



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

Monday 20 February 2012

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EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

4th Meeting 2012, 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:

Colin Keir (Edinburgh Western) (SNP) (Committee Substitute)

David Lidington MP (Minister of State, Foreign and Commonwealth Office)

CLERK TO THE COMMITTEE

Ian Duncan

LOCATION

Committee Room 2

Scottish Parliament

European and External Relations Committee

Monday 20 February 2012

[The Convener *opened the meeting at 11:34*]

Decision on Taking Business in Private

The Convener (Christina McKelvie): I welcome you all to the fourth meeting in 2012 of the European and External Relations Committee. If you have any mobile phones or electronic devices with you, please ensure that they are switched off.

We have received apologies from Annabelle Ewing, who could not make it along this morning. Her substitute, Colin Keir, is here and I welcome him to the committee. We have also received apologies from Helen Eadie, who is unwell and is unable to join us. Jamie McGrigor is on his way and should be here as soon as he gets through the traffic.

Agenda item 1 is a decision on whether to take item 3 in private. It is normal procedure for us to consider the evidence that we have received in private. Is that agreed?

Members *indicated agreement.*

Euro Zone Developments

11:36

The Convener: The second item on our agenda is an evidence session for the committee's inquiry into recent developments in the euro zone, particularly in relation to the December 2011 European Council and the resultant fiscal compact. I warmly welcome the Rt Hon David Lidington MP, the minister of state for Europe and NATO at the Foreign and Commonwealth Office, and his officials: Aidan Liddle, the deputy head of the Europe directorate (internal), and Chris Flatt, the deputy director of the corporate and constitutional division of the Scotland Office. I invite the minister to make an opening statement.

David Lidington MP (Minister of State, Foreign and Commonwealth Office): Thank you very much for inviting me to give evidence here today. The United Kingdom Government values the close co-operation of all three devolved Administrations, including the Scottish Government, in the development and implementation of European Union policy. One part of my role, as minister of state for Europe, is to ensure that the interests and views of the devolved Administrations are taken into account both in the formulation of the United Kingdom EU policy and in negotiations with our EU partners where issues relating to devolved policy are concerned.

To that end, I work closely with my counterparts in the three devolved Administrations. I believe that the Government has listened to the concerns that have been raised by the devolved Administrations during our 20 months in office and that we have acted to improve the working practices that we inherited. That has led, in general, to a better approach on issues such as devolved Administration attendance and speaking rights at EU councils and on getting devolved Administrations involved at an early stage in the development of policies that relate to their responsibilities. I look forward to discussing with the committee, during this morning's session, how those processes work.

Co-operation at ministerial level has to be mirrored at official level, and officials from the United Kingdom and devolved Administrations work closely together, both in the United Kingdom and in Brussels, to ensure that all parts of the United Kingdom receive the best possible deal in European negotiations. On the basis of my 20 months in the job so far, I think that the UK Government and the devolved Administrations work well together and that we do a good job of advancing and protecting the interests of people and businesses in every part of the UK. Whether

the issue is the financial services sector, which matters so much to the city of Edinburgh, or fisheries, which are the livelihood of many communities all around the coasts of Scotland and the wider UK, I am convinced that we are stronger in Europe when we are able to work successfully together.

Having said that, I acknowledge that that is work in progress. Even at the most recent joint ministerial committee on Europe, ideas were being debated as to how we can improve our mutual co-operation, and I am open to suggestions of how we can do that successfully. I will try to answer your questions as best I can, convener, and I will listen to any concerns that you and the members of the committee wish to raise.

The Convener: Thank you very much for that opening statement. I welcome the work in progress, as you describe it, and the work that the joint ministerial committee on Europe is doing. You will understand that we have strong views on certain aspects of Europe, which we try to assert in the best possible way. I am glad that that is a positive relationship for all of us.

I will ask the opening question. What implications has the decision that the Prime Minister took in December had for the UK as a whole, for Scotland in particular and for relationships with Europe?

David Lidington: That is a broad question. I think that the Prime Minister was right to take the decision that he did on 9 December. He had gone into the meeting willing to agree to a European treaty, agreed by all 27 member states, that would become part of primary European law, but he had always made it clear publicly that his agreement to that was contingent upon certain safeguards being met. Those were not available for various reasons, as some other countries made it clear that they were not prepared to accept the safeguards that the Prime Minister was seeking.

