



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

Tuesday 1 November 2011

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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	149
SCOTLAND BILL (EUROPEAN DIMENSION).....	150
DRAFT BUDGET 2012-13	166
EUROPEAN ELECTED MEMBERS INFORMATION LIAISON AND EXCHANGE	175
“BRUSSELS BULLETIN”	176

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

6th Meeting 2011, Session 4

CONVENER

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

DEPUTY CONVENER

*Hanzala Malik (Glasgow) (Lab)

COMMITTEE MEMBERS

*Helen Eadie (Cowdenbeath) (Lab)

*Annabelle Ewing (Mid Scotland and Fife) (SNP)

*Bill Kidd (Glasgow Anniesland) (SNP)

*Jamie McGrigor (Highlands and Islands) (Con)

*Aileen McLeod (South Scotland) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Fiona Hyslop (Cabinet Secretary for Culture and External Affairs)

CLERK TO THE COMMITTEE

Ian Duncan

LOCATION

Committee Room 1

Scottish Parliament

European and External Relations Committee

Tuesday 1 November 2011

[The Convener *opened the meeting at 14:00*]

Decision on Taking Business in Private

The Convener (Christina McKelvie): Good afternoon and welcome to the sixth meeting of the European and External Relations Committee. Members and everyone else should ensure that all electronic equipment is switched off, as it interferes with the sound system. We have received no apologies, so we will crack on.

The first item is a decision on taking business in private. Do members agree to take item 6 in private to allow us to discuss the evidence on Scotland's draft budget that we will take this afternoon?

Members *indicated agreement.*

Scotland Bill (European Dimension)

14:01

The Convener: Item 2 is an evidence-taking session on the European dimension of the Scotland Bill. I welcome to the meeting the Cabinet Secretary for Culture and External Affairs Fiona Hyslop and, from the Scottish Government, Elspeth MacDonald, deputy director of the constitution and Europe division, and Ian Campbell, head of the European Union office in Brussels. I believe that the cabinet secretary wishes to make an opening statement.

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): Just a brief one, convener.

On 8 September, the Scottish Parliament debated and supported a motion on an amendment on EU involvement that the Scottish Government wished to table to the Scotland Bill. As the Scottish Government's intention is clear, I will not rehearse all the arguments now, but I am happy to recapitulate some of the main points ahead of members' questions.

First, attending or speaking at EU Council meetings should be seen as the concluding stage of a collaborative working process to advance and protect the United Kingdom's collective interests in Europe. We are seeking a statutory right not only to be part of the UK delegation at Council of Ministers meetings but to have officials attend European Commission and Council working groups. The ability to participate in discussions in which issues of importance to Scotland are decided would give us greater influence over decisions that directly affect Scottish industries and legislation and would help us to realise our full economic potential.

Having seen the evidence that you have received, including that from the former heads of the Scottish Government office in Brussels, and having read the *Official Report* of last week's evidence sessions, I would like to resolve a couple of their concerns.

First, the amendment is not about trying to influence the European Commission; it is wholly about improving the current devolution settlement. To that end, we intend to influence the UK Government's view of Scotland's role in developing and communicating the UK's position in the EU.

We have experience in areas of importance to the people of Scotland; we have identified priority policy areas in our European action plan; and our desk offices in the Brussels office are visible in the

European institutions and responsible for co-ordinating EU business across all Scottish Government portfolios. The people in those offices work closely with the UK permanent representation—UKREP—on the UK's position on EU issues, complementing work by policy divisions and their Whitehall counterparts.

It is time to strengthen Scotland's voice in Europe. Our amendment offers the opportunity to strengthen the devolution settlement. If that settlement remains weak, the independence alternative will clearly become more attractive.

The Convener: Thank you very much, cabinet secretary.

I should inform members that the cabinet secretary can stay only until about 3.15, which means that we have about 35 or so minutes for each of the items on which she is giving evidence. The shorter and sharper that members' questions are, the better, as it means that we will get more in.

I will open with an obvious question. Do the current formal and informal arrangements for Scottish representation at Council meetings serve Scotland's interests well?

Fiona Hyslop: They could serve them a great deal better. The difficulty is in maximising our impact—and, indeed, our country's impact—in the agendas that really matter to us.

There has been consensus in the Parliament and in this committee on the four priority areas that we have identified. We could certainly have a greater impact by improving our representation within the UK delegation even just in those areas.

The issue is straightforward in terms of Scotland's interests. We are clear that, within the devolution settlement, Scotland's expertise can be used to further the United Kingdom's position in the European Union.

We need mechanisms to improve the system, which currently operates on grace and favour. Some of the evidence that the committee received wisely stated that much of the system's operation at present comes down to relationships. It is problematic that we are dependent on good will and grace and favour in certain relationships and from certain ministers.

Some of the comments made at last week's committee meeting reflected on the first two terms of the Scottish Executive, in which people from the same party were in the devolved and UK Administrations. That does not necessarily mean that there will always be agreement, but it requires less reliance on institutional organisation than has been the case post-2007 with a Scottish National Party Government in Scotland.

The advent of the new United Kingdom Government introduced another political colour, so we are now in a different position from the one that we occupied in 2000, or even in 2010 when the political make-up of the United Kingdom Administration was different. In that context, it is important to have an institutional mechanism in place and to be involved not only in the European Union but in other arenas such as the joint ministerial committee.

The Convener: I will open the debate to members. Helen Eadie is the first one in.

Helen Eadie (Cowdenbeath) (Lab): Does the Scottish Government anticipate that the attendance of ministers from each of the devolved regions will be placed on a statutory footing?

Fiona Hyslop: Scotland is currently the only nation that has any legislation before it—the Scotland Bill—that gives it the opportunity to put such a strategy in place. It is important that, when the opportunity arises, we use UK legislation as much as any other legislation to advance our interests.

Other Administrations are interested in attending. In Northern Ireland, for example, there have been important changes with the devolution of policing, which means that the Administration has an increased interest in European justice issues.

We would have to agree on who would attend and when—that would not change—but there would be a strategy for our representation as part of that delegation. The question of who speaks and who leads is a different matter, but we have an opportunity—which other parties and other nations do not have—to put the part that we play in that delegation on a statutory footing.

