you. Ben Wallace will start our questioning on European and external affairs.

Ben Wallace: I thank the Deputy First Minister for coming to speak to us. I have some questions about the role that he sees himself playing in taking information from Europe outwith the Parliament to the people of Scotland.

Paragraph 10 of the submission states that there are desk officers covering policy areas that link into the external relations division of the Scottish Executive. My experience of going to Scotland House is that there is not a desk officer for every major subject; there are often one or two officials trying to deal with the heavy work load that comes out of the European Commission. Should the team be expanded, or are large information flows managed well?

Is your role to take what has been put to you for consultation, for example in relation to enlargement or the current drafting of directives, and consult on it in Scotland or do you expect the Scotland Office to do that? Do you expect the Scotland Office to get in touch with the Confederation of British Industry (Scotland) or the Scottish Trades Union Congress to consult on the agency working or financial services directives? There is a UK negotiated position, but I would expect the UK permanent representation to the EU to consult the Scottish Executive on Scotland's position.

15:15

Mr Jim Wallace: In response to your first question, we do not currently have any plans to expand the number of staff at Scotland House. I pay tribute to the staff who are there; they try to cover a number of portfolio areas and feed back on developments. The secret, or key ingredient, of their ability to do so is the contacts that they make in Brussels, not just with the United Kingdom permanent representation to the European Union but with a wider range of contacts. They keep their ear to the ground and report the intelligence back to Edinburgh.

I do not see it as my specific responsibility to put matters out for consultation, but if the issue related to agriculture or fisheries, for example, I think that it would be the responsibility of ministers and officials in the Scottish Executive, rather than in the Scotland Office, to engage with the National Farmers Union of Scotland or the Scottish Fishermen's Federation. That is an important part of our work in engaging Scottish opinion. That would be less the case if the subject matter were in an area for which we do not have responsibility because it is reserved. For a start, it would be more difficult to identify who in the Executive had particular responsibility, given that the matter did not relate to the powers and functions that we have. The Scotland Office could play a role, but the primary responsibility would be with the sponsoring department in the UK Government. Ben Wallace may have identified a matter that is not well covered, because of the difference between devolved and reserved matters.

Ben Wallace: I am interested to know whether the Deputy First Minister is satisfied that such consultation is being done well. Many things that affect devolved areas were up for negotiation in relation to enlargement, for example agriculture and the water directives. When I produced a report for the committee on enlargement of the European Union, of the 200 organisations and individuals that the committee approached, none had been consulted by the Executive on negotiating positions. The Foreign and Commonwealth Office

had made the documents available to the Scottish Executive, but it had not consulted further. I do not think that the Scottish Executive had sat on its hands on purpose; it did not have the resources to engage with the civic actors in society and to ask them what their views were on the issues. That is why I am interested to know whether you think that consultation is being done well. The feedback seems to be that consultation gets to the stage of the Foreign and Commonwealth Office and UKREP passing the information to Scotland House, but neither Scotland House, which works incredibly hard, nor the Executive has the resources to get the information into different departments.

I ask the Deputy First Minister to consider his ministerial colleagues' statements on the policy priorities for the Spanish presidency. There seems to be a total lack of recognition of what is in the wind. We may well discuss concrete matters, such as the European Court of Justice decision on health policy, but there is no discussion of matters that could well impact on Scotland. For example, the drafting of the directive on financial services is a UK matter, but it will have a massive impact on Scotland. It is not mentioned. The provisions on agency employment will have a massive impact in Scotland. They are not mentioned. In relation to a lot of our work, there is a lack of resource to enable information to get to the right people in the Scottish Executive.

The Convener: The Deputy First Minister will recall that in our report on governance we expressed concerns about whether adequate resources were available in Scotland House to meet the developing demands being placed on its staff.

Mr Jim Wallace: I expect to be in Scotland House during the Easter recess and will make a point of following up the comment about the resource. Although Scotland House is a Scottish Executive outpost in Brussels, I do not take the view that what it garners or learns is the exclusive preserve of the Scottish Executive. As far as I am aware, it is a resource that is available for the general benefit of Scotland. If that means that the Scotland Office or other UK departments use it, we do not have a hang-up about that; in fact, we would encourage it.

