

EUROPEAN COMMITTEE

Tuesday 10 September 2002
(*Afternoon*)

Session 1

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EUROPEAN COMMITTEE

10th 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)

COMMITTEE SUBSTITUTES

Dr Winnie Ewing (Highlands and Islands) (SNP)

Tavish Scott (Shetland) (LD)

*attended

WITNESS

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

CLERK TO THE COMMITTEE

Stephen Imrie

ASSISTANT CLERK

David Simpson

LOCATION

The Hub

Scottish Parliament European Committee

Tuesday 10 September 2002

(Afternoon)

[THE CONVENER *opened the meeting at 14:10*]

The Convener (Irene Oldfather): Welcome to the 10th meeting in 2002 of the European Committee. I hope that everyone had a good recess.

Apologies have been received from Colin Campbell, who is in Namibia to attend a Commonwealth Parliamentary Association event. No other apologies have been received.

The Deputy First Minister cannot attend the meeting until at least 3 pm. Does the committee agree to proceed with the other agenda items and return to item 2 when the Deputy First Minister arrives?

Members *indicated agreement.*

Sarah Boyack (Edinburgh Central) (Lab): I might have to leave early if the meeting proceeds beyond 4 pm—I apologise.

Item in Private

The Convener: Do members agree to take agenda item 9 in private, as it deals with the appointment of an adviser?

Members *indicated agreement.*

Scottish Parliament Convention on the Future of Europe

The Convener: The next item is discussion of the plans for the Scottish Parliament convention on the future of Europe. Members will recall that we agreed to organise the event for next Monday. Paper EU/02/10/2 sets out the programme for the convention. I would like to approve the paper and endorse the arrangements that the clerks have made.

Do members have comments to make on the paper, bearing in mind that there is not much time to change things, as the conference is on Monday? The committee clerks have had an onerous task over the recess and we thank them for their work.

A variety of organisations and many young people will attend and, as the programme shows, we have tried to make the day interesting so that people leave having enjoyed the event. There will be coffee breaks and lunch, so there will be many opportunities for people to engage with members of the public and for members of the public to engage with the speakers. The message that we want to send out is that we are here to welcome people to the Parliament and to hear what they have to say about the future of Europe.

We have tried to take on board what Dennis Canavan said about having a variety of venues and not expecting everyone to contribute in the chamber. We will break up into working parties and I am looking for volunteers to convene those groups. Dennis, would you be willing to convene a working party, as it was your suggestion?

Mr John Home Robertson (East Lothian) (Lab): Gotcha!

Dennis Canavan (Falkirk West): I will not be able to escape. Where are the titles of the working parties?

The Convener: They are on page 8 of the paper. We have called them “breakout seminars” and the subjects are: first, “What should the European Union do and what should nation states or regions do?”; secondly, “How should the European Union be reformed?”; and thirdly, “Where does Scotland fit in and how should our institutions work with the European Union?”

Ben Wallace (North-East Scotland) (Con): If possible, I would like to attend the second seminar.

The Convener: I thought that it would be good if you and Helen Eadie attended the third seminar.

Ben Wallace: I would like to attend the second seminar, because that is about the future of Europe.

The Convener: Okay, perhaps Helen Eadie will go to the third seminar. Lloyd, do you want to do the first seminar?

Mr Lloyd Quinan (West of Scotland) (SNP): Yes.

The Convener: Dennis, do you have a preference?

Dennis Canavan: The third seminar is my preference.

14:15

The Convener: Perhaps the clerks could work out the options for the other members. Nora, do you want to choose a seminar now or would you prefer to speak to the clerks later?

Nora Radcliffe (Gordon) (LD): If you would like to settle the issue now, I would be happy to attend the first or second seminar.

Sarah Boyack: I am relaxed about which one I attend.

The Convener: We will let the clerks work it out.

Nora Radcliffe: Do you want to do the first, Sarah, and I will do the second?

Sarah Boyack: Yes, that is fine.

The Convener: Okay. It would also be helpful if members would volunteer to convene the workshops. I will convene the morning session—the full plenary session—and John Home Robertson will do the afternoon session, so we are excused from convening the workshops. We will leave that to committee members. The clerks will work that out with members.

We are finalising the list of participants—the list in the paper is a draft. I am pleased about the number of young people who will attend, which is encouraging. Do members have any other comments? Do members agree to the paper?

Members indicated agreement.

Water Framework Directive

The Convener: The next item is consideration of the Executive's response to our report on the water framework directive. The Executive responded during the recess and the clerks have analysed the response and have made some observations. We now know that the Transport and the Environment Committee will be the lead committee for consideration of the Water Environment and Water Services (Scotland) Bill, but we did not know that when we prepared our report. The clerks have made several points, which begin on page 2 of the briefing paper. We could run through the Executive's response and the clerks' observations, if the committee is agreeable.

The first suggestion in relation to the Executive's point about the common framework in paragraph 5 of its response is that we flag up the issue to the lead committee. We should encourage the Transport and the Environment Committee to acknowledge that all obligations under the directive relate to the production of water and need to be brought within the framework. The Executive's response does not make it clear that it accepts that point. We should highlight that for the Transport and the Environment Committee. Is that agreed?

Members indicated agreement.

The Convener: Much of the rest of the paper relates to ambiguity about river basin management. We took one interpretation of the number of competent authorities per river basin district, but the Executive took a different interpretation. The clerks have spent much time on the issue. They have examined the different language versions of the directive and have concluded that they are willing to accept the Executive's interpretation, although they can foresee difficulties with it. We should flag up the matter to the Transport and the Environment Committee. Do members agree to that course of action?

Members indicated agreement.

The Convener: That brings our formal consideration of the water framework directive to a close. I am sure that we wish the Transport and the Environment Committee well in its consideration of the Water Environment and Water Services (Scotland) Bill.

Mr Home Robertson: On the point about our interpretation of having one competent authority per river basin district, has any thought been given to the cross-border cases? Some river basins straddle our border. Although that is a detailed technical matter, our colleagues on the lead committee will need to give it some thought.

The Convener: The Transport and the Environment Committee will need to address that. We recognise that there are also major difficulties with the approach in other regions of Europe. We should highlight the issue in our letter to the Transport and the Environment Committee.

Mr Home Robertson: Leaving aside the cross-border issue, I believe that the idea of having overlapping authorities on the same river basin would be untidy. No doubt that issue will emerge during the Transport and the Environment Committee's consideration of the bill.

The Convener: Do we agree to draw that point to the attention of the Transport and the Environment Committee in the letter that we send to it?

Members *indicated agreement.*

Cohesion Policy and Structural Funds Inquiry

The Convener: The next item deals with a draft report on structural funds. We have received a positive response from the Executive. I understand that the Commission's DG regio has also responded positively to our report and has promised to study our findings in detail. That is encouraging.

I am not sure how colleagues will feel, but one or two of you may want to follow up the matter with the Commission to ensure that our findings do not simply lie on someone's desk somewhere. We have a promise that they will be studied in detail, so it may be worth while for someone to take the matter up with the Commission before reporting to the committee and the Parliament.

We would all agree that structural funds are of major importance to Scotland. We put a great deal of time and effort into our report and it should be given due consideration. The clerks will be able to see whether a meeting can be arranged, perhaps when someone is in Brussels anyway. I know that Helen Eadie and Ben Wallace will be looking at European institutions and I have to go to the Committee of the Regions, so we may be able to work in a visit and take the opportunity to press our case. Do members agree?

Members *indicated agreement.*

The Convener: The clerks have made a number of recommendations and I assume that members have read that paper. We welcome the Executive's principle of openness and inclusiveness, although we may want to ask for clarification on it, to ensure that the committee is involved in future discussions. Obviously, we got in early on the issue, whereas the Executive is still forming its opinions and taking part in discussions. However, we should be kept briefed on the Executive's changing position.

In paragraph 6 of the clerks' paper, the suggestion is that we request a firmer and clearer policy from the Executive on renationalisation. That is probably one of the biggest issues that the report dealt with. We acknowledge that there is still some way to go on the consultation but, once the Executive has heard from a range of bodies across Scotland, it should take the time to communicate its views to the committee and to the Department of Trade and Industry.

In paragraph 7, the suggestion is that we endorse the call that any move on issues to do with geographic disadvantage and urban deprivation should be supported by robust evidence. We may wish to ask the Executive to

commission some research to provide that evidence.

Mr Quinan: I fully endorse that, but we must point out robustly to the Executive that we need that information. We should say strongly that there is a real requirement for research as early as possible.

The Convener: I think that we would all agree with that.

Helen Eadie (Dunfermline East) (Lab): That could be done in collaboration with the Conference of Peripheral Maritime Regions of Europe, which has done work on such issues. There could be liaison and dialogue.