Aileen McLeod (South Scotland) (SNP): Good afternoon, cabinet secretary. From the conclusions that EU leaders reached at the euro summit last week on the on-going euro zone debt crisis, it is clear that there is likely to be deeper integration, driven by fiscal union, between the 17 euro zone countries. That is already causing concern among the non-euro zone countries—the UK in particular—about their ability to influence key decisions that will affect their financial and banking sectors.

Other elements are the apparent growing opposition in Westminster, David Cameron's increasingly Eurosceptic pronouncements about repatriating powers from Brussels to London, and their possible manifestation in a revised treaty. Those increasingly Eurosceptic noises could have an impact on the UK voice at the Council of the European Union and, as a consequence, on our confidence that Scotland's interests are being properly reflected.

To what extent do you think that the changed political dynamic between London and Brussels will impact on the UK Government's ability to represent Scotland's legitimate interests in the European arena and at the EU Council in particular?

Fiona Hyslop: That is an interesting question politically, constitutionally and on a number of other counts. You are asking me to second-guess in which direction the politics are likely to go. Your question reflects the moveable feast that the European Union and the euro zone situation currently are. That situation is clearly of concern to all of us, and the question of where it might go is a political one for the UK Government.

As regards ensuring that any position is tempered by the views of all the devolved nations—not just Scotland—we want to ensure that we are not simply waiting for a fait accompli a week before the discussion, when a view has already been taken. That brings us back to the fact that, if there is going to be a UK position, it is important that the views of Scotland, in particular, are taken into account.

Do I think that Scotland might be more co-operative in certain regards? Historically, we have shown that we can work well in a number of areas with different European partners, but I do not think that it would be appropriate for me as a Scottish Government minister to take the political position of attacking the UK Government and its Eurosceptic position on this piece of simple, straightforward and pragmatic legislation, which is simply about asking the devolved Administrations where they want to go.

Your question is more about whether we think that Scotland would be better represented on an independent platform that would ensure that our views on foreign affairs and the European perspective could be expressed directly rather than interpreted or presented in a way that we would not want. Clearly, that would be much simpler and more straightforward.

In the here and now, the Scotland Bill is going through the House of Lords in Westminster, and we want a pragmatic system that improves the limited system that devolution is. We think that ours is a simple, straightforward proposition that gives us an opportunity, at last, to at least try to ensure that our view is an equal part of the UK's view. I am very tempted to make a political comment—and that is what you are inviting me to do—but I do not think that that would be appropriate in giving evidence to the committee at this stage on this issue.

Aileen McLeod: The point that I was trying to make was about whether there should be a change in the relationship between the UK and the

EU. Would it help to strengthen our relationship if we were to put our access to EU Council meetings as part of the UK delegation on a statutory footing?

Fiona Hyslop: Yes, it would, because it would not be on a grace and favour basis. The Scottish Government's amendment would mean that we would still accept the UK line, so we would need to inform and persuade that line—and the earlier we can do so, the better. We cannot wait until we are at the Council of Ministers for a political position to emerge at the last minute, as we might not agree with it. That is the most difficult position of all. I am being realistic: our proposal is a pragmatic, simple amendment that provides a statutory footing for our being part of the delegation.

If we were part of the delegation, it would enable us to take part in the less formal discussions, as it would provide opportunities to take part in bilateral discussions and to be in the same place at the same time as the people we want to do business with. Much of the positive work takes place in bilateral discussions around the formal Council meetings. If we have a statutory right to be there, we can engage with that agenda—and we are quite clear that, under the devolved settlement, that must follow the agreed UK line.

Aileen McLeod: I want finally to ask how the proposal applies to the EU Council working groups. If we had a statutory right to attend the EU Council as part of the UK delegation, how would that strengthen our attendance at Council working groups?

Fiona Hyslop: The question is about two points: attendance and influence. Clearly, if the process was more regular and it was accepted that we were part of the UK's European representation as a right, it would be easier. However, it is not just about being in the room but about having influence.

We are keen to build up Scotland's reputation and to share expertise. For many people, Europe and the European Union are about what they can get out of them. Yes, we want to represent Scotland's interests and to get our fair share, at least, in areas such as common agricultural policy reform, but we also want to be able to contribute. We think we have a lot to give, particularly on the climate change agenda. Our agenda is about what we can offer, not just what we can get.

Jamie McGrigor (Highlands and Islands) (Con): If attendance was placed on a statutory footing for all the regions of the UK, what would be the implications for England, which does not have a devolved Government?

Fiona Hyslop: That is a very interesting question that cuts to the constitutional issue of whether the UK represents the UK or, in some

circumstances, England. The committee has heard evidence that, in certain countries, the federal solution makes the process more straightforward, such as with the Länder in Germany. In other countries, representatives of devolved nations or regions attend and speak at Council meetings.

14:15

The question is for the United Kingdom, and the issue goes beyond that of representation in the EU. Currently, we are the only devolved nation that has an opportunity to put our influence on a statutory basis. Not everybody can speak and not everybody can lead. Under the set-up in Belgium, Flanders might lead on a particular issue. It is remarkable how, despite the instability in the Belgian Government, Belgium has steered through its presidency, with the devolved Governments leading and chairing Council meetings.

We are talking about the art of the possible. We should always remember that, in matters of constitution, international law and politics, we often have to be pragmatic. There are moveable feasts and changing scenarios, and institutions can adapt and adopt. I am sure that the UK Government could do likewise.

Jamie McGrigor: The cabinet secretary mentioned the German system. If that were adopted here, could the Scottish Government foresee a time when its interests were taken forward by a Welsh or Northern Irish minister or, for that matter, an English one?

Fiona Hyslop: As long as we are part of the United Kingdom, it should be a requirement that the strength and abilities of all individual nations be recognised. It is important to recognise that countries have different constitutional constructs and that there cannot necessarily be complete read-across from what applies in one country to another. A federal system is different from the current United Kingdom system.

On the issue of expertise, at the informal council that I attended in Barcelona, I represented the interests of not only Scotland but the United Kingdom. Wales and Northern Ireland have an interest in creative industries. It is perfectly possible for one nation or region to lead, as long as it presents a line that has previously been agreed by everybody.

That is the important point. The issue is not just about sitting in the room and being part of the delegation, although that is important; it is about the work that goes on beforehand to inform the approach. We have a shared agenda: Wales and Northern Ireland completely agree on what needs to be improved.