The consequence of that is that we now have a treaty that is intergovernmental in character, which binds in international but not in European law the countries that have chosen to be parties to the treaty, but which does not have application to the United Kingdom and does not have force in European law.

What I have found striking about where that leaves us as the United Kingdom and Scotland, in particular, in terms of relationships with the European Union, is that after what was admittedly a bumpy few days after 9 December, when people were a bit disappointed by the immediate outcome as they had hoped for a full-scale European treaty amendment, a very energetic sense has come from our partners of their wish to ensure that we remain key players in the European Union.

Chancellor Merkel said that publicly, as did Prime Minister Monti when he was in London; President Sarkozy also made it clear as recently as last Friday, at the summit in Paris. I have certainly had that type of conversation with ministers from a number of other EU countries since 9 December.

When it comes to individual sectoral council meetings, the foreign affairs council or the general affairs council, which I attend, I have not noticed a difference. There have not been grudges. The other UK ministers to whom I have spoken say that they have not encountered difficulties or obstacles at sectoral council meetings as a result of the decision that we took at the December European Council.

Whether one looks at the agreement that was reached at the foreign affairs council on further sanctions against Iran and against Syria, or at the way in which the Chancellor of the Exchequer is making progress in what is often a difficult negotiation over financial services regulation, business is continuing very much as normal and there is an acceptance that, on this issue, the United Kingdom has chosen not to take part. Different EU countries co-operate more closely together in a number of ways without it binding the entire 27-strong membership.

The Convener: Thank you for those comments. There has been some consternation about the lack of a risk assessment before the decision was taken to use the veto and the lack of consultation with the devolved Administrations. Can you give the committee some clarity on that? Was a risk assessment done? If so, what was the result? If a risk assessment was not done, what was the reason for that?

David Lidington: I will put the situation in context. The history of this is that it became clear by about the October European Council that our partners, particularly those who are members of the euro zone, would be seeking further measures to strengthen the economic and fiscal integration of the euro zone; in principle, the United Kingdom Government accepts that that is logical in terms of economics. At the October European Council, there was talk of that involving "limited treaty change". That is the phrase that was used and President Van Rompuy was asked to come back in December with some more concrete proposals.

11:45

The Prime Minister had made it clear as far back as October and other British ministers, including myself, had made it clear in bilateral conversations and at Council meetings that if there were to be a treaty change binding in European law the UK would ask for certain safeguards to ensure that the interests of all 27 member states,

whether they were in or out of the euro, were properly protected. The Prime Minister also made that clear in greater detail to Chancellor Merkel and President Sarkozy in bilaterals at the end of November and the beginning of December.

However, we did not see the detail of the proposals until very shortly before the Council. On Monday 5 December, Herman Van Rompuy outlined his ideas to the general affairs council, which I attended; he published his report the following day, Tuesday 6 December; and on Wednesday 7 December, Chancellor Merkel and President Sarkozy sent a letter to Van Rompuy setting out a different set of proposals. Until that letter was sent out, we did not see the detail of what was being proposed.

With regard to risk assessment, there were certainly discussions at the top of Government, involving, in particular, the Prime Minister, the Deputy Prime Minister, the Foreign Secretary and the Chancellor of the Exchequer, on the best option for the UK. We looked at various contingencies—for example, an agreement among the 27 or an intergovernmental agreement of some sort—and the sort of safeguards that we would wish for if we were to agree to a treaty at 27. However, ministers always kept it clearly in mind that, until we knew the detail of what was proposed—which, as I have said, was only on 7 December—we could not calibrate exactly what we would be seeking from a range of possible safeguards.

As for consultation with the devolved Administrations, on 21 November the Foreign Secretary chaired a meeting of the joint ministerial committee on Europe at which, as the minutes show, he said that the agenda for the December European Council would include the possibility of treaty change. As a result, it was very clearly flagged up to the devolved Administrations that the issue would be on the agenda, and it was open to them either at that point or more realistically over the following weeks to make their views and concerns known to the appropriate officials and ministers in the UK Government.