The Convener: That would be important. We have had the CPMR along to evidence sessions and the witnesses were useful in keeping us informed of developments. As with any of our reports, we should see this one not as an end but as continuing work that forms part of the committee's lobbying activities.

We move now to paragraph 9. Our report mentioned know-how transfer to accession countries. The clerks suggest that we ask the Executive to keep the committee informed of activity in that area and to encourage the public and private sectors to get involved. We discussed that when taking evidence.

Mr Quinan: Have we skipped paragraph 8?

The Convener: I had assumed that everyone would agree with paragraph 8, but let us go back to it. Was there something that you wanted to point out?

Mr Quinan: I wanted to say that the issue raised in paragraph 8—mainstreaming—is so important that we should not only seek clarification of where we are now but ask why the issue was not contained in the Executive's response. Was that an oversight—and potentially an extremely important oversight?

The Convener: We can agree to raise that issue.

That brings us to the accession countries, on which I think we are all in agreement. The committee felt strongly about encouraging public sector and private sector involvement post-enlargement.

Paragraph 10 of the paper proposes that the committee ask the Executive

“to develop a policy in due course, which takes into account the firmly held views of Members of the Committee, and communicate this to the Committee and the DTI.”

The committee felt that we might need to increase the budget for that policy. It is important to get a response from the Executive on that. Are we

agreed on paragraph 10?

Members indicated agreement.

The Convener: Paragraph 11 concerns the need to adapt structural funds to cover asymmetric shocks to regional economies. I mentioned that in the evidence taking. The CPMR agreed with us on the matter. In its response, the Executive says that it feels that structural funds are for planned investment rather than one-off responses.

It is up to the committee whether to emphasise the point again. When we discussed the issue, it was widely felt that, instead of the Council of Ministers sitting up for nights on end trying to agree flood programmes, we should set aside a contingency fund for such disasters. Do we want to press that point?

Mr Quinan: The issue has emerged again in the past few weeks in light of what happened in mainland Europe. We are entirely in harmony with the general feeling in Europe.

Mr Home Robertson: It would be unfortunate if such a contingency fund were to be established at the expense of structural funds. The money must come from somewhere, but it would be better from the point of view of our overriding objectives for the future of structural funds if the contingency fund to deal with disasters were a new, free-standing fund rather than money that was siphoned off from funds that are already under pressure and that are important to Scotland.

Mr Quinan: We must make that clear. In our request for a Community instrument, we must indicate that a contingency fund must not suck its budget from other declared budgetary areas.

The Convener: We are all familiar with the problems of underspend at the end of a financial year. Money could be siphoned off from underspend in the budget and set aside for one-off difficulties.

Mr Quinan: The argument is running regardless of whether we contribute to it. The Germans are running madly with it.

The Convener: Exactly. We should continue to press our case on the matter.

Paragraph 12 concerns our comments on a ward-based approach to funding objective 2 areas. We are asking for research to consider possible alternatives. In Scotland, we have often left things to the last minute. What we are saying relates to the point that we made at paragraph 7: if we prepare early and have good, robust statistics, we can determine how Scotland can get the best deal out of structural funds. However, we need to have the robust statistics on which to base the research.

Helen Eadie: That is important. We have always considered geographical areas, but there are often

communities of interest that need to be served—for example, disabled people or very young people. It would be useful to have further research into alternative approaches.

The Convener: We are agreed on that point.

That takes us to the final paragraph, which is about the principle of tripartite agreements. Throughout our discussions over several years, the committee has emphasised the idea of our having direct access to the European Commission on a number of areas, such as pre-legislative scrutiny. That is in keeping with the views that we expressed in our “Report on the Governance of the European Union and the Future of Europe: What Role for Scotland?” Do members agree to the recommendation in the final paragraph?

Members indicated agreement.

The Convener: We will ask the clerks to prepare a response to the Executive. It should generally welcome the positive response that we have received thus far and ask for clarification on certain points.

Executive Briefings (Scrutiny)

14:30

The Convener: We move to pre-Council and post-Council scrutiny. I am pleased that we continue to make progress on scrutiny. I understand that supplementary information has been made available today from the Executive's environment and rural affairs department, which we intend to circulate as we speak.

From comments that the clerks make throughout the briefing paper, members will learn about difficulties with the availability of information on agenda items as a result of a view that the Danish presidency has expressed. I was rather surprised about that and we must ask the clerks to seek further clarification on it. We have always thought that Danish presidencies were open and transparent on governance matters. The situation is a little disappointing. There is a difficulty in relation to the ECOFIN Council on 12 July that we could ask the clerks to investigate.

Mr Home Robertson: We will shortly ask Jim Wallace about the discrepancy between what our clerks have been told and what the Danes made available.

The Convener: Jim Wallace might be able to throw some light on that at 3 o'clock.

Sarah Boyack: It is a couple of months since the Council meetings were held, so it is pretty unhelpful that we have still not received anything.

Ben Wallace: The situation is also disappointing in comparison with what happened under the previous presidency, when it was made clear whether a minister intended or probably intended to attend. The information has gone back a step, rather than forward.

Mr Quinan: We must consider the matter in the light of the feeling about the European Union in Denmark at the moment. The EU is a daily political story and a problem for the current Government, which is a different form of Government from what we have known from Denmark in the past few years.

We should not forget the referendum result from Denmark. Denmark is not as committed to the European Union as it has been. I suggest that the principal reason why the Danish Government chooses not to have agendas issued is to prevent political problems back home.

The Convener: We need to explore the matter.

Mr Quinan: The context in which we consider the matter must be that of having a Government in the presidency that is not pro-European Union. Perhaps that provides a lesson for us to learn.

The Convener: Let us see.

We will move on to the agriculture and fisheries council on 15 and 16 July.

Mr Home Robertson: It is not entirely clear whether Ross Finnie was present at that council. I assume that he was.

The Convener: He issued a press release. Perhaps the clerks have further information.

Stephen Imrie (Clerk): The committee will recall that it made a request for prior notification, or prior notification of intent, that a minister might attend a Council meeting. It is unfortunate that, in our correspondence with the Executive, our request for that type of information was declined. After a Council meeting, information should say whether a minister attended, but whether the committee will be informed of that in advance of a Council meeting remains a sticking point.

The Convener: We have acknowledged the difficulty that the Executive described to us of delegations changing at the last minute. However, I see no reason why, after meetings, we should not be told who attended, as I assume that that is a matter of public record anyway. We should pursue that issue. I am sure that we all agree with the clerks' recommendation that information should be delivered more rapidly.

Ben Wallace: I am not too impressed by the Executive's reasoning that delegations change at the last minute. Of course I accept that there can be perfectly valid reasons why delegations might change, but why should that happen when the agenda is strongly in a particular direction? Take the example of the first round of the common fisheries policy negotiations that took place in July. One would have expected that, among the thousands of papers, the Executive would have highlighted that meeting as an important one that the minister planned to attend.

If a Council meeting is to discuss some draft directive on consumer protection—about putting a gadget on the back of washing machines and that type of thing—I would not expect the Executive to know in advance who will be in the delegation. Obviously, something more important could come up. However, it sounds like a Sir Humphrey excuse when the Executive says, "Things change at the last minute," and "What are we to know?" When we are then given papers after the meeting that do not report who attended, that makes me think that the Executive is just giving an excuse rather than a reason.

The Convener: Members will recall that the reason that the Executive gave for not being able to say who would attend such meetings was that things in the chamber change from day to day and from week to week. For example, although the

common fisheries policy might be on the agenda for the meeting of agriculture ministers, something might happen back here that required Ross Finnie to be present in the chamber.

However, it is worth pursuing the issue a bit further. I suggest that the clerks meet officials to see whether we cannot work things a bit better. There is no reason why we cannot be provided with information after the meeting. The fact is that such information has not been provided. When we clarify the Executive's position in relation to the Danish presidency, we can ask for such information to be reported to us. We will also mention the need for more rapid delivery of information.

Ben Wallace: I have a point arising from some questions that I asked over the recess. The Executive does not seem to be helpful or forthcoming in providing information in response to the committee's attempts to carry out scrutiny, especially scrutiny of technical matters, such as the attendance of Scottish ministers at the Council and responses to UK Cabinet memorandums. However, scrutiny of draft directives is the primary role of the committee.

Sometimes the Executive seems to lack the staff to provide the information that we request. Whenever I ask a technical question, the Executive seems either not to know the answer or to have decided that it does not want us to look at the issue. However, the Executive is answerable to us; what we look at is not for it to decide. Although some directives may not look like much, some of them are important.