We have still to respond formally to the committee's report on enlargement. On Ben Wallace's point, in recent weeks I have been trying to ensure that, when it comes to the consequences of enlargement, those involved in agriculture, or the part of the enterprise and lifelong learning department that is responsible for state aids or the structural funds that fall under Andy Kerr's responsibilities' do not operate on their own. We want to ensure that we co-ordinate

across the range of ministerial responsibilities and that we are able to feed in Scottish concerns and opportunities to the United Kingdom Government's negotiations on enlargement. We must ensure that we do that in a co-ordinated way that reflects our priorities.

In respect of reserved, non-devolved responsibilities, enlargement almost certainly does not loom large in what individual ministers are doing. I rather suspect that enlargement is not within any one minister's portfolio for the very reason that it is not a devolved subject. I would want to consider Ben Wallace's point before wading in. Anything that is done would have to be done in concert with the respective United Kingdom Government departments and the Scotland Office.

Alex Neil (Central Scotland) (SNP): On Jim Wallace's final point, I obviously start from a different position on the relationship between Scotland and Europe. I will not pursue that this afternoon, so I ask my question in the context of a devolved Parliament. Our responsibilities under the Scotland Act 1998 are to legislate on devolved matters but also to represent Scotland on wider matters. As a Parliament, we have a clear responsibility and a power to do that.

I refer the minister to the statement by the Minister for Enterprise, Transport and Lifelong Learning. Wendy Alexander highlights the six key issues in relation to the Spanish presidency that she thinks affect her department: employment law; energy policy; pensions, and financial services in general; research policy; aviation; and maritime issues. Every one of those is a reserved matter, yet nowhere in the objectives in Jim Wallace's paper is the Scottish perspective on such matters mentioned. While one minister makes it absolutely clear that the decisions that the Spanish presidency takes will be central to employment, energy and so on in Scotland, nowhere in a paper from another minister does it say that the role of the Scottish Executive is to represent Scotland's interests on those matters, which, although they are reserved, all touch on aspects of devolved policy. The minister's last comment suggests that there is a gap when it comes to how the Executive can best represent Scotland's interests in matters that are reserved but which nevertheless touch on everyday life in Scotland.

Mr Jim Wallace: I do not necessarily accept that the gap is entirely in the Executive. Alex Neil may want a different constitutional arrangement, but within the one that we have, our position is that there are, first and foremost, divisions of responsibility.

It is possible to take a general view on representing Scotland and Scotland's interests, but I do not believe that, given the resources that

are available to it, the Executive is capable of working up policy positions on every area of reserved policy that might be considered by the European Union. On reserved matters, Scotland is represented by Her Majesty's Government. That Government has a responsibility to take into account Scottish interests. It would be wrong to suggest that Scotland's interests are not considered, but, as I said in my answer to Ben Wallace, that could perhaps be done better.

The issue has been highlighted and I will talk to my ministerial colleagues and—importantly—to the UK Government to discover whether we can facilitate its work in ensuring that Scotland's interests are well represented in Europe on issues that are reserved to Westminster and thus are not the Executive's responsibility.

The Convener: Lloyd Quinan can have a brief question. We must move on to the next issue, which is governance and the future of Europe.

Mr Quinan: My question is straightforward.

Mr Jim Wallace: Those are always the most difficult.

Mr Quinan: You may have to supply a written answer to this question. What is the budget for the external relations division and how many people operate within it?

Mr Jim Wallace: I saw those figures two or three weeks ago, but I do not have the information to hand. I will provide the committee with the specific figures. Is the question about the number of people who are badged as being in the external relations division, or does it cover all officials who take an interest in EU matters? For example, some officials in the justice department, among other responsibilities, take a particular interest in EU matters. It would be difficult to give an exact number of such officials.

Mr Quinan: I am interested only in the external relations division.

Mr Jim Wallace: We will ensure that the committee has that information. I have seen it recently, but I do not want to hazard a guess about it.

The Convener: As the minister knows, we are waiting for the Procedures Committee to confirm our role in external relations. I am sure that we will return to the matter. It would be helpful if the committee received that information in the interim.

We turn to the convention, governance and the future of Europe.

Dennis Canavan: Earlier this month, in a written answer to Richard Lochhead, the minister referred to a meeting on 7 March of the joint ministerial committee on Europe. He stated that the meeting agreed a set of mechanisms to ensure the full

involvement of the devolved Administrations in the development of the UK's position as the European convention on the future of Europe moves forward. What are those mechanisms?