The decision on 9 December was taken at what amounted to a nine-hour meeting involving only heads of state and Government in the room with occasional comfort breaks. I should stress that the choreography of the meeting was such that no other officials or ministers from any country were present. Officials can go into such meetings to pass a note or take a note out but they are allowed to stay in the room for only a very limited time. The Prime Minister had to deal with what was tabled and what was happening at that meeting, and we asked for safeguards to ensure that the interests of all 27 member states were protected, including general safeguards on the single market and

some particular asks with regard to financial services.

In the end, the Prime Minister felt that it was not in our national interest to agree to a treaty that would form part of the corpus of European primary law. His reason, which I firmly support, was that a treaty involving 27 member states would have imported into the body of European primary law the objective of greater fiscal and economic integration in the euro zone.

That would not have meant an overnight transformation in the way in which the European Union did business, but over time there would inevitably have been a greater risk that the way in which the Commission, the Court and other member states prioritised work—in particular legislative measures—would have regard to that priority of integration in the euro zone and balance it against other European Union objectives, notably, from our point of view, the single European market. We made our specific request for safeguards in order to ensure that we could ring fence the euro zone-specific issues and, when it came to the setting of EU priorities, not have them impinge upon single market matters. As we know, others were not prepared that evening to accept what we were asking for and preferred to go ahead with a treaty of fewer than 27, which is not a treaty in European law, rather than to agree to what we were seeking.

The Convener: Okay. Committee members will want to respond on a few of those issues. I bring in Dr Aileen McLeod first.

Aileen McLeod (South Scotland) (SNP): Thank you, convener. Good morning, minister, and thank you for coming to our committee.

The key route for the moment for Scotland to be able to protect or advance our legitimate EU policy-related interests is through the UK Government as the member state. In addition, the informal memorandum of understanding and the associated EU concordat make it clear that the relationship between the UK Government and the devolved Administrations when it comes to the formulation of the UK position on EU matters will be one of good communication, co-operation and open information exchange. Further, I thought that the point of the 1999 concordats was to ensure that there was an element of no surprises and a relationship of trust between London and the devolved Administrations. I would certainly welcome the minister's views on the concerns that have been raised by the First Minister, our Cabinet Secretary for Culture and External Affairs and the Welsh First Minister regarding the lack of consultation with the devolved Administrations about the use of the veto.

When the cabinet secretary came before our committee, she told us that at the meeting of the joint ministerial committee on Europe prior to the December meeting of the European Council,

“the Foreign Secretary gave no indication that the UK was considering using a veto in any shape or form.”—[*Official Report, European and External Relations Committee*, 7 February 2012; c 352.]

and that since then the UK Government had ignored a joint request from the First Minister of Scotland and the Welsh First Minister on 21 December to hold an urgent joint ministerial committee meeting. In that regard, I note that paragraph A1.8 of the memorandum of understanding states:

“Meetings of the JMC ... will be held at the request of the UK Government or any of the devolved administrations.”

David Lidington: Thank you. I do not want to pick a quarrel with the cabinet secretary, with whom I have some disagreements from time to time but with whom I hope I enjoy normally a good working relationship. However, I want to make it clear first of all that, at the JMCE meeting on 21 November, the Foreign Secretary made it very clear in what he said that the question of treaty change was likely to be on the agenda. He did not say what the position of the United Kingdom was likely to be, because at that stage we had no text in front of us, as I have already explained.

At any stage from that meeting up until 9 December, when the European Council began, it was open for any of the devolved Administrations to make representations about the content of treaty change or the handling of proposed treaty change. My understanding is that they did not do so. The Prime Minister made clear in the House of Commons in the days immediately preceding 9 December—if my memory is correct, it was at Prime Minister’s questions on Wednesday 7 December—that the UK would seek safeguards in return for agreement to a treaty of 27 and that if they were not forthcoming, he would not be willing to agree to such a treaty. Again, that was clearly stated on the record. The opportunity was there for anybody with concerns to make representations.

As I have said, on the night, in a long meeting with heads of state and Government, we had to deal with things as they arose.

I would politely differ from Dr McLeod on how things were handled subsequently. The UK Government has not breached any of its obligations under the memorandum of understanding. Dr McLeod is right when she says that paragraph A1.8 says that meetings may

“be held at the request of the UK Government or any of the devolved administrations.”