For example, during the recess I asked how many times the Executive had commented on memorandums of understanding. Such comments on draft proposals must be made within 10 days. The answer that I got back was:

"This information is not held centrally." [*Official Report, Written Answers*, 3 September 2002; p 1467.]

Surely there must be an effective system by which we can know which directives—or even the number of directives—the Scottish Executive has commented on. The reply that such information "is not held centrally" is the sort of thing that I have to deal with for health statistics. I do not expect to have to put up with it for European matters.

The Convener: We have highlighted today the problems posed in relation to agriculture and fisheries. We have an example in the brief that has been provided of how the Executive's system of reporting to us is falling short. Although the brief was produced after the Council meeting, it does not make clear who attended it. We could pursue that with Ross Finnie when he gives evidence to us in October. It is helpful to pin things down using concrete examples.

Ben Wallace: Let me give another example. Westminster is consulting Whitehall about the process of scrutinising European legislation. When I asked whether the Scottish Executive had made any response to the recommendations, the Executive said, "It's not a matter for us." On that review about how senior civil servants respond to European legislation, the Executive simply said, "It's nothing to do with us."

The Convener: We have an agreement with the Executive on how we take forward the committee's scrutiny. If we are not happy with the way in which information is delivered to us and with the sorts of information that we get, we can go back and pursue the matter.

Mr Quinan: On Ben Wallace's point, it strikes me that the Executive is to some extent protected by the civil servants. That is partly because other parties—certainly the party of which I am a member—tend to exploit any information for political ends. That does not help us as committee members. I have suggested before that we develop a practice that allows the technical questions raised by Ben, or by any of the rest of us, to be asked as committee questions.

Our responsibility for scrutiny is to the committee and not necessarily to ourselves as individual members. Perhaps if we had a system whereby the questions were in the name of the convener or the deputy convener, or there was a simple concept of committee questions, there might not be the same sensitivity about providing information that is then used as a stick with which to beat the ministers. That pathetic use of information is preventing us from properly carrying out the level of scrutiny that we require.

The Convener: We certainly said that we would monitor the situation. If difficulties are arising, it is incumbent upon us to deal with them.

Sarah Boyack: Much information requested in the paper is about events that happened a couple of months ago. It is disappointing that we still do not have any of it in front of us.

Annexe A shows that we have not asked for information about every single council meeting that is happening in Europe. There are a lot of issues not on our list, such as telecoms, transport, health, and the environment. Of the meetings that we have asked for information on, we have had very few responses. The responses that we have got back have been very useful and informative.

The post-Council reports are particularly useful in giving a sense of the issues that were discussed, such as education, agriculture and fisheries. However, for the other issues the situation is totally frustrating, because we have no indication of whether we will get information, whether the information has not been prepared yet

or whether it is just that nothing has come back. That is not what we want. We are already being selective, so to get no response to quite a few of our requests is totally unhelpful.

The Convener: We all agree that there are deficiencies in the system and that we need to try and get them sorted out. In the first instance, we will ask the clerks to draft a letter expressing our discontent with the way that things are developing.

We said that we would monitor the situation and we made it clear to the Executive that we welcomed the first steps but thought that the process might need adjustment as we went along. However, this is information that we asked for at the very beginning. It is not being provided so we have clear grounds for complaint.

Helen Eadie: Representations are being made, but I am concerned that we are not seeing anything to do with the general agreement on trades and services. Certain deadlines have now passed with regard to that information. In the grand scheme of things, it is down to our UK colleagues to negotiate through EU representatives, but because the issue impacts on health, education and other sectors, we should have feedback on what is being agreed. If that general liberal approach is going to mean that crucial services will be affected, I believe that I have a duty on behalf of my constituents and the Parliament to ask what is happening.

I know that the issue has been addressed at the Health and Community Care Committee and elsewhere. I would like some feedback from the Executive.

The Convener: We can incorporate that into the letter.

We will go through the information that we have. We are generally agreed on the points that we have to make in relation to agriculture.

On the budget council on 19 July, there is a difficulty with the timetabling and the Danish presidency. We note the general affairs council on 22 to 23 July.

We have the agenda for the agriculture and fisheries council on 23 and 24 September. If possible, we were seeking further information. That is the information that has just been circulated to us, so members will not have had an opportunity to read that yet. Again, the information has come to us late in the day.

Ben Wallace: That is an example of the issue about ministerial attendance. Point 9 on the agenda of the agriculture and fisheries council meeting of 23 and 24 September is the transport of live animals. That is the issue that Maureen Macmillan raised and we should know whether Ross Finnie or the UK minister is going to go and

argue the point on behalf of the Highlands and Islands. The situation may change and the item may drop off the agenda, but it is unlikely. It is an important issue that has been raised by the European Committee and pursued by a member with constituency interests. The Executive should do us the courtesy of letting us know whether it intends to attend the meeting.

14:45

The Convener: The summary that has just been circulated suggests that the Executive will not attend. It says:

"The Executive is working closely with Whitehall to ensure an acceptable result for Scotland."

That is unclear, but seems to suggest that a Scottish Executive minister will not be present.

Mr Quinan: I completely missed the commentary on the general affairs council.

The Convener: I will come back to that in a moment. Let us finish the point about live animals.

The information has come out very late in the day and we will not have another committee meeting before the Council meeting.

Ben Wallace: There will be a CFP debate, a common agricultural policy midterm review and a debate on the transport of live animals. That sounds pretty important for Scottish agriculture, rural development and fishing. If the Minister for Environment and Rural Development is not going to the meeting, perhaps his deputy might be.

The Convener: We could write to the Executive and seek clarification on those points. It is timely that Ross Finnie is coming to speak to the committee in October. That will be an opportunity for us to raise our concerns in relation to such matters and to question him about what happened at the fisheries council on 23 and 24 September. The information that we have about the agenda items has come in so late that it does not give us an opportunity to discuss the issues. Before we go back to Lloyd Quinan and the general affairs and external relations council, do members agree to the suggested course of action?

Members indicated agreement.

Mr Quinan: I find it surprising that the agenda contains a follow-up to the European Council in Seville and discussions on terrorism, the EU's priorities in conflict prevention and the middle east, yet the Executive can comment:

"As will be the case for most of these meetings there is very little of devolved interest to be discussed in the meeting. In this case there is nothing which impacts on our devolved responsibilities, for this reason the Executive has not annotated the agenda item by item."

We live under the aegis of Scots law and any

time that the European Union discusses anything that has a legal basis in criminal or civil law it has a clear impact on Scotland, because we have a legal system that is separate from any other in the EU. Given events in Spain in the past few months, it strikes me that I would like to know what was discussed under item 7. In fact, I know what was discussed, but the committee should be told. If the civil servants working for the minister genuinely believe that things that alter or have an on-going effect on our legal system are not of importance, the Scottish Executive should think about employing someone new.

The Convener: Enlargement and the European Council in Seville are matters that have a clear devolved content. We might disagree on some of the other points, but there are issues that would be of interest. The Danish presidency is also on the agenda and that is one of the things that we could pick up with the minister.

Mr Quinan: My key point is that we live in a separate legal framework that is recognised by the EU and right across the world. Why is that not recognised by our civil servants?

The Convener: It is perhaps fortunate that the Minister for Justice is also the minister responsible for Europe and that he is coming to the committee today. Perhaps you could pursue the matter with him.

Mr Quinan: I will need my lucky white heather.

The Convener: That takes us on to the internal market council. We have the timetabling problem again in relation to that. We asked the clerks to take that on board. There is a similar issue in relation to the research council and the general affairs and external relations council meetings of 30 September. The subject for discussion at the ministerial group for European co-ordination—MINECOR—meeting on 10 October will be Europe, the euro and the future. Members will recall that we have produced a report on that matter. The clerks recommend that we draw the report to the attention of the members who will attend MINECOR. Is that agreed?

Members indicated agreement.

The Convener: There is some useful post-event information, such as that on the education and youth council. The Minister for Education and Young People was the first minister to co-operate with us in pre and post-Council scrutiny. Although it is a bit late, it is useful to have the report of the education and youth council of 30 May. The report was received on 23 July, when we were in recess. Is it agreed to commend the education department for its efforts and to note the contents of the report?

Members indicated agreement.

The Convener: Unfortunately, because of the recess, the post-event report on the agriculture and fisheries council is more out of date than we would expect with scrutiny documents. Do members agree to note the contents?

Members *indicated agreement.*

The Convener: We have no information yet on the economic and financial affairs council or on the general affairs council of 22 and 23 July. We have already had a constructive discussion of how we feel about not receiving such information. Is it agreed to draw the matter to the Executive's attention?

Members *indicated agreement.*

Sift

The Convener: The clerks have classified for forwarding to other committees the EU documents that we have received. Unless members have any points to raise, I ask the committee to note that classification. Do members agree to forward the documents to the appropriate committees?