We want to be part of delegations and to lead them on certain issues. On fisheries, for example, Richard Lochhead is clearly the most experienced of all the devolved nations' ministers. On other issues, other countries might be able to lead.

Jamie McGrigor: Do you have evidence of that?

Fiona Hyslop: He is experienced in that he has been a fisheries minister for considerably longer than the other ministers that currently hold that brief.

Annabelle Ewing (Mid Scotland and Fife) (SNP): When we took evidence last Tuesday, two points arose that would benefit from clarification from the cabinet secretary on behalf of the Scottish Government.

First, it seems clear—to some committee members, at any rate—that, in the areas that are prioritised as being of interest to Scotland, our officials should have the opportunity to participate in Council working groups, given the importance of getting in at the right stage. Usually in the EU, the earlier we are involved, the better.

The second issue relates to officials more generally. One of the people who kindly came to give evidence last week made the point that—I paraphrase—we do not have an adequate civil service in the sense of sufficient numbers of people to enable us to facilitate the policy, should it be adopted. Personally, I feel that that is not the case and that we have expertise across the board. The point that was missed is that it is obvious that we would be selective about what we did. As you said, we would focus on our priorities. Perhaps that is where confusion crept in. Will you comment on those two issues?

Fiona Hyslop: While we remain in the devolved settlement, it is clear that we should focus on the four key areas that we have identified. We might be able to take a lead on other matters—a clear example is minority languages. When Mike Russell spoke Gaelic at a Council meeting, it was the first time that it had been spoken there.

Annabelle Ewing's comment about the role of ministers in working groups is really important. It goes back to the point about informing and shaping policy at the earliest stages before the final agreement in the Council meeting—that is as important as being in the room as part of the delegation.

Under our amendment, new section 58A(1)(a)(ii) of the Scotland Act 1998 would refer to

“another person nominated by the Scottish Ministers”

and would apply to working groups. Officials already work in working groups, but the amendment would put on a statutory footing not

just attendance in the council chamber but other activity, on which it is clear that we have a lot to offer. It is important to recognise that we have expertise in the Scottish Government that can inform the work of my colleagues in Brussels and their connections—we are quite capable of that.

The intention is to influence policy. One of the most frustrating aspects of the Council meeting that I attended was just sitting beside Jim Knight—who, to be fair, said that I was there—while the Spanish minister, a representative from a devolved autonomous region of Spain and people from the German Länder all spoke. The meeting was about education, teaching and the quality of teachers. Everybody was bemoaning the quality of teachers and was looking for opportunities to attract better-quality teachers into their systems.

The Scottish experience was completely different, because we were attracting good-quality teachers who were recognised for their status and ability. However, while I sat beside Jim Knight, I could not say a word, although a request was going round all 27 EU members for suggestions and input on how to improve systems. Scotland had something distinct, unique and constructive to offer, but I was behind not only Jim Knight—the minister—but an official. That brought home to me how important it is to be able to exert an influence.

Annabelle Ewing's point was about working groups and not just about attendance in the council chamber. Working groups are part of the amendment, too.

Hanzala Malik (Glasgow) (Lab): I am pleased in a way, but I am concerned by Jamie McGrigor's point about representing English interests. When we look for people to represent the Scottish interest, it happens to be a British interest, too, so that takes care of that issue.

My concern is that looking for partners or friends to assist us means that we have no direct input, but direct control is important. I do not want us to expect others to assist us to represent our own interest. It is crucial that we represent our interest.

We look for allies, friends and the rest of the UK to support what we try to achieve but, particularly as the European Union has changed so much since its establishment, we really need to look at the issue. The demands on the Parliament now are far greater than the historical demands on Scottish politicians. The goalposts have moved and the aspirations have changed, so the demands on Scottish elected members are greater. We therefore look for direct representation—that is absolutely critical. Whatever vehicle we have to achieve that should be used.

Fiona Hyslop: I completely agree with those sentiments. It shows how far things have

evolved—not only for those of us who have argued for direct representation for a long time but for those who are realising now that direct representation is critical.

I am afraid that, to an extent, what I am presenting today is very limited. It is about how to put on a statutory footing our indirect representation. However, physically being in the delegation allows us to have the direct contact that you are talking about. Obviously, we would prefer decision making to be direct. That is one reason why we are calling for more powers in relation to the constitutional question.

The limited areas that we are discussing today are important with regard to, for example, Stewart Stevenson's ability to talk directly to some of the small European countries about climate change at the October meeting of the Council. I think that we have a big story to tell, and I would prefer it if Stewart Stevenson were able to have bilateral discussions with some of the larger countries to try and influence them. That is the difference between trying to improve indirect representation and going for direct representation.

Hanzala Malik: I totally agree, but I am also keen to ensure that, in the delegation, elected representatives are not excluded from a group and officials are. An elected representative is democratically accountable and officials are not. If there is a choice between an elected representative being at a meeting and an official being at a meeting, it is important that it should be the elected representative who participates in the meeting. We could perhaps ensure that a safeguard is put in place so that that happens.

Fiona Hyslop: I believe that you received evidence last week from Michael Aron on that issue. Ordinarily, a UK secretary of state sits in the chamber, accompanied by an official. However, there have been cases in which the secretary of state has left and, because of the positioning of seats in the chamber, their position has been filled by an official. That is a concern that we have.

Michael Aron made a good point when he said that it was worth making it clear that, when a minister is present, they should have precedence over any civil servant in representing the UK. UK ministers should have no problem with that, if the work has been done beforehand to agree the parameters for the presentation of the UK position. If things are working well right from the start, it should not be an issue. It is important to bear in mind the issue of whether it is ever acceptable for the UK to be represented only by officials when an elected member—whether they are from Wales, Northern Ireland or Scotland—is present.

Bill Kidd (Glasgow Anniesland) (SNP): Last week, Hanzala Malik raised an issue with Sir

David Edward about representation of the Scottish people by the Scottish Parliament on European issues. Sir David said, basically, that we do not have the resources, numbers or expertise within our civil service to deal with European issues without the help of

“the vast number of civil servants in London who deal with nothing but EU issues.” —[*Official Report, European and External Relations Committee*, 25 October 2011; c 127.]

When our ministers go to the European Union, do they take their own civil servants with them? Do our civil servants operate separately from the UK civil servants when they advise the cabinet secretary or minister? If one of our ministers is speaking there, is it necessary for them to have experts from their own department, or do they operate only through Westminster civil servants?