Mr Jim Wallace: The mechanisms are to ensure that the channels of communication are open—not least by using the Government intranet—and that information can be readily exchanged between the UK Government and the devolved Administrations, including those in Wales and Northern Ireland. The Secretary of State for Foreign and Commonwealth Affairs has given his support to ensuring that the devolved Administrations are properly consulted on the UK Government's position. As part of that process, he wants to visit Cardiff, Belfast and Edinburgh to talk to ministers and, more widely, to gauge views on the subject. There is an indication that the devolved Administrations want to ensure that they talk to one another not only as part of the formal joint ministerial committee on Europe, but as part of the discussions in the margins.

Dennis Canavan: How does the Executive propose to inform the Parliament and the committee about the success or otherwise it has in feeding in views, directly or indirectly, to the convention?

15:30

Mr Jim Wallace: The convention is a moveable feast—that is probably not the right way of putting it, but I am sure that it will have a dynamic. There will be opportunities for questions and occasions on which the committee can air matters. We also want to make what could be described as a substantive presentation of the Scottish Executive's position. It is yet to be decided how that is put into the public domain, but we are working up a paper on it and I might make a speech or instigate a debate in the Parliament. Although nothing definitive has been decided, we will ensure that the position that we take—which will be fed in in a more formal way—will provide an opportunity for public discussion.

Much of what we are doing is not exactly a secret. Enough has been said on issues of governance and the future of Europe to allow everyone to gauge where we are coming from. There will not be any surprise rabbits pulled out of the hat. I want to ensure that the position that the Scottish Executive feeds in—that will happen sooner rather than later—will be given prominence.

The issues relating to the convention on the future of Europe and the European Commission's white paper on governance are distinct, but they overlap to a certain degree. It is our intention to do what we did a year ago, when we put in a joint submission with the Convention of Scottish Local

Authorities. We set out some basic principles and then put some flesh on those principles. It is fair to say that that input was quite well reflected in the white paper that was eventually published. In the final stages of putting together another joint submission with COSLA in response to the Commission white paper on governance, we propose to do the same. That submission will be in the public domain.

Dennis Canavan: In our recent report on the governance of the European Union, we recommended privileged access to the Commission by devolved Administrations for pre-legislative consultation. I was therefore somewhat surprised to read last weekend in *The Sunday Times* about a UK Cabinet Office paper that has reportedly

"blocked Scottish Executive ambitions for new rights to influence European legislation directly and bypass London."

That paper was apparently backed not only by the Foreign Secretary but by Helen Liddell, the Secretary of State for Scotland. It looks as if there is some dispute between the Scottish Executive and the UK Government. The article goes on to say:

"A source close to McConnell said these were just the 'opening salvos'".

What is happening here and who is going to win?

The Convener: Dennis, it is not like you to believe what you read in the papers.

Dennis Canavan: I am just asking the minister whether he believes it.

Mr Jim Wallace: That article raised a few eyebrows, not least because it does not actually represent what has been the practice for some considerable time. Even in pre-devolution days, there were direct links between Scottish ministers and officials and their European Commission counterparts, and that has continued to be the case right up to the present day. There are direct exchanges and direct links. For example, I met the European Commissioner, Mr Vitorino. In areas such as agriculture and fisheries there are also regular contacts at official level and between ministers and the Commission.

I would not attach too much weight to a newspaper article. According to the article in *The Sunday Times*:

"The paper states: 'The obligations of membership of the European Union fall on the member states ... under the devolution settlements, relations with the EU remain the responsibility of the UK parliament and government.'"

That is an accurate statement of the constitutional position, but it does not preclude what is happening or what has been happening and will continue to happen. Nor could it be described as "opening salvos".

I have made it clear in the past—and I did so as recently as last week when I met the committee's House of Commons counterpart, the European Scrutiny Committee—that Europe can better connect with citizens through the involvement of sub-member state Administrations such as ours, in which the Parliament and the Executive are responsible for implementing European legislation, at a much earlier stage in the preparation of that legislation. In doing so, difficulties at a later date can often be avoided.

I gave an example on cabotage rules to the European Scrutiny Committee. European legislation does not allow for assistance for mainland to mainland ferries, but in some places on the western seaboard of Scotland, it makes sense to have a mainland to mainland connection. After the legislation had been set in stone, that issue took a long time to work through. That is an example in which better involvement at the ground floor might have led to better and more flexible legislation. I cannot say that, in wider discussions, our position on the matter led to apoplexy in members of the UK Government. That view is one feature of what we want to say in the debate on the future of Europe.