Members *indicated agreement.*

The Convener: As we have about five minutes before the Deputy First Minister comes, we can either have a short comfort break or bash on with the convener's report.

Mr Home Robertson: Go for it.

Convener's Report

The Convener: Colleagues will recall that we received a letter from the Minister for Environment and Rural Development regarding the scientific council's report on animal welfare. Maureen Macmillan contacted us in the first instance about the matter. The clerks have suggested a number of actions for the committee. First, I assume that the committee welcomes the fact that the information that the committee requested has been provided. We also asked for an update on the timetable. We should ask the clerks to contact the Executive to discover whether there is any further information on the timetable because the information in the letter that we received is not very clear.

Nora Radcliffe: There is a little information in the late paper that we have received. It states that there will be a general discussion and that legislative proposals are expected in the autumn.

The Convener: We will ask the clerks to check whether that late paper meets the requirements of our initial request or whether we need further information.

We also asked for information about consultations between the Executive and the Commission. It was not clear what direct consultations have taken place. That comes back to the points in our inquiry into governance and the future of the European Union about the importance of pre-legislative scrutiny and involvement in the early stages of legislation. We should note that we are not clear whether the Executive has had direct contact with the Commission. We should also note that the committee has had a particular interest in the issue and, indeed, has noted it in the recommendations of its inquiry into governance and the future of the European Union. Are members agreed?

Members indicated agreement.

The Convener: We should also note the information that has just been circulated about what is likely to be on the agenda of the agriculture and fisheries council meeting on 23 and 24 September. We might want to ask for further information about the Executive's position in relation to that. Are members agreed?

Members indicated agreement.

The Convener: We will note the contents of the letter, thank the Executive for its response and send a copy of the letter and the briefing note to Maureen Macmillan and Neil MacCormick, both of whom brought the matter to the committee's attention earlier this year. Moreover, we will raise

with the Executive the points that we have agreed. Are members agreed?

Members indicated agreement.

The Convener: We move on to the next item. We have summarised all the correspondence with the Scottish Executive environment and rural affairs department about the decommissioning of fishing vessels. Members will recall that we have been discussing the issue with SEERAD for a number of months now. I recommend that committee members consider the correspondence and decide whether we have enough information to complete our inquiries or whether we need more. We are somewhat in the hands of people such as John Home Robertson who have a lot of experience in this matter. John, do you have any views on this?

Mr Home Robertson: There is heaps of what might be called "anecdotal information" to suggest that some skulduggery is going on and that people are recycling vessels that are supposed to have been decommissioned. However, although people have tried to nail the matter down, no one has found any examples of it happening. That is what SEERAD is telling us. In the absence of hard information—and unless anyone can prove otherwise—we will have to accept its conclusion. I think that Struan Stevenson initially raised the matter.

Ben Wallace: The committee should say that no evidence exists and that it is content that there has been no foul play in the decommissioning scheme. We owe that to the fishermen.

Mr Home Robertson: In the absence of evidence to the contrary, we should accept SEERAD's explanation.

Sarah Boyack: Significantly, the department's response points out that the issue is not just the boats, but the licences. Unless we have any other information to go on, we will not be able to take the matter any further.

Ben Wallace: The Executive's response does not make it clear whether a licence is completely withdrawn from the market when it is handed in after decommissioning. It seems to suggest that the licence is resold, but with a 30 per cent reduction in capacity.

Sarah Boyack: Well, the term "new licence" is used in paragraph 4.

Mr Home Robertson: I think that I know what this is about. If a vessel is decommissioned, the licence just goes; however, a proprietor of a fishing vessel who wants to move from a smaller to a larger vessel or vice versa will incur an aggregation penalty and a particular percentage is deducted from the total. Although that is a separate instrument, it is all part of the concerted

policy to reduce the fishing industry's capacity. That policy appears to be working.

Ben Wallace: So when the licence is handed in, that is it.

Mr Home Robertson: Decommissioning means decommissioning. However, aggregation—or amalgamating two smaller boats to make a bigger one—is a separate issue and is affected by the aggregation penalty.

The Convener: Are members agreed that, in the absence of any further evidence, we should conclude our deliberations on this matter?

Members indicated agreement.

The Convener: That brings us to a request from the House of Lords, seeking views for its inquiry into the European Police Office—or EUROPOL—convention. Given that Scotland has its own police forces that could potentially take part in EUROPOL's activities—

Mr Quinan: We have to be really clear about this. We have to be involved not because we have our own police force but because we have a separate legal framework, which creates our police force. Northumberland has its own police force, for example.

15:00

The Convener: Okay, point taken. The essence of the matter is that the House of Lords has asked us whether we wish to submit evidence to the inquiry. The clerks have recommended that we write to the Scottish Executive to suggest that an MSP sit on the inquiry board. Are members interested in pursuing that?

Helen Eadie: That is reasonable. EUROPOL has broadened its task base. It used to focus on matters that are reserved to Westminster, but it is now going down a different route. It is reasonable for a Scottish representative to sit on the proposed joint committee and I support the recommendations that we ask the Executive about the nature and extent of its involvement with EUROPOL activities and that we consider the possibility of an MSP sitting on the proposed joint committee.

The Convener: We might want to raise the issue with the justice committees to advise them that we have been invited to submit views to the inquiry, because they might want to add something to our submission.

Mr Quinan: Perhaps the appointed representative should be the Lord Advocate.

The Convener: We can ask for views.

Mr Quinan: It depends on whether scrutiny of EUROPOL's activities is to be conducted from a

political perspective or a legal perspective. If it is to be conducted from a legal perspective, I suggest that the Lord Advocate, rather than an elected member, be Scotland's representative.

The Convener: I do not know how other committee members feel. Our views are being sought as a committee of the Parliament. Therefore, it is important for us to seek views within the Parliament, ask the Executive what its intentions are and make a proposal using that information.

Helen Eadie: That is reasonable. The convener's report recommends that we write to the clerk of sub-committee F of the House of Lords European Union Committee to advise him of our deliberations and actions. From that I infer that there will be representation from the House of Commons on the proposed joint committee. Given that the remit of EUROPOL is to be broadened to take on some of the operational matters of Scotland's police forces, it seems reasonable to go down the route that the convener suggests.

Ben Wallace: From what I understand of EUROPOL—I am probably not right up on this—it is about sharing information throughout Europe. At the moment, a UK police body liaises with EUROPOL. If an officer from Strathclyde police wants information from French police, he goes to the UK police body, which liaises with the French body through EUROPOL. We are talking about the parliamentary accountability of the UK body as opposed to that of different police forces. If there were an interface between a Scottish body and EUROPOL, I would say that we have to send a representative. However, given that the UK body, which probably includes officers from all forces, liaises with EUROPOL, perhaps the UK Parliament should conduct the scrutiny.

The Convener: You are right that the objective is to improve parliamentary scrutiny of the EUROPOL convention. The House of Lords feels that we should share our views with it. We do not necessarily have to decide today whether there should be a Scottish representative and who that person should be. We should seek further information, consult the justice committees and the Executive and decide at a future meeting what view we want to take. Is that agreed?

Members indicated agreement.

Mr Home Robertson: Our view might be pragmatic. The background information makes it abundantly clear that the bulk of EUROPOL's activities relate to reserved rather than devolved matters, but there might be circumstances in which information about devolved subjects would come into the frame. The pragmatic approach might be simply to establish a right for a Scottish representative to take part in the work of such a

supervisory body where necessary. That would fall short of taking up the cost and responsibility of sending somebody to every single meeting.

The Convener: I think that we are agreed on a course of action.

Mr Quinan: Could we please seek information clarifying the role of those who take part? I do not want to repeat myself for a fourth time, but the scrutiny that we provide here aims to protect the integrity of Scots law, not that of the police forces. To my understanding, that is our scrutinising function, as members of the Scottish Parliament as opposed to UK citizens.

The Convener: We could seek further information, but my understanding is that the idea is to improve parliamentary control over EUROPOL. We can ask for information on what the parameters are for that. I can see us being in a position to draft a letter or report in response to the proposals, but I think that we need a bit more information so that we consult a bit more widely on how to proceed. Are we agreed on that?

Members indicated agreement.

The Convener: I think that the Deputy First Minister has just arrived for the next agenda item, but I am aware that some people have been in the room for a considerable time, so I am willing to take a five-minute comfort break, and members may get themselves a coffee.

15:06

Meeting suspended.

15:10

On resuming—

EU Priorities and the Future of Europe

The Convener: The next item on the agenda is evidence from the Deputy First Minister, Jim Wallace, on the Executive's priorities in relation to the Danish presidency of the European Union and on the future of Europe debate. We have programmed this as a regular agenda item, and we are very pleased to have the minister along. We welcome the timely production of the summary paper; we criticised the minister over that last time. There are a number of other things that we are not terribly happy about, but we will come to those later. We have had a busy meeting so far, and we still have other business to discuss, so I invite the minister to make his introductory remarks.