14:30

Fiona Hyslop: I will try to set out what happens. If we were part of a statutory delegation, that would be fine because we would be informed right from the start of the process by colleagues in the Brussels office who have particular interests, expertise and access. However, the fact is that we are also supported by Scottish Government experts in the civil service. For example, when Stewart Stevenson tries to inform and develop the UK position, he is supported by a raft of Scottish civil servants who quite clearly have international expertise in a lot of what they are doing.

I do not know whether Bill Kidd was asking about this, but if we were leading a UK delegation, the UK position would have been informed and developed by everyone including the UK Government, Northern Ireland, Wales and Scotland, and would be presented as such. In the devolved context, we would expect—and, indeed, would be entitled—to be supported by the existing UK machinery, which would include UKREP.

I do not know the timeframe with regard to Sir David Edward's experience of these matters but, reflecting on Hanzala Malik's comments, I simply point out that we have had a devolved settlement in Scotland since 1999. Everyone's experience of and expertise in international and, in particular, EU matters have grown considerably in that time. As cabinet secretary for external affairs, I believe that part of my responsibility is to ensure that European capability across ministerial portfolios and across the civil service is not only enhanced but is constantly improving. After all, on subsidiarity, codecision making and other such issues, the Parliament must face the same decisions about how to improve the institution's capacity and capability to meet evolving situations.

I do not want to pretend that that was Sir David Edward's perspective on the situation, but I

reassure the member that we have the capacity and capability now. With regard to the proposed amendment, which relates to the UK context and to devolution, we will be able to mobilise whatever resources we need in the UK.

However, I have no reservations about our expertise in areas such as energy and marine matters. In those respects, we are a match for many of the landlocked countries in Europe that can influence things and which speak and make decisions at European Council level. Despite being bordered by so much water and having so much coastline and so much access to those resources, we still cannot make decisions or influence matters. The proposed amendment represents a very pragmatic simple step within the devolution settlement and is about making devolution stronger. Rejection of any move to strengthen devolution must raise questions about the alternatives: for some of us, the alternatives are quite clear. Nevertheless, I am trying to be helpful and improve the current devolution settlement.

Bill Kidd: That clears things up. Thank you very much.

Aileen McLeod: You mentioned our attendance at, and participation in, Council working groups. Given that a lot of the nuts and bolts of European legislation are discussed and agreed by the European Commission's comitology committees, has the Government considered placing official attendance at their meetings on a statutory footing?

Fiona Hyslop: The idea behind proposed new section 58A(1)(a)(ii) of the 1998 act, as would be inserted by subsection (2) of our amendment, is to allow someone else to be nominated to be present at

“proceedings of an EU institution”

that any minister might be expected to attend. Of course, that fairly broad reference could also include the Commission's comitology committees.

Jamie McGrigor: Last week I asked David Crawley whether setting such things in statute would encourage better participation. He replied:

“My instinct is that such things being set in statute would not help at all because that would stratify and formalise relations and it would allow Whitehall to hide behind a formal structure.” —[*Official Report, European and External Relations Committee*, 25 October 2011; c 115.]

In a nutshell, instead of their having been discussed beforehand in order to formulate a one-line position for the UK, arguments might break out between different regions of the UK in Brussels. Does the Scottish Government foresee any disadvantages to placing representation at all EU proceedings on a statutory footing?

Fiona Hyslop: There are advantages. This comes back to my answer to the first question, which is that things could be better than they are now. The question is whether they could be worse in terms of the UK Government's attitude, if Whitehall was to behave in the way that Mr Crawley described. That suggestion was a slur on Whitehall officials; it was a strange thing to say, although perhaps Mr Crawley has had experience that I have not had.

Individual relationships are all conducted on the basis of grace and favour. I do not know whether I got Chris Huhne into trouble when I complimented him on how he has acted. By no means are all areas the same.

You say that arguments might happen at a late stage in the chamber as a result of representation being set in statute. Arguments have happened under the current system—which does not have statutory footing—because, as you pointed out, the devolved Administrations were not involved early. A minister from one of the other devolved Administrations remarked on that to me recently, although I will spare their blushes and will not say who it was. One of that minister's concerns was that they do not want to wait until the last minute to have the discussions. The point about the statutory footing is that a Scotland delegation would be able to contribute far more constructively because the machinery would exist for it to do so.

On any Whitehall machinations, I need to be careful because my officials are here to support me, but if you are trying to say that Whitehall officials would have a separate agenda to try to suffocate the voices—

Jamie McGrigor: I am not trying to say that.

Fiona Hyslop: That was my interpretation. I have some concerns about the matter. I should perhaps ask the UK Government to read David Crawley's evidence to see whether he is aware of something of which I, too, should be aware.

Jamie McGrigor: My concern was that the hypothetical scenario that he outlined could happen.

Fiona Hyslop: That is always a difficulty. It is a bit like Aileen McLeod's initial question. Hypothetical political behaviours are a matter of forecasting; it is not wise to do that when we must deal with the practicalities of the here and now.

Do I think that Whitehall would pull up the drawbridges because of an issue of statute? I do not think so, because there is the rest of the machinery, including the joint ministerial committee. We have different political parties in different Governments in different parts of the UK, so the mechanics and the system become more important. We have seen that in the JMC and I

think it would be the same in this situation. We can make the system better. If officials want to cloud the issue and not co-operate, they can do that in many different guises. They do not—dare I say it?—need legislation to protect them.

My view and that of the officials with whom I have worked is that Whitehall is becoming increasingly aware of devolution. It took some time for Whitehall to discover devolution, possibly because for the first eight or nine years of devolution the same party was in power in Scotland and in England. That might be due to institutional inertia as opposed to its being a political issue. I would want to support Whitehall officials in taking forward the European agenda and how they work with other nations and I do not want to be led into saying anything particularly negative about them. In opposition to your witness's pessimistic view in evidence last week, I am optimistic about how Whitehall officials would operate within statute.

Helen Eadie: Does the Scottish Government foresee a need to increase the capacity of the Scottish civil service to accommodate and facilitate all the implications of the Scottish Government proposed amendment's being successful? Has the Scottish Government set aside budget provision for that?