Dennis Canavan: Yes, but the UK Cabinet paper states—

The Convener: We must move on.

Dennis Canavan: Just one quickie.

The Convener: Ben Wallace and Colin Campbell have questions and Lloyd Quinan has a question that is germane to the issue. We must move on.

Colin Campbell: Last week, the presidents of the Catalan Government and the Catalan Parliament formally launched Catalonia's convention on the future of Europe, which involved more than 300 people from all sectors in Catalonia. Would the Scottish Executive be happy to organise something like that here? Would they organise such an event in the same way as the Catalan Government did?

Mr Jim Wallace: We do not propose to have a separate convention, but I like to think that the debate will involve more than just the usual suspects who take part in such debates. I said in the debate at the end of February that we would set up our website to allow exchanges of views on the subject. I stop short of saying that we will have a convention, but we will give more thought to how we can broaden the debate and try to engage people in a way that goes beyond the formal structures.

If the Secretary of State for Foreign and Commonwealth Affairs comes to Edinburgh, we might be able to consider some events based

around his visit. Those events might not involve him personally, but the visit would be a focal point and might ensure greater public awareness of the debate. Although everyone in the room is aware of the debate, I strongly suspect that it is not being discussed in the pubs of Greenock on wet Tuesday nights.

Colin Campbell: Many political issues are not discussed on wet Tuesday nights. Do you agree that if the type of convention that I mentioned were initiated here, it would bring the issue to the public's attention?

Mr Jim Wallace: There are other ways that might be tried. I will not say that we will have a convention because I suspect that by the time we had set it up, the moment would have passed. However, I accept that we must widen the public debate.

Ben Wallace: Last week, I attended the first plenary session of the convention, which was very exciting.

Mr Quinan: That was above and beyond the call of duty.

Ben Wallace: Yes, it was. Will the minister say whether there is an official from the Executive in Peter Hain's ministerial delegation to the convention? Does the Executive rely on UK ministers to inform the Scottish Executive?

Mr Jim Wallace: We did not have an official at the convention last week. We have good and cordial communications with Peter Hain's office. We have an official who co-ordinates with that office. He was not present on that occasion, but I think that observers were.

The Convener: I mention in passing that the committee agreed today a briefing paper on procedures pre-Council and post-Council, which has a paragraph on the convention. We will send the paper to you for comment. Over the next year to 18 months, we would like to start a regular dialogue on the convention. We must move on now.

Ben Wallace: I have an important point. The convention will have a plenary session on the role of the regions. The ministerial statements paper indicates clearly how much the Executive supports the convention and how much the external relations division is involved in it. It would be interesting to know from the minister whether Scotland House intends to have an official at the convention as part of Mr Hain's group. That official need not be present as a speaking official, but to monitor and to ensure that questions that need to be answered quickly come directly back to the Executive. The First Minister has espoused the virtues of being able to go directly to the European Commission through UK ministers. However, if

questions go through UKREP, we may get delays. It would be right to ensure that the minister has a more direct route.

Mr Jim Wallace: I will check whether a Scotland House official attended the convention. At a meeting on Friday morning, I got reports about what had happened at the previous day's convention. Given the nature of the convention's discussion, someone from Scotland House might have been present, but not as part of Peter Hain's suite.

The Convener: We move now to issues around the Spanish presidency priorities. Nora Radcliffe will kick off with a question about agriculture.

Nora Radcliffe: I do not know whether the question is directly related to the Spanish presidency, but the mid-term review of the common agricultural policy is a critical one for Scotland. How does the Executive propose to engage with this committee, with the Rural Development Committee and with Parliament as a whole on the mid-term review of the CAP?

Mr Jim Wallace: As I indicated in my opening remarks, I do not envisage my role as coming to this committee and explaining what we are doing about the CAP. That is the responsibility of the Minister for Environment and Rural Development, Ross Finnie. I would expect ministers with the relevant portfolio responsibility to be willing to engage with this committee, the Rural Development Committee or another committee.

My role is more of a co-ordinating one. I could only give members an overview. If members want to get into the nitty-gritty, they must ask the minister with the relevant portfolio to attend the committee. If the committee had difficulty in getting the relevant minister to attend, my role would be to encourage and cajole the minister. However, I do not anticipate the committee having such a difficulty.