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): Thank you. It is a pleasure to be with the committee again. Although the summer recess has intervened, I think that I have been able to attend two successive meetings of the committee. I thank the committee for giving me this opportunity to discuss the Executive's priorities for the Danish presidency.

When I appeared before the committee on 26 March, I provided two papers. One set out the Executive's overall objectives and priorities for its external relations work; the other set out our policy priorities for the Spanish presidency. I hope that the committee found the papers valuable and that they provided members with a useful basis on which to consider areas of the Executive's work on external relations.

This time, I want to focus on one set of papers, covering the Executive's priorities for the Danish presidency, which commenced on 1 July. Each of my Cabinet colleagues with responsibility for European Union business has provided an overview of the priority issues in their portfolio, highlighting those areas where the Danes have indicated that they want to make progress.

The portfolio statements demonstrate that the Executive is not only alert to the huge number of diverse initiatives originating in Brussels, but is very much engaged with and involved in those initiatives that impact on the Executive's devolved areas of responsibility. That task is not modest. The breadth and depth of initiatives that originate in Brussels are remarkable, and constant vigilance is needed to take advantage of the opportunities that they may present and to ensure that proposals do not, inadvertently or otherwise,

impact disproportionately or harmfully on Scotland.

In March, I indicated that I would make a start-of-presidency—or at least near-start-of-presidency—appearance, and that that should become the norm. That is another reason why I am pleased to be here today, and I hope that the committee accepts it as a demonstration of the Executive's commitment and determination to engage energetically and actively with the European Union and to share that engagement with the European Committee.

As far as the papers are concerned, we have done better this time. I got the flavour of some of the exchanges to come, but I hope that the committee will accept the good will that is there and the need to explore constantly how we can improve.

While each individual minister is responsible for his or her portfolio interests, I hope that the European Committee—and indeed other parliamentary committees—finds the Executive's priorities helpful in its deliberations and as it sets out its own priorities for discussion and scrutiny over the coming months.

I thought that it would be opportune to inform the committee about the changes that have occurred to the Council formations as a result of agreements reached at the Seville Council on 21 and 22 June. At Seville, the leaders of the member states agreed to reform the formations with a view to enhancing the institution on the eve of the unprecedented increase in the number of member states. That reform has resulted in rationalisation of the number of Council formations from 16 to nine. The new formations are general affairs and external relations; economic and financial affairs; employment, social policy, health and consumer affairs; competitiveness, which will cover the internal market, industry and research; transport, telecommunications and energy; agriculture and fisheries; environment; justice and home affairs; and education, youth and culture. It is too early to say how member states, including the United Kingdom, will respond to those new formations but I can assure the committee that the Executive will remain fully engaged in the EU policy process.

15:15

Before I take any questions that members may have on the Executive's policy priorities for the Danish presidency, I thought that the committee might be interested in a brief update on what the Executive has been doing since March in relation to external relations issues.

As I explained in March, our external relations strategy had three main objectives: to promote Scottish devolved policy interests in the EU and internationally; to build mutually beneficial links

with regions and countries of the EU and beyond; and to promote a positive image of Scotland overseas. We have made considerable progress on all three counts.

We have been rigorously promoting Scotland's interests in a wide variety of EU policies, the most prominent of which is probably the future of Europe debate. That has been done through a variety of fora and at different levels including, at the UK level, through our active involvement in the joint ministerial committee on Europe.

We are consulting Scottish civic society and I was pleased that Sarah Boyack was able to join me, on behalf of the committee, when we launched that consultation last month. I welcome the committee's constructive contribution to that activity and I look forward with interest to the outcomes of the committee's 16 September event.

We have been active directly in Brussels. On 6 June, the First Minister made a speech on the subject in Brussels and, as you know, the First Minister is the rapporteur for a Committee of the Regions opinion on the matter of more democracy, transparency and efficiency, which members may recognise as one of the four headings or questions that were contained within the 2001 Laeken declaration. That opinion, together with three others concerning the other headings, will, in November, form the Committee of the Regions' formal submission to the convention on the future of Europe.

We have been promoting our position through a number of networks of regions, the most prominent of which has been the group of regions with legislative power. This has already produced a joint contribution to the future of Europe debate, which will be formally submitted to the convention on the future of Europe in the form of a declaration, to be signed by regional minister-presidents in November.

As well as being involved in formal organisations of regional authorities, including the Committee of the Regions and the Congress of Local and Regional Authorities of Europe, the Executive has applied to become a full member of the Conference of Peripheral and Maritime Regions of Europe. I will be speaking at its general assembly meeting on 20 September, where I expect our membership to be endorsed.

We continue to exert useful influence on the EU reform debate. We aim to build on that influence and to maintain our position as one of the most proactive and energetic regions in Europe.

On the second objective of seeking to build mutually beneficial links with regions and countries of the EU and beyond, the Executive has made excellent progress since March in pursuing links with other European sub-member state

Administrations and legislative regions. In May, the First Minister signed the first co-operation agreement with Catalonia, which will create opportunities for co-operation in the areas of agriculture and rural affairs, architecture, education, research, social policy and transport. We plan to launch the first phase of co-operation over the autumn and I am optimistic that that will deliver tangible benefits to Executive policy and consolidate our already fruitful relations with Catalonia. We remain on course to sign a small number of further formal co-operation agreements with other devolved Administrations in the near future.

The huge issue of the enlargement of the EU has the potential to bring a wide range of economic, political and cultural benefits to us and the Executive supports strongly the accession of the candidate countries when they are ready. We are keen to promote awareness of the opportunities that enlargement presents for Scotland and we have done that through events such as the business breakfast on Europe day that the Minister for Enterprise, Transport and Lifelong Learning and I addressed in Glasgow.

The Executive has some firmly established links with central and eastern Europe. Scotland is the lead partner in a twinning project, along with France and Ireland, which is working to deliver expertise on structural funds to help the Czech Republic prepare for the receipts that it will be entitled to on accession. The Minister for Finance and Public Services will visit the Czech Republic later this month to help consolidate those arrangements and to discuss the wider implications of enlargement. We have also agreed to work with Finland to provide practical assistance to Estonia in its preparation for structural funds receipts.

We have been active in relation to our third objective of promoting a positive image of Scotland overseas. Probably our most ambitious event to date, tartan day 2002 in April, was a resounding success.

Our links with the United States are historically and economically of unrivalled importance. We want to nurture and develop those links appropriately. For example, there is Scottish Enterprise's globalscot initiative, which aims to establish an international network of individuals who have an affiliation to Scotland and want to contribute to and share in its success. The network has over 400 members of whom half are from North America, including expatriates and US nationals. Such a strong membership in the United States clearly reflects the continuing importance of the relationship between Scotland and the United States. There will be a major promotion of Scottish culture in July 2003 in collaboration with the

Smithsonian Institution in Washington DC.

Preparations are well advanced for a ministerial programme of Scotland in Sweden that, over four days next month, will showcase post-devolution Scotland, position Scotland as a modern, knowledge-based economy with particular focus on biotechnology and promote Scotland as a tourist and business destination.

I hope that the committee will agree that there has been considerable activity by the Executive on the external relations front during the past six months. Tomorrow the Scottish Cabinet, recognising the huge importance of external relations in general and the European Union in particular, will discuss our progress. Therefore, I will be able to report directly to the Cabinet on the outcome of this meeting and on the committee's particular concerns and interests. That demonstrates the importance that the Executive attributes to the European Committee's views. I look forward to working with you fruitfully and to meeting you early in the new year—no doubt there will be other meetings in between—to discuss the Greek presidency.

I will now try to answer your questions.

The Convener: Thank you. That was a wide-ranging report and we have several questions to put to you. I have a brief initial question. One matter to be included during the Danish presidency is the location of the European Maritime Safety Agency. The committee has had a considerable interest in that issue for some time and we have tabled questions on it. You spoke significantly about the Executive's work to promote Scotland. A useful way of promoting Scotland would be for Scotland to house a European agency. We are keen to support that. Discussions are under way on the location of the EMSA and I understand that a site in Scotland has been identified. What activity is the Executive undertaking to promote Scotland as the location for such a European agency?

Mr Jim Wallace: We are working closely with the United Kingdom on that issue. I think that I am right in saying that Glasgow has been identified as a potential site. I will try to give a more detailed reply in writing on the situation. My recollection is that discussion on the location of several agencies, not just the EMSA, got bogged down because of something that is probably unrelated to the EMSA location. However, I will try to give in writing the most up-to-date chapter and verse of where we are with that.