Fiona Hyslop: We have that capability just now. What we are proposing to do is to put on a statutory footing what happens occasionally in terms of representation and participation in delegations. We try to participate in as many delegations as possible—I think that we have provided the committee with information on that. It is about ensuring that we can always have a minister there if we want one. We would simply formalise the approach by making statutory provision for ministers and officials to attend working groups and council meetings by right and by law.

We are already working on all policy areas, as we need to do if we are to present Scotland's interests. Civil servants are working hard in Scotland's economic interests on energy security, on climate change, on fisheries, on agriculture, on marine policy, on structural change and on the financial framework and new funds, such as horizon 2020. I am not talking just about civil servants in Brussels whose experience, advice and guidance in the context of their access to UKREP delegations and to other countries are important. We should not underestimate the importance of having people in Scotland who are familiar with, and are working on, European issues across portfolios, as has been the case for some time.

Justice is a good example of an area in which such work is happening. The United Kingdom is

unique in that it is the only member state that has two separate legal systems. Whether we are talking about transposition or interpretation of legislation, we must constantly ensure that Scotland's voice is heard. When we consider the priority that is given to different councils, the fact that we have two separate justice systems in the United Kingdom means that it is essential that officials in Scotland are well versed in how they can work with the European Union, and that Whitehall officials are conscious of the scenario, too. That takes me back to Jamie McGrigor's point. Precisely because of that scenario, I think that Ministry of Justice officials probably are, and have been for many years, more aware of the devolved situation than are other departments. We can try to work with Whitehall so that it becomes more aware of Scottish needs, which is important when we are considering transposition of legislation, for example.

Helen Eadie: I agree with the thrust of what you are saying, but my experience of the practicalities has been totally different. The Health and Sport Committee in the previous session considered cross-border healthcare, and it was clear that there was not the Scottish input that there should have been.

Given the 5 per cent cut in your budget, there is—at the very least—a question in my mind about whether you have the capacity that you need. You and I know that policy makers are only as good as the teams behind them. If a policy maker has a first-class team, who are conversant with all the issues, they will make the mark that they want to make. However, I am afraid that it will become increasingly difficult for you to do that against the background of the real-terms cut in your budget.

Fiona Hyslop: We will talk about the budget shortly. In my overall portfolio—culture and external affairs—I have protected some of the work on Europe and external affairs and the reduction is only 1.2 per cent, so your concern is not borne out by the figures.

Capacity in relation to healthcare is a challenge. Given that we have a separate justice system, it can be easier to get our view on justice matters recognised in the European council context than it is to get the devolved healthcare arena recognised. That is one of the biggest challenges in working not just in the European Union but in the United Kingdom. Some of the most challenging areas are the ones that are clearly devolved.

Helen Eadie has experience on cross-border healthcare; I know that she has raised the issue on a number of occasions. Perhaps she is arguing the case for the amendment's being agreed to, so that everyone formally recognises the devolved Administrations' interest in healthcare, whether we

are talking about Wales or Scotland. Perhaps we should look more closely at what you said about cross-border healthcare, which might provide a good argument for strengthening Scotland's involvement.

14:45

Helen Eadie: At the time, we did not seem to have the capacity to put the consultation responses in timeously, which I was concerned about. The reality was that we could have signed a major blank cheque for Scotland because we had not responded appropriately at the right time. Luckily, things worked out because it was agreed at European level that prior authority would be necessary, but that was only because a lot of work was done by many of us to ensure that the right views were expressed.

Fiona Hyslop: Clearly, it is Parliament's role to work together with Government on policy areas according to Parliament's priorities. If we consider health, its capacity has been protected in the Scottish budget. I suppose that the challenge is the journey that we must all take to ensure that across Government portfolios including health, education, justice—the journey is probably more advanced there—and other areas, our capacity in Scotland is focused on what we do, not just in the Scottish Government or United Kingdom context but in the European Union context. I have worked with civil servants to try to build that capacity. We can constantly improve it, but I would not worry about it in terms of the budget.

On the issues that Helen Eadie identified, the national health service budget has been protected in the Scottish Government's proposal, and international relations—which the committee is about to move on to—has been protected in relative terms compared with other areas of my budget. I hope that I have reassured the committee on that point.

The Convener: We will get on to the budget after Annabelle Ewing asks the final question on this matter.

Annabelle Ewing: The question will be short and sweet.

Fiona Hyslop: I will just add that the committee should remember that the civil service budget is dealt with separately. A lot of what the committee is discussing is about the capacities of individual skilled professionals in the civil service. Some of that will obviously impact on my budget area with regard to who we can have in certain offices to ensure that we can support and maintain our European presence. The bulk of what the committee is talking about, though, is the civil service budget for departments such as health in

Scotland, as opposed to budgets for offices in Brussels.

Annabelle Ewing: On that point, I was going to add that your budget is yours and that the civil servants who work in the energy directorate and all the rest of it are part of other budgets that are not really linked to it. However, I would have thought that the budgetary implication for your department would be in additional journeys to Brussels, as would be the case for other departments. We have established that we have the expertise, because we would have a prioritised approach to what Scotland's interests would be.

On the threat of Westminster's not playing ball, such threats having any validity—I do not know whether Jamie McGrigor knows more about this than I do—would be precisely the reason why European representation should be put on a statutory footing. Professor Cram put it in a nutshell when she said that, in her view, the Scottish Government is seeking to move the burden of proof so that instead of the Scottish Government's having to justify its participation in UK delegations to Europe, it would be for Whitehall to justify not having the Scottish Government's participation. Does the cabinet secretary agree? I imagine that there would, in that context, be case-by-case flexibility in respect of areas in which the Scottish Government might feel that it was appropriate not to participate.

Fiona Hyslop: Absolutely. For me, that final point is the crunch issue. Despite the good will of the current Foreign Secretary, William Hague, in encouraging all his Cabinet colleagues to agree to our requests to attend delegations and, if they do not do so, to explain why not, that does not happen. We still have the same situation, which was particularly worrying when David Cameron was brought in for the fisheries issue; there is no reason why he should be brought in for an issue such as that. The nub of the issue is that with regard to the Scottish Government's participation in delegations, the question should be "Why not?" rather than the current "Why?", which means that we have to convince Westminster that there are reasons why we should participate. We would have greater participation through a "Why not?" approach, and our role in delegations could be agreed between the devolved Administrations and the UK Administration, as could the line that we would take, which is most important. In this day and age, it is completely unnecessary that every time that we want to go to Europe as part of a delegation we must send a letter explaining why we want to go.