However, it also says that such meetings should be held

“in the appropriate functional guise”.

The functional formats of the joint ministerial committee are defined in paragraph A1.4 of the memorandum of understanding as being the JMCE and the joint ministerial committee domestic.

The memorandum also says, in paragraph A1.6, that the presumption is that when a JMC meeting—involving the Prime Minister and the First Ministers of the three devolved Administrations—is to take place to address a particular policy issue, that issue will go to the JMCE

“only when there is an impasse: i.e. following an unsuccessful bilateral exchange at Ministerial level”.

We tried to find a mutually convenient date in January to have a JMCE meeting closer to 9 December. That proved impossible. We had a meeting at the beginning of February, at which ministers from the devolved Administrations were able to make points of concern about the outcome of the December Council.

What I said at that meeting, which I am happy to repeat to the committee, is that in addition to the normal structured process, in which I make myself available to talk to the devolved ministers ahead of each JMCE meeting, I will similarly make myself available at the time or immediately after the general affairs council preceding a European Council.

Under EU procedure, the general affairs council of Europe ministers has to be the last council meeting that takes place before a European Council—a summit meeting. Often, it is at that GAC meeting that we get the first real detail from President Van Rompuy on how he plans to handle the summit, how he plans to manage the agenda and what weight he wants to give to the different points on that agenda. Given the experience that we had in December, I thought that that might be one way of ensuring that we can build into the system a fairly last-minute formal point of consultation, so that the devolved Administrations, including Scotland, can feel that they really are being listened to seriously.

Aileen McLeod: I welcome that commitment. Would that also apply to informal European councils? I understand that there were some concerns about a lack of consultation before the informal council on 30 January on issues of strategic importance to Scotland.

David Lidington: As far as I am concerned, that would apply to informal councils when a general affairs council is held shortly beforehand

to consider the agenda and draft conclusions for that council.

In the particular case of January, again, although the draft agenda was made known and shared with the devolved Administrations, it was in an incredibly generalised, almost vague form. It was only at the general affairs council that we really got clarity. As always, there were conversations with Van Rompuy's officials in the run-up to a summit. For a time it was very uncertain whether the summit in January would end up being hijacked by the situation in Greece, the woes of the euro zone more generally or last-minute negotiations on the intergovernmental treaty.

It was only at the GAC that President Van Rompuy said that he was determined that that was not going to happen, that he wanted the meeting to be about growth and that that was how he intended to choreograph the day. I hope that having that post-GAC point of contact will address the concern that Dr McLeod has raised.

12:00

Aileen McLeod: We have talked about ministerial to ministerial contacts, but I am also interested in how we can make improvements at official level. Do you see any merit in reinstating the regular Friday meetings that involved the head of the Cabinet's European secretariat, the UK ambassador to the EU and officials from the devolved Governments? Those were the so-called Darroch-Cunliffe meetings, which have since been called the Cunliffe-Rogers meetings and which officials from the devolved Administrations attended between 2000 and 2008.

David Lidington: The straight answer to Dr McLeod on that point is no. We regard the Darroch-Cunliffe meetings as official preparatory meetings for the United Kingdom Government. I hope that the senior UK officials from the various departments who attend the Darroch-Cunliffe meetings come to those meetings having been fully briefed on and having taken into account the particular interests of the devolved Administrations. The way in which the system ought to work is that there should be seamless contact and conversation between officials who work for the Scottish Administration and officials in UK Government departments so that senior UK officials and ministers always come to the table with that understanding in mind.

I suspect that, if the committee were to examine the issue department by department, it would probably find that the quality of those relationships varies a bit across Whitehall. One step that we are taking to improve the situation is about upstream engagement. It has long been my view that the UK

has not been good enough at getting in early with the Commission and with the Governments of other member states when ideas are first kicked around. It is too late to wait until a draft directive or regulation appears, because that will already be the product of a quiet bit of political horse-trading behind the scenes. We have to get in when ideas are being discussed at the directorate-general level in an individual Commission cabinet or in a key member state Government.