The Convener: I acknowledge your point about taking the committee's views to the Cabinet discussion tomorrow. The committee strongly wishes a European agency to locate in Scotland. Given our maritime heritage and the strengths that

we could bring to the EMSA, we would be keen to promote and push for its location in Scotland.

Mr Jim Wallace: That is something that we share.

The Convener: Good.

Nora Radcliffe will ask about agriculture and fisheries policy.

Nora Radcliffe: The reform of the common fisheries policy will run throughout the Danish presidency. The committee would appreciate clarification of your views on the powers that should be ceded to fishermen and scientists, perhaps in a transition period, to enable those groups to have a real, direct and formally delegated say on decisions on fisheries management. Is an advisory role enough for them or should real power and accountability be shared among politicians, the fishing industry and scientists?

Mr Jim Wallace: It would obviously be more appropriate to have more detailed answers on a range of such questions from the Minister for Environment and Rural Development. I understand that Ross Finnie will attend the committee meeting on 8 October. However, it is recognised—perhaps Mr Home Robertson will remember this from his time as fisheries minister—that better co-operation between the industry and individuals, including scientists, makes considerable sense. That is something that I have been saying for a long time. The experience and knowledge that people in the fishing industry bring can supplement the information that is available to the International Council for the Exploration of the Sea, and that leads to better decision making on sensitive issues such as allowable catches.

The Convener: The committee produced a report on the common fisheries policy, and one of our recommendations was the promotion of zonal management committees. We understand from the Commission's response to the consultation document that it is recommending regional advisory councils. Those councils would take account of the views of stakeholders, and that is an important point that the committee made, but they are simply advisory. Our report said that, over time, we would like more delegated authority and powers to go to the zonal management committees or regional councils. We shall certainly raise that subject with Ross Finnie when he comes to the committee.

Mr Jim Wallace: It is certainly my understanding that what was proposed by the Commission in May was a system of regional advisory councils. I accept that that probably falls a bit short of what the committee was looking for. The committee has received a copy of the pre-

council report from Ross Finnie, which indicates that the presidency hopes to have a substantive policy debate at the October Council meeting on common fisheries policy reform.

The Convener: You have raised a sensitive point, because the committee received that report at 2 o'clock today, having asked for it some considerable time ago. One of the matters that we want to raise with you is how we can improve pre and post-Council scrutiny arrangements. We have managed to improve arrangements for you passing on information to the committee ahead of your visits. Perhaps that is something that we could tighten up on.

Dennis Canavan: The Danish president recently announced plans to tackle lifestyle diseases caused by unhealthy diet and insufficient exercise, and will be establishing a ministerial deliberation group as well as sponsoring a conference on obesity tomorrow in Copenhagen. As you know, those problems are particularly acute in Scotland. We are perceived as the sick nation of Europe, and our performance in international sport leaves a lot to be desired. I do not want to dwell on the Faroes fiasco, but perhaps we can learn something from other countries, including Denmark. Will the Scottish Executive be represented at tomorrow's conference in Copenhagen and at the ministerial deliberation group meetings?

Mr Jim Wallace: Off the top of my head, I simply do not know. That is a matter for the Minister for Health and Community Care. I do not think that he will be there in person, as there is a Cabinet meeting tomorrow and I am not aware that he will not be at that Cabinet meeting. I regret that I cannot even speculate on who will be at the Copenhagen meeting. I am casting my eye over the Minister for Health and Community Care's submission, which is among the committee papers, but I cannot readily see any mention of that.

The Convener: We understand that the Danish presidency website has given considerable attention to the matter. Given Scotland's record, we thought that it would be useful for us to be actively involved.

Dennis Canavan: I am disappointed with the Deputy First Minister's reply, bearing in mind Jack McConnell's recent statements about putting physical exercise and sport, and their relevance to the health of the nation, at the top of the Executive's agenda. It seems that the Executive is completely unaware that that important conference is taking place tomorrow in Denmark. I suspect that, if you were to look into the ministerial deliberation group, you would find that it is for the appropriate ministers from the Governments of member states only.

I hope that the Executive will make the point to the UK Government and directly to the Danish presidency that health is a devolved matter, as is sport. Our Minister for Health and Community Care and our Minister for Tourism, Culture and Sport—or at least one of them—ought to be represented and indeed ought to go personally to those important meetings. Otherwise, all the recent statements by Jack McConnell will not be taken seriously.

15:30

Mr Jim Wallace: I share Mr Canavan's view on the importance of healthy living and recreation and on the importance of sport, a good diet and good nutrition as a means to healthy living. I hope that nothing that I said detracted from the importance attached to that.

I did not say that the Scottish Executive would not be represented; I said that I did not know. It is a matter for the Minister for Health and Community Care. He will have more detailed knowledge of the matter. I think that on my previous appearance at the committee I indicated that I could not have in my possession every detail of the portfolios of my colleagues. I will ensure that Mr Canavan's remarks are drawn to Malcolm Chisholm's attention. If he is not there, or if he is not represented at official level, we will try to ensure that there is feedback and that if there are follow-up meetings we can engage with those. I take the point about the importance of the matter to Scotland—not only to improve our performance at football.

The Convener: I think that the Deputy First Minister will agree that there is much that we can learn. Finland has been given to us as an example of a country that has greatly improved its health record through lifestyle changes. We can learn from our European partners.

Mr Jim Wallace: I was in Finland at the end of July and I met senior officials from the Finnish health department. We had a valuable exchange. It helped develop further what for a considerable time has been a good working relationship between Finland and Scotland on health promotion issues. We are keen to foster that relationship.

The Convener: We would appreciate a report back on whether the Minister for Health and Community Care is attending the conference.

Helen Eadie: I will stick with health and, to some extent, education. When big decisions that have a big impact in our home territory are taken so far away, I sometimes think, "Oh, gosh. Why do we not have a means of influencing that?" I am referring to the general agreement on trade in services. There does not seem to be a way to

address that in the Scottish Parliament. We are constantly reminded that it is a reserved matter. America—I am not at all anti-American; I am pro-American—is trying to push GATS and it seems that it will significantly change policy in our own back yard, yet we do not have the ability to influence the process. I know that that matter is exercising the minds of many members, because I have had quiet discussions with lots of my colleagues and they all agree. They are all asking how we in Scotland can get our voices heard on this vital issue.

Previously we had the general agreement on tariffs and trade and we now have GATS. I understand that America is driving the moves to liberalise services. I am worried about the potential for education and health in Scotland to be liberalised in a way that not many Scots would want to see happen.

Mr Jim Wallace: I have always taken the view that, although matters may be reserved in terms of trade agreements and negotiations, if they have an impact on devolved policy making we have a locus to have input into them. The best course to take to pursue the matter might be to have a members' debate, or it might be to bring before the committee the Minister for Health and Community Care, the Minister for Education and Young People, or the Minister for Enterprise, Transport and Lifelong Learning. We will try to identify who is the most appropriate minister. That would ensure not only that the minister would have the opportunity to comment, but that proper recognition was given to the matter.

Helen Eadie: That is much appreciated. The subject has been worrying me for a long time. The tone of the minister's words is encouraging. He is willing to help us to proceed with the issue.

Mr Jim Wallace: Some colleagues will probably not thank me for that. If there is an impact on devolved areas, it is a perfectly reasonable thing for the committee to ask ministers.

The Convener: In our scrutiny deliberations, we felt that there was a bit of a deficit on that matter and we wanted to bring it to your attention. We might come back to you on that issue.

Mr Jim Wallace: I already have plenty to tell the Cabinet tomorrow.

The Convener: Sarah Boyack will ask about education and young people.

Sarah Boyack: I have a point to add to your list to pass on to colleagues. It concerns the future of information about Europe for young people. I mentioned Eurodesk, which is based in my constituency, to the minister a few months ago. Eurodesk puts across European information to schools, colleges and young people's groups. I

welcome the statement from the Minister for Education and Young People, in which she mentions initiatives such as Young Scot and Eurodesk as exemplars for the rest of Europe.

There has been a question mark over the future of Eurodesk's funding and, although the wording of Cathy Jamieson's statement is positive, I am not aware of any announcement that Eurodesk's funding problems have been resolved. I am keen for a solution to be reached that enables the aspirations that are set out in the minister's statement to be delivered in practice. We have been keen to get young people involved in discussion of European issues, such as the euro and the future of Europe. You will note that quite a few school students are coming to our conference next week.

It is important that there is a framework for getting out European information to young people. We agree with the Executive that the resource centres across the United Kingdom have been an exemplar. It is just a case of ensuring that we retain such centres, particularly the centre in Scotland, in the future.