The Convener: Time is marching on, and that completes this evidence from the cabinet secretary. I will allow a few moments for officials to change over.

Draft Budget 2012-13

14:50

The Convener: Agenda item 3 is scrutiny of the draft budget 2012-13.

I welcome back the cabinet secretary to our second evidence session. I also welcome the new official, Heather Jones, who is the deputy director of the Scottish Government's international division. I believe that the cabinet secretary has a brief opening statement.

Fiona Hyslop: Yes. Thank you for inviting me to set out the Scottish Government's spending plans for 2012-13 in the Europe and external affairs aspect of my portfolio. The spending plans cover Scotland's role in Europe and support for our major events programmes and international relations work overseas, but they do not reflect the Scottish Government's indirect support for those activities through organisations such as VisitScotland, EventScotland the Scottish Qualifications Authority, Highlands and Islands Enterprise, the Scottish Council for Development and Industry and many others. Many of those organisations have substantial budgets to support international work. For example, VisitScotland's international marketing budget for this year is £4.3 million, and the SQA's international work generated income of £0.5 million in 2009-10.

The committee will be aware that, in global terms, the real-terms reduction in the Scottish budget for 2012-13 has required tough decisions to be made across Government, while we have continued to focus on accelerating economic growth and on our commitment to renewables and growing businesses. Our proposed activities in Europe and external affairs strongly reflect that focus.

In the face of the challenge of significant real-terms cuts to Scotland's budget by Westminster, the culture and external affairs portfolio will spend £232.4 million in 2012-13, which is £13.2 million, or 5.4 per cent, less than in 2011-12. Of that, £15.9 million will be spent on Europe and external affairs, which represents a budget cut of 1.2 per cent compared with 2011-12. Overall, the Europe and external affairs budget will continue to promote Scotland's interests and identity at home and abroad, while delivering our economic ambition.

Our budget reduction reflects the economic environment in which we are all operating. Only one budget line—the line for North America—shows an increased allocation. The increase, from £455,000 to £530,000, is to support the newly established office in Toronto.

I have also introduced a new budget line to support Scotland's role as the standing secretariat to the British-Irish Council next year. The British-Irish Council is an international intergovernmental institution that is made up of representatives of the UK Government, the Irish Government, the Scottish Government, the Welsh Government, the Northern Ireland Executive, the States of Guernsey and Jersey and the Isle of Man Government. Following discussions in the early summer, Scotland was successful in attracting the standing secretariat, and the budget will support that.

The budgets for the fresh talent initiative, Scotland's international image and major events are all reduced. That has been achieved largely through efficiencies and shared services. However, the major events budget will be reinstated to support preparations for homecoming in 2014.

Three of the budget lines remain unchanged: international strategy, international development and European strategy. The international development budget is the largest of those at £9 million. That reflects our continued commitment to work in partnership with the developing world and to work against poverty. Since 2007-08, the international development budget has increased by 100 per cent under this Administration.

Scotland has always been an outward-looking nation and the Scottish Government will continue to build on work that is related to Europe and external affairs, despite difficult economic times. We will continue to focus our activity where we have particular expertise to influence the higher ambitions of Scotland, the UK and other member states and to support developing countries.

I am happy to expand on any of those or other themes during the question session.

The Convener: Thank you very much. Before I invite members to ask questions, I will start with a quick one myself.

We got three pieces of evidence from three organisations: the Network of International Development Organisations in Scotland, which is known as NIDOS; the Scottish Catholic International Aid Fund, which is known as SCIAF; and VisitScotland. That was very helpful written evidence to the committee. One key theme of the Scottish Government's budget and of some of the submissions was preventative spending and how it could be articulated through budget headings across the portfolios that you deal with. Will you expand slightly on that?

Fiona Hyslop: Yes. I think that we have to see all budgets in the context of the economic pressures that we have with the cuts from Westminster and the tough times that we face

trying to realign priorities in order to identify preventative spending.

The bulk of our expenditure is obviously on international development. As much as possible of that is about preventative spending. I am not talking about preventative spending for the children of our country in terms of our health education budget, but preventative spending to support many children in other countries. Everybody accepts that in difficult times the selfish thing is to cut international spending. As a country and across the parties in this Parliament, we have to recognise that international spending is important. We are putting preventative spending into action on a global scale through international development funding—I do not know whether I need to explain that further.

In a lot of our international relations, discussion about Scotland always turns to renewables, because of our strength in that area. On the climate change agenda, there is obviously a prevention issue there as well as the adaptation issue that we are trying to tackle.

There is a reason why we have such a strong early years and preventative spending agenda. The previous Education Committee of this Parliament had an early years inquiry—I was a member of that committee, as were Wendy Alexander, Ken Macintosh and Adam Ingram. We travelled to look at work in Sweden and Finland, for example, on early intervention and the importance of the early years. When we were elected to government in 2007, we took that work into our early years framework.

A lot of international relations work might not be obviously preventative, but when items of policy development arise—when you have experience you can share, or, indeed, when you can learn from other countries—our international relations become about not just diplomatic relations around traditional thinking about industry, which is clearly important, but the social dimension, which is probably not heard of as much.

The Convener: Yes. I think that some of the work that gets done in Scotland's schools around citizenship and Scotland's place in the world takes advantage of those key themes.

We have a very short time left—about 13 minutes—so I open up the discussion to questions. Jamie McGrigor was first to catch my eye.

Jamie McGrigor: The budget seems to be falling, in real terms, by about 5 per cent, although it is technically frozen. Is that correct?

Fiona Hyslop: I have responsibility for both culture and external affairs, and you have to look at the budget in the round. The cultural aspects of

my budget are taking a bigger hit by far than the international relations aspects. In that context, Historic Scotland and the National Records of Scotland are shouldering a lot of the burden of the overall reductions in the budget for culture and external affairs. In my work with the committee, I am focusing on external affairs.

Jamie McGrigor: The fresh talent initiative, which is down by nearly 16 per cent in real terms, seems to have taken an extra big hit. Is there any particular reason for that?