It is an interesting question for Parliament whether this committee or the Rural Development Committee should have primary responsibility for CAP discussions. Whichever committee has that responsibility, I would expect Executive ministers to respond to a committee request on an issue as key and important as the future of the CAP.

Nora Radcliffe: I was not asking for detail, but using the issue of the CAP as an exemplar.

Mr Jim Wallace: I expect that the Minister for Environment and Rural Development, Ross Finnie, or the Deputy Minister for Environment and Rural Development, Allan Wilson, would respond to a specific request on that issue.

Nora Radcliffe: I have a specific question about fisheries, but I think that it is better directed to the minister whose portfolio includes that issue.

The Convener: Ms Sarah Boyack intended to ask questions on the environment. However, those questions might also fall within specific remits.

Sarah Boyack: We received the briefing paper only this morning, so we could not pass on comments to other ministers. I will flag up one issue and we can put in writing our questions on a range of matters. That might be a way to handle the matter, if the issues that the questions deal with are not in the portfolio of the Deputy First Minister and Minister for Justice. We have questions on issues such as health and drinking water.

I have a question about the directive on environmental liability, which is mentioned in the environment report as having potential implications for Scotland's legal system. To what extent is integrated thinking or cross-cutting work on that issue being undertaken by different departments? The proposal may impact on the enterprise and environment portfolios and on the minister's justice portfolio. It may also impact on the development department in relation to planning issues. Has the matter risen up the Executive's agenda as a whole, or is it seen as just an environment issue?

15:45

Mr Jim Wallace: I accept that that directive will have ramifications, although the Executive's environment team is leading on it and work on dealing with the detail of the directive has not yet reached ministerial level. I will try to ensure that Sarah Boyack receives a reply to the specific point that she raised on the cross-cutting work that is being done further down the line on such an important directive.

It might be useful for me to add that, when we get the system up and running—which it ought to be from now on—the committee will not be faced with a paper on priorities for a presidency halfway through that presidency. Such papers should come near the beginning of a presidency, which will allow the European Committee and the other subject committees to plan for the issues on which they want ministers to give evidence during the course of that presidency. I apologise that the paper has come at this stage, but it is a new and worthwhile development. I hope that when the system is running properly, such papers will assist the process by giving the committee early warning.

The Convener: Helen Eadie, Alex Neil and Richard Lochhead want to ask questions before we move on to the next section. I ask members to be brief.

Helen Eadie: My question is about the immediacy of a specific problem, rather than about the framework of legislation that is still down the

road. How does Scotland feed its view into the national and Europe-wide process? For example, freight transportation—moving freight from road to rail—is a great success story for Scotland and the UK. However, the problem that has arisen with the channel tunnel is having a major impact on businesses in Scotland. How can we get across the urgency of the situation for companies such as English Welsh and Scottish Railway, the Rail Freight Group and all the other companies that are involved in rail freight? How can we highlight the situation and get involved in the negotiations?

Mr Jim Wallace: Members should take every possible contact opportunity. On our trading links with the continent, a positive outcome that we have achieved is the direct link from Rosyth to Zeebrugge, which will give Scotland direct sea access to the European Union. That was achieved through the involvement of, and good co-operation among, the UK Government, the Scottish Executive and relevant business interests. As members know, there was a successful conclusion to that effort. The rail issues that Helen Eadie mentioned do not involve exclusively Scottish interests, but we must have that same co-operation between Westminster, the Scottish Executive and relevant business interests.

Helen Eadie: Can you give the committee an assurance that you will raise the matter urgently?

Mr Jim Wallace: I will ensure that Helen Eadie's comments are passed on to Wendy Alexander and Lewis Macdonald.

Alex Neil: I have two quickies. During the six months of the Spanish presidency, how many meetings of the Council of Ministers—on agriculture and so on—will there be, and at how many of those meetings will Scottish ministers be represented? That was question 1. Question 2 is—

Mr Jim Wallace: You have already asked two questions.

Alex Neil: Question 2 is on promotion of Scotland in Europe. In your paper on the Scottish Executive's priorities for external relations, you say that you want to portray Scotland as

"a dynamic and modern country, with well-educated and enterprising people".