Therefore, we have set in place a system in which, every six months, each secretary of state in Whitehall has to send to the Foreign Secretary a formal written report explaining their key objectives and the key risks in relation to EU policy for the forthcoming half year. Our template for the departments states that each secretary of state should ensure that his or her department consults the devolved Administrations before the return is submitted. When the returns come in, a summary is prepared to give us a pan-Whitehall view that summarises each department's main concerns. That is then shared with the three devolved Administrations so that they have an idea and can chip in if they are not satisfied with something.

Aileen McLeod: Thank you. As someone who spent five years working in the European Parliament, I understand the issues. The system that you describe seems a good way forward.

The Convener: The ethos of our committee is to try and get in early, too, so we are on the same page on that one.

Jamie McGrigor (Highlands and Islands) (Con): I apologise for not being here at the start of the meeting.

I have questions about recent euro zone events. Some might say that Greece and Italy no longer have democratically elected Governments, because they have had technocracies forced on them by economic realities. That has happened since those two countries adopted the euro. To what extent has that been the problem and how do we prevent the situation from ever happening in the UK?

David Lidington: Mr McGrigor is certainly accurate in that the Administrations in Greece and Italy are led by technocrats, although of course the Greek Government, apart from the Prime Minister, is largely made up of elected politicians, whereas the Italian Government is entirely technocratic. Both Governments were appointed constitutionally—that is to say, in accordance with the laws and constitutions of Italy and Greece respectively—and I do not think that it would be right for a British minister to second-guess the constitutional arrangements in those two countries.

When I have listened to Prime Minister Monti and have talked to my Italian opposite number, they have made it clear that they have to get all their legislative reforms through the Italian Parliament, in which the political blocks dominate, so the politicians are still involved. Signor Monti has always made it clear that his term lasts until the end date of the current session of the Italian Parliament in 2013 and no longer. The Greeks are talking about the date of their election. As far as I can tell from the reports that I have seen, the debate is not about deferring an election beyond the constitutional end point in 2013; it is about at what point between now and then the poll should be held.

I think that Mr McGrigor is right that both countries have got into serious difficulties because of what has happened with the public finances, particularly in Greece's case, but also because of structural flaws in the euro. One reason why I have always opposed the United Kingdom joining the euro is that I feel that if we had a single monetary policy, a single interest rate and a single currency, logically we would need to have very tightly integrated fiscal and economic policy which, in turn, would mean that we would have to centralise in some fashion some of the key political decisions about economic policy. That is the only way in which I could see the single currency holding together.

The euro zone is now following that economic logic towards greater integration, which is throwing up very big political challenges for all the euro zone countries in different ways, with the electorates of each of those countries expecting their ministers to act in their national interest. It is for the euro zone countries to work out the way forward.

I have made it clear that I am an opponent of British entry to the euro, but I think that, over the years, we in the UK have often underestimated the willingness not just of political elites but of electorates in much of continental Europe to buy into the project and the ideal of European unity. The reasons for that are to do with history and culture—historically, their experiences have been different from ours.

As far as lessons for the UK are concerned, my answer is twofold. First, we should try to keep our public finances in order. When we had to get a bail-out from the International Monetary Fund in the 1970s, we found that the economic freedom of the British Government was severely constrained by the need to please its creditors. Secondly, we should stay out of the euro and keep our own currency.

Jamie McGrigor: That brings me to my second question. Does the minister think that the repayment of only 30 per cent of Greek debt to

investors—who are presumably rather disappointed—can lead to sustainable investment in Greece to the extent that it will be able to recover its economic equilibrium?

David Lidington: We must see what emerges from the euro zone meeting later today. It is important that a way is found of dealing with the problem of Greek debt. Everyone has recognised that the current levels of debt are not sustainable and will not be repaid. What is key for Greece is reforms that will help to deliver economic growth and job creation. What comes up when British businesses are asked about the prospect of investing in Greece is the complexity of regulation and of the tax system there, and the very large number of professions and occupations into which Greek law restricts entry in some way. Changing those aspects will be critical. Greece needs to grow its private sector and its exports. Getting its finances under control is necessary but will not be enough on its own.

Jamie McGrigor: The one thing that seems to be holding back the tourism sector, which is vital to Greece, is the euro. That is just a personal opinion, but I know that it is also many other people's opinion. Tourism is far more important to Greece than to Germany, for example. Will you comment on that?