Fiona Hyslop: Part of that is to do with reduced marketing, a possible merger of services with the relocation advisory service and more efficiencies. The operation of the UK Government's immigration policy means that some of the fresh talent initiative has been restricted. For example, some of our policy, which aimed to ensure that we could have the brightest and best coming to, living in, working in and staying in Scotland and which was supported on a cross-party basis, has been restricted because of UK Government policies. We might want to spend to attract people to come to live in this country, but the messages that the UK Government is putting out, the policies on visas and the reduction in numbers obviously have a mitigating effect on what we can do with the fresh talent initiative. We have also tried to seek efficiencies on the administrative side.

Helen Eadie: I have a quick supplementary to Jamie McGrigor's question before I move on to my main question. In the past week, I have learned from a case that I have been dealing with that the Home Office has a six-month waiting list for clearing work permits. Were you aware of that?

15:00

Fiona Hyslop: The issue is currently reserved to the UK Government. I had a meeting recently with the Minister of State for Immigration, Damian Green, and we discussed a number of immigration issues. We want talented workers to contribute to the Scottish economy, but there are some real challenges. We have a different demographic in Scotland and our population is ageing at a much faster rate than the population in the rest of the United Kingdom. We are working hard to persuade him of the differences and he will be sending some of his senior officials to Scotland shortly to find out more about the practical difficulties that Scottish businesses are facing.

I am sure that the committee will return to the matter, which has brought together universities, colleges, the Institute of Directors, the Confederation of British Industry and the Convention of Scottish Local Authorities, all of which are united in agreeing that there are real, practical difficulties. Practical examples will help to

influence the UK Government. I know that it is not a budget issue, convener, but I reassure Helen Eadie that we are pursuing the matter.

Helen Eadie: I apologise for the distraction, but I congratulate you on the important work that you are doing. When we have highly skilled, talented young people who want to be in Scotland, it is not good enough to have a six-month waiting list.

In your statement, you commented on your funding strategy and said that you have decided to give more money to work in North America. I heard what you had to say about that approach, but will you expand on it? It means that work in China and India will not get an increase. I am not being critical; I am just asking you to expand on the North America dimension.

Fiona Hyslop: It is a small element—tens of thousands—rather than a large amount. It might look big in percentage terms, but we should remember that the budgets are relatively small in the first place.

We launched our Canada plan on St Andrew's day last year. Your predecessors on the previous European and External Relations Committee were keen that we looked at doing more work with countries that have a Scottish diaspora, which leads to lots of opportunities for tourism but also for business. The model, with the office and operation in Toronto, has brought together Scottish Development International, VisitScotland and the Scottish Government, and you will be interested to hear that we now have a more integrated approach to the way in which Scotland is presented. The additional money is to allow us to have that presence in Toronto. As I said in my opening remarks, the budget is not large, but it will deliver an improvement and it carries forward our commitments in the Canada plan.

We will ensure that we support other areas, too. The issue is that we need the budgetary capacity to do what we want to do. We have the connections with China, which the First Minister will shortly visit again. I have had meetings with senior officials who have come to Scotland, and Vice-Premier Li has also come to Scotland for activities. Although we need to ensure that we have in-country presence, we should not underestimate the capacity to influence by having people come to Scotland as well, and of course inward and outward visits have different costs.

Helen Eadie: Thank you.

Annabelle Ewing: Turning to the international development budget, we are all delighted to see that it has at least been maintained at £9 million, notwithstanding the significant cuts that we are facing in our budget from Westminster—some 12.6 per cent over the period of the spending review. It is a credit to the Government that it has

put its money where its mouth is in relation to the important contribution that Scotland can make to international development.

I raise an issue that NIDOS mentions in the briefing paper that it has supplied to us. Are any efficiency savings assumed in the international development budget for 2012-13? In 2010, NIDOS told the previous committee about the efficiencies that it thought could be taken on board. What thinking has been done on the issue?

Fiona Hyslop: Clearly NIDOS, which we support, is important in terms of how we can improve the capability and capacity of our international development work on both an organisational basis—by working with individual organisations—and a national basis. We are always open to finding efficiencies. The more efficiencies we can get from administration or bureaucracy by any means, the more we can allocate to front-line services. I am not familiar with anything that NIDOS has approached us with so far, but I am happy to hear about that. I suspect that part of it might be about how we administer grant systems. We are moving towards a more regularised system in order to have a bigger lead-in time, which might be a more efficient way of getting grants through the door for everybody. Having a longer lead-in time, rather than a rush for grants later in the year, might be what it is thinking about.

On administration of the international development fund, your question is a bit like Helen Eadie's earlier question about staffing in the civil service, and your own follow-up question. There will not be a staffing resource cost in terms of the international development fund; our whole focus is to ensure that the money goes out the door. I would probably have to hear more from NIDOS, and I am happy to take the issue up with it. If I can respond promptly to you about what it is trying to pursue, I will do so.

Annabelle Ewing: One of the issues that NIDOS mentioned in its paper was the issue that you have touched on: the efficacy of the funding rounds. It is helpful to know that there are different ideas. NIDOS mentioned that it had submitted a paper to this committee's predecessor committee, which I guess is still floating around.

Fiona Hyslop: I met NIDOS not long after I was appointed as cabinet secretary. We discussed these issues, we have taken on board its advice and we are acting on it. We will speak to NIDOS separately to make sure that it is satisfied with the response.

Hanzala Malik: I am concerned about the support that we are lending to small and medium-sized companies in Scotland. One of the issues that was brought to my attention recently relates to

students. Currently just under 13 per cent of all UK-bound students come to Scotland. I am not sure what the British Council is doing to encourage people to come to Scotland for further education, which would obviously support our universities and colleges. That is clearly an immigration issue. In one case that has been brought to my attention, a student was refused a visa on the ground that they had not shopped around. I would probably have shot the officer if I had been there at the time because we do not want people shopping around; we want them to come here. The fact that the fresh talent initiative is no longer in place means that we are competing against Australia, Canada and America, which are now running such schemes. We are disadvantaged to kick off with and we also have the UK Border Agency working against us. The British Council is not assisting us to the level that it perhaps ought to be. How can we support the sector?