In the next paragraph, you tell us that the emphasis will be on "tartan, golf and whisky". Surely to God we are past the stage of promoting the heather and haggis image of Scotland. Instead, why not talk about electronics, biotechnology and all the other exciting things that are happening in Scotland?

Mr Jim Wallace: I will get back to Alex Neil on his first question because I cannot remember off the top of my head how many Council of Ministers

meetings there will be. Ministers will attend those at which important Scottish issues are at stake.

Let us not forget that Scotland is represented by UK ministers at every Council meeting. The early forward look that we provide will consist not only of the information that we give to the committee about the presidency. That information will be complemented by a Cabinet session at a similar time at the beginning of every presidency, at which the Cabinet will discuss specific issues and will identify the Council meetings at which items of particular importance to Scotland will be on the agenda.

Alex Neil's second question represented a slight travesty of what the priorities for external relations document says. If anything, Mr Neil underlines the point that we seek to make. We want to promote an image of Scotland as a dynamic, modern country that is characterised by enterprise, a clean environment and effective transport connections. The priorities document states:

"In doing so we need to build on a high recognition rating for Scotland's traditional attributes".

It does not say that that will be the focus of our activity; rather, it accepts that tartan, golf and whisky are strongly associated with Scotland. Instead of losing that association, we should turn it to advantage.

Alex Neil: It is important to mention electronics and biotechnology.

Mr Jim Wallace: Absolutely. Biotechnology and electronics and the enterprise that goes with them are key parts of a dynamic, modern Scotland. One does not throw away a positive feature by trying to replace it; one builds on it. We must supplement the traditional image. That is why we want to advance placing considerable emphasis on the aspects that are mentioned in paragraph 22 of the priorities document. We should not lose the advantages that we have built up over many years. Let us use them to good effect and link them to attributes that show Scotland in a modern, dynamic light.

The Convener: I am married to an American. All the Americans who come to visit us are interested only in tartan and golf.

Mr Jim Wallace: There are in Scotland incentives to encourage people to set up and progress businesses, to carry out research and development and to engage in biotechnology. For example, we know that the University of Dundee has a well-deserved reputation for excellence in biotechnology. One could encourage more research at the University of Dundee by saying, "By the way, Carnoustie is not that far away and St Andrews is on the other side of the Firth of Tay." It is possible to help.

Richard Lochhead (North-East Scotland)

(SNP): The next agriculture council will be held in the next few months.

Mr Jim Wallace: I am sorry. Did you say “aquaculture” or “agriculture”?

Richard Lochhead: I said “agriculture”. A couple of months ago, soon after one of the most recent agriculture councils, your colleague George Lyon launched a scathing attack on Margaret Beckett for not representing Scotland’s interests at that meeting. When he reflected on that event and on other happenings in Europe, Jim Walker, president of the National Farmers Union of Scotland, said a couple of days ago that the way in which Scotland is represented at agriculture councils will have to change, because Scotland is not benefiting from the current arrangements. I am sure that you know very well the two people whom I have mentioned. Have you taken on board their concerns and, in light of those concerns, what changes do you anticipate in the way in which Scotland is represented at agriculture councils?

Mr Jim Wallace: Richard Lochhead has a needle stuck in a groove on that issue, but he may continue to punt his point of view. Agriculture has certainly benefited in more recent times, although that has perhaps not always been the case since the outset of devolution. There are regular meetings among the four devolved Administrations and the agriculture ministers in advance of agriculture councils, and there are meetings to deal with general issues that affect agriculture in the UK and our relationships with the European Union. Scotland plays an important part in that process. I have heard it said that Scotland is better represented since devolution, because greater awareness of the existence of a distinctly Scottish position has emerged.

I have every confidence in Ross Finnie’s ability to represent Scotland’s interests. That is best done through the work that is carried out in conjunction with UK ministers, so that there is a clear Scottish input into the UK line. I have heard people reflect on the fact that the Scottish dimension is—

Richard Lochhead: I would like to ask a quick follow-up question.

The Convener: Please make it brief, Richard, because Bristow Muldoon wants to speak and Lloyd Quinan is still to come in. The minister has to go at 4 o’clock.

Richard Lochhead: The Scottish Executive has led at three meetings of the Council of Ministers—meetings of the education council and the health council—since devolution. What criteria are applied when the Executive decides to seek to lead at the Council of Ministers? What criteria apply to health council or education council

meetings that do not apply to fishing and farming?