Mr Jim Wallace: I understand that there has recently been a parliamentary question on Eurodesk. I am not sure whether it was Ms Boyack who submitted it. My understanding is that we hope that a solution is coming down the track. I do not want to commit myself by revealing more than that at the moment. A hope exists. I will ensure that your point is passed on to Cathy Jamieson.

I share your appreciation of the importance of engaging our young people. When we discussed how we might broaden consultation on the future of Europe debate in the consultation with civic Scotland, we decided to make a specific pitch to schools. Mr Quinan might have made that suggestion.

The Convener: We will move on to the future of Europe debate.

Mr Quinan: There appears to be some confusion about the way in which we will detect subsidiarity in the structures of the Parliament. In Brussels on 6 June, the First Minister said that a

"subsidiarity council could consist of serving members of regional Parliaments".

However, on 27 August, the Foreign Secretary said that a "subsidiarity watchdog" should be made up of members of Parliament from the different member states. On 4 December 2001, you said:

"Having an objective is more important than being tied to a particular delivery mechanism. My objective is that we should have a political mechanism to safeguard the principle of subsidiarity. In that context, we recommended that there should be a second chamber, which is one way of doing that. ... It would be wrong for us to get tied to a

particular option if it proved not to be gathering momentum."—[*Official Report, European Committee*, 4 December 2001; c 1303.]

The former First Minister, Henry McLeish, in the Flanders declaration, said that there should be consideration of

"the right for the constitutional regions, as exists for the Member States, to refer directly to the European Court of Justice when their prerogatives (such as subsidiarity) are harmed".

What is the Scottish Executive policy on the concept of a watchdog or a committee and on what its composition should be?

Mr Jim Wallace: We want the concept of a subsidiarity watchdog to be developed. The Foreign Secretary has indicated that that is now the position of the United Kingdom Government, albeit that there is scope for further discussion about whether it should be made up exclusively of members from member state parliamentary level.

The point is that the issue is political. We agree whole-heartedly about the importance of subsidiarity, not just between the European Union and member states, but within each member state. Given that bodies below the level of member state Administrations and legislatures have to deal with European legislation, it is important that we do not cede powers up the way—that should not happen.

We took the view that it was better to handle the proposal politically rather than judicially, not least because the debate on the position was a political one, but also because it was better that the position be challenged beforehand, rather than a case having to be taken to the European Court of Justice. Things could take some time by that route, by which time any damage might have already been done. Having visited the European Court of Justice in Luxembourg early in the summer, I did not detect a huge amount of enthusiasm there for extra responsibilities over subsidiarity. The view was that that would bring the court into the political realm.

Our position is to promote a subsidiarity watchdog that we hope would have teeth and which would view the issue from a political perspective.

Mr Quinan: The Deputy First Minister is throwing his weight behind the Foreign Secretary. The Foreign Secretary stated that a subsidiarity watchdog should be made up of MPs from member states; the First Minister said that a subsidiarity council could consist of serving members of regional Parliaments. Would it be fair to say that you accept the watchdog concept of the Foreign Secretary?

Mr Jim Wallace: I use the words watchdog and council interchangeably: I am—

Mr Quinan: I am not seeking conflict on the matter.

Mr Jim Wallace: They represent the same concept. As I said, we would have an issue about the membership of that council or watchdog.

Mr Quinan: I asked because you used the words "subsidiarity watchdog", and the Foreign Secretary is the only other person to have used those words, followed by "should be made up of MPs from member states".

Mr Wallace: If you check, I think that you will find that I have used the phrase "subsidiarity watchdog" previously. I will not say that imitation is the greatest form of flattery, but our thinking is the same.

Mr Quinan: That is fine. Does that mean that the Flanders declaration is dead?

Mr Jim Wallace: No, the Flanders declaration is not dead. I think that anyone will recognise that, when sub-member states with different traditions are brought together, we will not get absolute unanimity on all issues. Under the German constitution, the Länder have more clearly demarcated lists of competencies and they approach matters differently to the political approach that I have described.

As I said in my opening remarks, a submission will be made on legislative responsibilities. It will be signed by the heads of Government concerned in November. Much work has been done to try to synthesise what are very different approaches, but what is important is that there is agreement on the protection of subsidiarity. I visited Munich in June and visited the European minister for the Land of Bavaria. There was a difference of approach, partly through tradition and partly because of the structure of Government there. I can assure Mr Quinan and the committee that much work is being done between the sub-member state Administrations to make a powerful argument.

15:45

Mr Quinan: I understand that and I appreciate the requirement for political scrutiny. That is why I go back to the Flanders declaration, which was a political statement. The political position of the Flemish Parliament is to support access to the European Court of Justice. Again, I ask the question, have we committed ourselves in the Flanders declaration? Was that commitment specific to Henry McLeish only? Did it commit the Parliament or the Executive to supporting the political statement that the protection of subsidiarity would be best served by means of access to the European Court of Justice? That is the policy of the Flemish Parliament.

Mr Jim Wallace: There are different emphases among the different signatories. The contribution to the convention later this year that will be made by the regions that have legislative powers will be to try to find a common approach. However, it is not always possible to get total agreement. I have made it clear that our preferred approach would be a political animal.

The Convener: I recognise that there is a wide-ranging debate in Europe on that. However, my impression is that far more people are arguing the judicial case than are arguing the political one. Which regions are you working with to synthesise the case?

Mr Jim Wallace: I am trying to remember the list. The group is similar to the group that signed the Flanders declaration—I would have to check that. My reading of the situation was that there is an increasing emphasis on pre-political scrutiny.

Mr Quinan: Does not the Flanders document say that, in the event of the failure of pre-political scrutiny, the safeguard comes from the ability to access the European Court of Justice?

Mr Jim Wallace: As I said, often the pass has already been sold. We want to ensure that there is no loss of subsidiarity; the time to ensure that is before the decision is made.

Mr Quinan: In the event of a region being unable to do that—to make its point given that it operates sub-regional legislation—the point of the Flanders declaration and the position of the Flemish Parliament is that there must be a legal framework or safety net if pre-political scrutiny and debate or negotiation fail. We could be talking not about the subsidiarity that is granted to the Scottish Parliament, but about the subsidiarity that is granted to a local council, which might mean that the Scottish Parliament or the UK is in breach of the rules. The structures are far greater than simply the negotiations between member states and sub-member states. That is why it was essential that a safety net be provided for in the Flanders declaration. That safety net is not just for the Scottish Parliament or the legislature in Northern Ireland, but for all our local councils. It was a political statement.

Mr Jim Wallace: I am not sure whether the document is publicly available.

The Convener: There will be interesting discussions ahead on the matter. I understand that the regions with legislative powers will meet in November to discuss the issue further. I presume that a firm commitment will come from that.

Mr Jim Wallace: There will be a firm position on the matter. As I said, a considerable amount of discussion and negotiation has taken place. I

wanted to check whether there was anything in the public domain.

The Convener: The First Minister has given me a letter dated 17 August—I advised the committee of it today although I received it on Friday—which I will circulate to the committee members. The letter points out that there is a difference of opinion between the Executive and some of the other regions—

Mr Jim Wallace: Some, but not all.

The Convener: Matters will be discussed in November. I hope that you will report to the committee then.

Mr Jim Wallace: I will ensure that the committee gets the declaration that is signed in November, which will be the contribution of REGLEG—I am sorry that it is called that—or regions with legislative power, to the convention.

Ben Wallace: I will finish not on the Flanders declaration, but by asking whether you and the Executive feel that MSPs should be on the subsidiarity watchdog. I will not argue over whether it is a watchdog or a council.

Mr Jim Wallace: That is our preferred position.

Ben Wallace: I appreciate that the First Minister is a rapporteur to the Committee of the Regions, but the Executive does not have a member on the convention. How will the Executive get its view through Whitehall to Peter Hain—who presents the UK position—so that it will be presented or taken into account?

Mr Jim Wallace: I have, on a number of occasions, illustrated the different channels that we can use. The UK Government channel to which Ben Wallace alludes is the joint ministerial committee on Europe, which gives us a forum at which to express our views. There is also MINECOR—the ministerial group for European co-ordination—and other regular links. The next meeting of the joint ministerial committee on Europe takes place on 24 September, and the next MINECOR meeting is on 8 October. We can express our views at those fora, as can our Welsh and Northern Irish colleagues.

We can also express our views through contact at official level and outwith formal structures. Sir Stephen Wall and Sir Nigel Sheinwald are also informed of our views. We engage with the United Kingdom Government so that it is aware of our views and it is aware when we agree with other sub-member states.