Fiona Hyslop: That is a key area. It is becoming harder to attract students to come here because of the current UK Government's policies. The message is going out that we are not as welcoming as we once were. That is a challenge. Having said that, I met Damian Green precisely to discuss education issues and student issues and I tried to reflect some of our concerns. Universities Scotland has provided a very good briefing, which it gave Damian Green recently. That briefing made it quite clear that a disproportionate number of the students who are coming to Scotland to study are studying science, technology, engineering and mathematics, and that many of them are postgraduates. Those are the inventors of the future; they are the scientists who will help to shape the small and medium-sized enterprises and companies that we need. I think that the connection you are making is to ask how we make sure those students can then provide start-up companies. We will provide some evidence on that to Damian Green's officials when they come to Scotland shortly.

Mike Russell, the Cabinet Secretary for Education and Lifelong Learning, is about to go to India, where he will meet higher education ministers. There is to be a big conference or convention to try to attract students to Scotland. However, it is a challenge. Some of the spend on international relations helps to support that work, and Mike Russell's department will provide some of the funding for the visit.

That is part of the agenda of encouraging people to do business in Scotland, which is not without its challenges. Many of the issues are policy ones. I know that there are strong views across the political parties on the Home Office and the UKBA. We are trying to work constructively. We have provided proposals and suggestions to

try to ensure that, for example, the inventors of the future can work across universities in India—where the opportunities are immense—China and Scotland.

Some of the budget helps to support that work. On scrutiny, there are the usual questions about how much we spend in the area, but a lot of the issues are to do with policy.

Hanzala Malik: I returned from Pakistan last week. One issue that university managers have raised with me is the extreme difficulties with visa applications to the UK Border Agency. I am beginning to get seriously concerned, because the sector needs the most support right now, yet the UK Border Agency consistently fails us and does not allow us to attract students. We are losing students to other countries.

Fiona Hyslop: Australia is a good example of that. It is capitalising on the issue and does aggressive marketing to attract international students. To consider purely the economic aspects, attracting students is an earner for us not only through the income from students, but through the money spent by families who visit. I urge MSPs to share any concrete evidence or case studies with me and Damian Green. We are trying to build up a set of practical examples to make the situation clear.

There is an economic agenda. We can disagree with the UK Government on various issues, but this one is about economic growth. We do not want measures that hamper our economic growth. I emphasise that my recent meeting with Damian Green was the most positive that I have had to date. However, at the end of the day, we do not have the power to make decisions on these issues. The committee might want to do further work on that, separately from its budget scrutiny.

The Convener: The cabinet secretary is pushed for time and we have only a few minutes left, but Bill Kidd and Aileen McLeod both want to ask questions. If we have 30-second questions and answers, the cabinet secretary can be out of here by quarter past 3.

Bill Kidd: This seems to happen to me quite a lot.

I welcome the fact that the majority of the money in the budget is going to international development, but the budget for Scotland's international image seems slightly heftier than the budget for other sectors. I am particularly concerned that the budget for the North America strategy and that for the China and India plans are about a third of the size of Scotland's international image budget. Although Glasgow Anniesland is a great place for people to come to on holiday, it seems that VisitScotland receives more money

than we spend on attracting other forms of industry to Scotland.

Fiona Hyslop: Do not underestimate the importance of tourism to the Scottish economy. I am very supportive of VisitScotland's work, not least in relation to 2012 and 2014, which will bring fantastic opportunities for Scotland. The international image budget also helps to fund the plans for different countries, such as the China plan. That budget covers a wide area. It might be helpful if I followed up this session with an explanation of the international image fund. This is not a value judgment about different countries; much of the important work that we do with countries is funded through that budget.

The Convener: Aileen McLeod is going to give up her question to allow you to get away, cabinet secretary. There are probably a few things that we have not covered because of the tight timescale, so the committee might write to you to get some answers, if you do not mind.

Fiona Hyslop: I would be more than happy to answer any questions.

The Convener: Thank you for coming to the committee. It has been a pleasure to have you here and we hope to have you back in the future.

15:15

Meeting suspended.

15:15

On resuming—

European Elected Members Information Liaison and Exchange

The Convener: Under agenda item 4, the committee will consider the utility of the EMILE network and the Scottish Parliament's participation in that body. We have helpfully been provided with a briefing paper and I invite members to give me their comments, concerns or constructive remarks.

Annabelle Ewing: I agree with the recommendation in point 9.

The Convener: Is the committee agreed?

Members *indicated agreement.*

“Brussels Bulletin”

15:16

The Convener: Agenda item 5 is the “Brussels Bulletin”, which Ian Duncan has very helpfully put together for us. I invite members' comments.

Bill Kidd: On the connecting Europe proposals, budgets are being cut across Europe, so can Ian Duncan give us a wee guide on the suggestions that have been made about where such a significant sum of money could be found for connecting Europe by 2020?

Ian Duncan (Clerk): At the moment, lots of commitments are being made ahead of the full budget negotiations, although many of them are indicative rather than certain. The plan, however, connects with an area that the President of the Commission has flagged up as a priority so it is likely to emerge through discussions as a way of reinvigorating the Europe 2020 strategy and the growth and jobs concept. The plan is deemed to be a way of front loading a lot of the spend while delivering on some of the issues that affect certain member states. You are right to ask where the money will come from. It will come from the future budget, but the reality is that spending will be prioritised in that area. It is likely to be protected, as far as possible, in the discussions ahead.

Hanzala Malik: We are almost looking at the proposal hypothetically. I know that if the presidency wants to pursue it, the likelihood is that it will happen and funds will be made available to a greater, rather than a lesser, degree. Nonetheless, we need to be cautious about how far we commit ourselves in case there is a shortfall, so we do not find ourselves short.

Ian Duncan: You are quite right. It is important to note the last paragraph, which states that there will be a pilot phase for the project that will run through to 2012. That money will be real money, since it is coming from the current budget settlement. That will be the beginning of the process, rather than the end.

The Convener: The last section is about bees, which are an important aspect of the health of the world, never mind of our nation. Could Lord Davies head up the UK delegation to the Commission on the issue of bee health?

Ian Duncan: I think, unfortunately, Lord Davies demitted office when the previous Government lost the election. There will be a new minister responsible for bees.

The Convener: Okay, thank you. Does the committee agree to send the “Brussels Bulletin” to the relevant committees for their consideration?

Members *indicated agreement.*

The Convener: Thank you. I thank Ian Duncan for another "Brussels Bulletin".

We now move to agenda item 6, which we agreed to take in private. I thank everyone for their attendance at the committee today. We will now clear the public gallery.

15:19

Meeting continued in private until 15:45.

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