Mr Jim Wallace: A set of criteria does not necessarily apply in such cases. There is an obsession with who leads and who sits at the table, but what those people say is far more important. I believe that John Home Robertson has spoken at Council of Ministers meetings, although he has not led. I have spoken at a Council meeting, although I have not led.

The work that is done in advance of agriculture council meetings involves good co-operation—the discussion can be pretty robust, too. The exchanges between the Scottish, Northern Irish, Welsh and UK ministers mean that the Scottish interest is well represented in what is said. It does not matter so much who—nominally—has the lead; the Scottish interest is being expressed. The importance of Council meetings is diminished when one is obsessed with who sits where, rather than what they say.

The Convener: I ask Bristow Muldoon to make his question very brief, as we have a number of questions on justice and home affairs that we hope the minister will have the time to answer.

Bristow Muldoon (Livingston) (Lab): I do not want to explore some specific areas, because I acknowledge what the Deputy First Minister said about such questions being more appropriately directed to relevant other ministers.

Does the minister agree that the Scottish Executive has been engaging better in the European decision-making process? Does he also agree, however, that we need to improve further the way in which the Scottish Executive and the Parliament’s committees engage with one another in shaping the views that the Executive takes into Europe?

The document that has been published marks a welcome development, but there needs to be further discussion between the European Committee and the other relevant committees about how we develop that. How does the Deputy First Minister envisage that we could improve the relationship between subject committees and ministers before the Executive engages with Europe?

Mr Jim Wallace: When we debated this subject in the Parliament, I think that I said that we wanted to examine ways in which to get a better exchange of views and to provide early notice of issues that come up. Perhaps a formal evidence-giving session is not the best vehicle for that, but there is willingness to engage with the European Committee on how to improve structures. I understand from what the convener said a few moments ago that the committee had a discussion on the matter earlier today; I will be interested to receive the paper that the convener said is on its

way and I will examine the proposals constructively.

I have said before that there are issues of confidentiality, but I do not want proper confidentiality to spill over into unnecessary confidentiality. My approach will be to engage as best I can. The desire to provide better advance notice about forthcoming Council agendas relates also to some of the subject committees.

The Convener: Let us move on to justice matters. Can the minister stay on past 4 o'clock, say for five or 10 minutes?

Mr Jim Wallace: Yes.

The Convener: Thank you.

Mr Quinan: As everyone well knows, the priorities for the right-wing Spanish presidency are the combating of terrorism and the liberalising of the work market. There is, in effect, a very right-wing presidency that promotes an agenda that is very much its own.

Given the internal political circumstances of the Spanish state and the right-wing nature of José María Aznar's Government, does the minister think that it is appropriate for the United Kingdom to follow blithely its commitment to the common definition of terrorist offences and, more important, the common arrest warrant and common definition of terrorist organisations that have been laid down?

16:00

Mr Jim Wallace: I do not expect any British Government blithely to follow anyone on any issue. I expect the British Government to give proper and detailed consideration to the points that are made, bearing in mind that the country that has the presidency is in prime position. I fully expect each proposal to be considered properly on its merits. I certainly do not expect anyone blithely to follow the Spanish Government, just as I do not expect anyone blithely to follow the Government of Luxembourg.

Mr Quinan: Taking the word "blithely" out of consideration, does the minister accept that the current Spanish Government has been found guilty on nine separate occasions of carrying out torture on political prisoners? Therefore, does the minister think that it is appropriate that a state that has been found guilty of torturing its prisoners should be driving the common defence and security agenda of the European Union, given that it clearly has no ability to maintain security within its own boundaries?

Mr Jim Wallace: We all know that the Spanish Government has particular problems with terrorism. In November 2000, I attended in

Barcelona the meeting of the heads of Government of administrative regions with devolved powers. That was the day after the assassination of a person who had been working for peace in the Basque Country. I joined a procession of many hundreds of thousands of people through the streets of Barcelona in a show of public outrage about terrorism. That was a perfectly proper thing to do. I certainly hope that the implication of Lloyd Quinan's question is not that somehow or other any state can minimise terrorism.

As far as torture is concerned, I was not aware of the figure that Lloyd Quinan mentioned but—as we all know—one of the European Union's cardinal principles is the upholding of human rights. That is an important issue to address in considering the countries that are seeking to join as part of the enlargement process. I expect issues of human rights not only to apply in the United Kingdom, but to be considered in all decisions that the European Union makes.