Ben Wallace: I do not expect you to know the answer to this question, so perhaps you could write to the committee. Last week, I met members of the Local Government Association. John Prescott has a group called the central local

partnership—of which I was unaware—which involves officials from the Welsh Administration in defining policy not only on local authorities, but on regions and the future governance of Europe. The Deputy Prime Minister wishes to hold a conference on 28 November, involving the Scottish Executive and the Welsh Assembly, to reach a view on regions.

Is the Executive aware of the CLP, which meets regularly and interfaces with John Prescott? Is it aware of the Deputy Prime Minister's role in drawing together the positions of regions, including the views of the Welsh Assembly and the Northern Ireland Assembly, for the Foreign and Commonwealth Office? I was not aware of that group—I wonder whether the Executive is.

Mr Jim Wallace: I thought that the CLP had more to do with development of the regional dimension in England. Our primary point of input has been the Foreign and Commonwealth Office, through Peter Hain and Jack Straw. Jack Straw's visit to Scotland in August was a result of a decision by the joint ministerial committee on Europe that he should visit the devolved parts of the United Kingdom to engage and listen. Peter Hain is taking the lead on the matter, and it is to him that we have primarily directed our representations. I will look into the meeting to which Ben Wallace referred, but we have been right in making our primary pitch through the Foreign and Commonwealth Office, and specifically to Jack Straw and Peter Hain.

The Convener: I would like to follow up on one point, about which I asked the minister at our previous meeting. How will the Parliament and the European Committee be involved in formulating the Executive's position? You said at our previous meeting that you would share such information with us, but could you elaborate? Will the Executive's position be debated in the chamber so that the committee will have the opportunity to comment?

Mr Jim Wallace: I am always willing to try to engage with Parliament as widely as possible, subject to the will of the Parliamentary Bureau and the Minister for Parliamentary Business. I hope that we will have an opportunity to discuss the matter in the chamber. We have started the consultation and are expecting responses by 4 October. We want an opportunity to examine those responses and we hope that they will inform our submission. It might be useful if the committee told me when a debate would be helpful. Would it be best to have one when we report back on the responses that we have received, to test the water before we have a firmed-up position, or would it be better to wait until after the meeting in Florence? Do you want to have a debate on something that is being proposed or on the results of the consultation?

The Convener: There are two separate matters. One is the submission to the convention on the future of Europe, which will go through the UK Government. The other issue is the report that will follow the REGLEG meeting in Florence, which will say whether the Executive has synthesised its position in relation to access to the European Court of Justice.

Of course, I am in the hands of the committee, but I think that we would like to have a debate on the future of Europe before Christmas, when the report is in draft form. That would enable us to raise any points that we have.

Mr Jim Wallace: I will try to arrange for that debate to take place, subject to the will of the Parliamentary Bureau.

Mr Home Robertson: While the minister is in a helpful mood, I remind him of an undertaking that he gave earlier to give the committee advance information on draft or near-final agendas for council meetings.

We have been given a briefing paper on a number of European Council meetings in December that says that no information has as yet been provided by the Scottish Executive in advance of the meetings and that, according to the Executive, the Danish presidency does not want any agendas to be placed in the public domain until the beginning of September.

However, the Danish representatives in the UK advised our clerks that that is not the case. In fact, such agendas were placed on the Danish presidency website in the middle of August. I have some experience of officials' reluctance to impart information to ministers, let alone to committees, but I ask the minister to ensure that officials do better in future.

Mr Jim Wallace: I was given advance notice that this issue might be raised and I have made some inquiries on the matter. I do not know whether there has been a breakdown in communications somewhere, but it is the understanding of my officials, who contacted the Danish embassy, that some of that information was put on the website only last week.

I do not know where the misunderstandings lie, but it might be useful to reiterate the commitment that I gave. There is no reason why the information should be a closely guarded secret. I point out, however—I am not being disparaging because I am sure that the situation was the same during the British presidency—that sometimes agendas tend to be like wish lists. I am sure that Mr Home Robertson will be aware that agendas for council meetings can change until up to 24 hours before the meeting. However, as a matter of principle, we would like to give the committee as much advance notice as possible.

The agendas for the early meetings tend to be an accurate reflection of what is intended. However, later in the presidency, we will liaise with Whitehall and our office in Brussels to establish what the agendas are likely to be. That will allow us to provide you with an annotated version that details the issues that are likely to be of importance to Scotland.

I have been advised that in two weeks officials will meet the clerk to discuss the matter. I assure the committee that the good will exists. We have not been in this situation before and we are trying our best to get it right. Our intention is not to hold back information but to ensure that what we give the committee is worth while.

16:00

Mr Home Robertson: I do not want to make a meal of the matter.

Mr Jim Wallace: I ask the committee to accept the good will that exists, and I will try to ensure that we do things correctly.

Mr Home Robertson: There seems to have been a hiccup at this early stage. It would be helpful if, between us, we were able to ensure that—

Mr Jim Wallace: I hope that the useful dialogue between the clerk and my officials will help to resolve some of the problems.

The Convener: I will be brief, because we are approaching 4 o'clock. During our scrutiny of post-Council reports, the committee discussed the fact that we have yet to receive reports on the budget council meeting of 19 July and the general affairs council meeting of 22 July. I think that you would agree that a considerable amount of time has passed since then. We recognise that good will exists, but we would appreciate timely reports on such matters, otherwise they will make it into the history books before we have an opportunity to discuss them.

Mr Jim Wallace: The two councils to which you refer deal with substantially reserved matters. We have not had a tradition, or a track record, of engagement in those councils and therefore we have not put reporting mechanisms in place. I hope that, through our links with Whitehall, we will be able to identify the best way of ensuring that the European Committee gets more timely reports on the work of those councils in which, traditionally, we have not been involved.

The Convener: We considered the agenda of the general affairs council of 22 to 23 July. We noted that the agenda included the work programme for the Danish presidency, enlargement, follow-up work on the European Council meeting in Seville and other matters that

we felt were particularly relevant to Scotland. Perhaps the officials' interpretation of what might be relevant is not quite the same as that of the committee. It would be helpful if we could tease that out a little at the forthcoming meeting.

Mr Jim Wallace: It is not a question about relevance—we want to get the information to the committee—but about the mechanisms that we should put in place.

The Convener: We appreciate that. We have time for a brief supplementary question from Lloyd Quinan.

Mr Quinan: I thank the minister for what he just said, particularly with regard to the general affairs council meeting of 22 and 23 July. It is important to recognise that although there is no requirement for political scrutiny of those matters, it is the purpose and function of the European Committee to protect the integrity of Scots law. I suggest that anything that impacts in any way on our judiciary or on the functioning of our court system or our police—not necessarily of a political nature—should be referred to the committee. That would allow us to protect that integrity, but I am not saying that we should scrutinise such matters.

Unfortunately, my main point is one of clarification and goes back to the question of the subsidiarity watchdog. If the subsidiarity watchdog says that European legislation does not comply with the principle of subsidiarity but the European Parliament disagrees, how would that be resolved with the watchdog? If the watchdog says that no breach has taken place, but a member state's Government, such as the UK Government, disagrees and wants to challenge that decision, will the existence of a watchdog structure mean that the UK could not appeal to the European Court of Justice? I ask the Deputy First Minister whether he can point to a specific case in which subsidiarity—as we understand it—has not been respected. My final question is less important than the preceding questions.

The Convener: Please answer those questions in two minutes, minister.

Mr Jim Wallace: That is what the debate is about. Our view is that, if the UK Government felt that a threat to subsidiarity existed, it would have to take on those battles politically.

There have been discussions with the other sub-member state Administrations, and those discussions continue. The objective is quite clear. Our view is that, given the political nature of many of the issues, the battle will best be won politically. Academic is not the right word to describe such disputes, but to change a decision after the event may mean that the pass has already been sold. That is why we opted for the political route, rather than the judicial route. I am prepared to accept

that there is a legitimate debate around how we achieve an end with which no one around the table disagrees. That is the advantage of having that debate and of engaging with countries that approach the matter from a slightly different perspective and background.

I repeat that, so far, our judgment has been to opt for the political, rather than the judicial, route. In our discussions, which will come to fruition in Florence later in the year, we will try as best we can to find a common way forward that satisfies countries and sub-member states from different backgrounds. The fact that we bring those different perspectives to the debate is a strength.

The Convener: We appreciate the fact that you will keep the committee informed of developments. We thank you for the constructive discussion that we have had today and look forward to making progress. Members had a number of additional questions that we have not had time to ask, so I hope that it will be acceptable to submit them in writing.

Mr Jim Wallace: I will pass some of the specific points that were raised to ministers and, as I said, I will have to write back to the committee with further information about one or two other points.

The Convener: Thank you, minister.

That brings us to the last item of business, which we agreed to discuss in private. I thank the members of the public for their attendance.

16:06

Meeting continued in private until 16:25.

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