I am not sure whether the implication of Lloyd Quinan's question was that Spain should enjoy the presidency for every subject except justice and home affairs. I am not trivialising the matter. The logical destination of the question was that Spain should somehow be suspended from the European Union, or at least that it should not be allowed to have the presidency. I could not readily sign up to that.

Mr Quinan: That was not what I was getting at. My point was that, given circumstances since 11 September and the political nature of the Spanish Government and its presidency, it is clear that that Government is making use of people's internal fears to compromise human rights. I am concerned—as are others in many political organisations and non-governmental organisations—about the Spanish influence and its obsession with internal security and the banning of organisations and individuals. I am sure that the minister is well aware that the Spanish Government still uses exile as a means of removing people from their land if the Government does not like them, despite the fact that those people might be passport holders.

I am concerned that we might be led into adopting measures that are overly harsh and that might compromise human rights. I know full well that the Spanish are extremely good at signing, but not ratifying, certain sections of the European convention on human rights.

Given the circumstances in which Eurojust was formed and the fact that Scotland has a separate and very different legal system, will you suggest that the UK deputy post on Eurojust is earmarked for a Scottish prosecutor—if not lead an active campaign for that to happen?

Mr Jim Wallace: Mr Quinan raises an issue that I have recently been considering. We want to engage with the Home Office on how the distinctive position of the Scottish legal system can be reflected on Eurojust.

Mr Home Robertson: I appreciate that it is difficult for the Deputy First Minister to answer questions on behalf of the Spanish Government, but I would like to ask him about his direct responsibilities.

Mr Quinan: That was shabby, John.

The Convener: Order. John Home Robertson is speaking.

Mr Home Robertson: Would the minister like to take the opportunity to outline his key justice and home affairs priorities in the coming period when dealing with the European Union?

Mr Jim Wallace: My priorities will not change dramatically from the paper that I approved over the weekend. However, there is a key general issue relating to justice, which Lloyd Quinan picked up in his final question. I have always considered it important to remind the European Union and the European Commission that we are in the unique situation of having two distinct legal jurisdictions in one member state. To be fair, the first thing that Commissioner Vitorino did when I met him was ensure that I understood that he knew that Scotland is a separate legal jurisdiction, before I spent the first 10 minutes of our meeting telling him about it. In all my dealings with the commissioner, it has been evident that he knows that.

A number of issues—Eurojust, the possible establishment of a European public prosecutor, the negotiations on the legal aid directive and the relationship between Scottish criminal procedure and the European arrest warrant—have a specific Scottish dimension. One of my priorities is to ensure that sight of that dimension is not lost.

Mr Home Robertson: I have a question about the European arrest warrant. Will the 110-day rule be protected?

Mr Jim Wallace: That issue arose in the debate on the committee's report on the governance of the European Union and the future of Europe. Some confusion has arisen because we have never applied the 110-day rule to extradition cases. We are aware of nothing in the proposals for a European arrest warrant that compromises the 110-day rule as enforced in Scotland. In extradition cases, preliminary court proceedings can be very drawn out, as legal points are taken. For that reason, the 110-day rule has not been applied to such cases. The rule would not apply in equivalent circumstances under the European arrest warrant. That is different from the general

matter of the 110-day rule, which will continue to apply unaffected.

Mr Home Robertson: The draft directive on reception of asylum seekers has implications for the Scottish Executive in relation to education, health care and so on. Will you expand on that? The matter is on the agenda and recent experience needs to be learned from.

Mr Jim Wallace: Health, policing and education are matters to be dealt with within the United Kingdom. Negotiations and discussions are taking place between the British Government and the Scottish Executive, and between the Scottish Executive and councils—who are the receiving authorities—to ensure that where there is dispersal of asylum seekers, the necessary infrastructure and supporting services are in place.

The Convener: We will have to finish there. On behalf of the committee, I thank the Deputy First Minister for his attendance. We have had a very useful discussion that has covered a wide range of issues. Step by step, the Executive and the committee are getting better at co-ordinating their efforts. I hope that in the months ahead the Deputy First Minister will continue to assist with that process.

That brings the public part of the meeting to a close. I thank members of the public for their attendance.

16:09

Meeting continued in private until 16:25.

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