David Lidington: I am clear about my view on membership of the euro for Britain; I should leave it to Greek politicians and the Greek electorate to decide whether Greece should remain in the euro. The opinion polls in Greece and everything that I have seen suggest that a very large majority of the population there still believe that they should stay in the euro. If that is their decision, we must respect it.

Hanzala Malik (Glasgow) (Lab): Good morning and thank you for coming to sunny Scotland. I have only three small questions. I feel that we are not getting support on fisheries, as Iceland is being allowed to fish in our waters. I had predicted that we would not get anywhere with that, because it is obvious that Iceland will take as long as it can to be stopped from fishing in our waters. What steps, if any, is the Government taking to ensure that such fishing stops fairly quickly?

David Lidington: I usually need very little encouragement to come to Scotland. I always enjoy coming here, whether to Edinburgh or elsewhere.

Richard Benyon, the UK fisheries minister, and Richard Lochhead have developed a pretty good working relationship, which I was pleased to see that Fiona Hyslop mentioned several times in her evidence to the committee, particularly in relation to the previous fisheries council. We try to ensure that Scottish officials and ministers are fully

engaged in preparation of the UK's position for fisheries councils and for the bilateral conversations that take place with other member states and the EU institutions.

Since the coalition Government took office, there have been 19 agriculture and fisheries council meetings, 12 of which Scottish ministers have attended. At those meetings, there is almost always, if not always, a team of Scottish Government officials who support Mr Lochhead. Of course, the Scottish Government officials who are permanently based in Brussels are in contact with the UK's permanent representation there the whole time and can ensure that Scottish interests are taken fully into account.

I am always willing to say that, however well we think we are doing, there must be ways in which we can improve; I do not want to sound in the least complacent. I encourage Scottish Government officials and ministers to pick up the phone regularly and not to wait for formal meetings—whether JMCE or Council meetings—to ensure that the Scottish position is taken into account.

The Foreign Secretary and I have been involved directly in the mackerel situation—Mr Malik mentioned Iceland. In the past year, I have raised the unilateral action by Iceland and the Faroes on mackerel quotas directly with the foreign ministers of Iceland and Denmark. Those issues continue to be very much on the agenda in bilateral contacts with those countries' Governments.

12:15

Hanzala Malik: Thank you. It is just that I feel that the situation is dragging a little and that we are not coming to a solution sooner rather than later. I should say that we guessed that this would happen—that the ball would be kicked into the long grass.

My second point concerns communication. I feel that there is a reluctance among Scottish officials and officials in Whitehall to communicate regularly on European issues. Why does that reluctance exist? You have just talked about people picking up the telephone, and that is helpful. However, if there were regular, structured meetings, there would be more visible accountability and we could see whether what was discussed at those meetings transferred into real action in Europe.

David Lidington: My instinctive preference is for there to be a culture of co-operation and mutual trust, rather than for there to be an overreliance on meetings, timetables and rules. There is always a risk that you can end up having meetings whose purpose is more to have the meeting than anything else.

In some areas of policy, there is perhaps still a bit of baggage that gets in the way of the sort of relationship that there ought to be. I do not want to point fingers at anybody, but I think that an effort has to be made by both sides. Further, I remind you that, in terms of the relationships with the devolved Administrations, the interests of Wales and Northern Ireland need to be taken into account, too, not to mention the interests of England. All of those have to be looked at in the round when it comes to formulating the UK position.

I would much prefer to be in the situation where stuff did not get elevated to the ministerial level the whole time. Ministers need to talk to each other and they need to know and trust each other, but many of the issues that we are talking about should be handled at the level of officials, not left to the last minute, with people saying, "We can't get agreement—we have to take it to the minister."

We should be working together on cultural change.

Hanzala Malik: That brings me to the point that I wanted to make about representation. Can we be more consistent with the application of the policy on ministers from the devolved Governments being allowed to represent their areas' interests in Europe? At the moment, Whitehall can pick and choose when and if a Scottish minister will lead on something. The fact that ministers from the devolved Governments have local knowledge of the situation on the ground would help the British case overall. I believe that allowing a minister to put forward the case for an issue that affects their area would be beneficial to the UK in general.

I hear what you are saying about your reluctance to have regular, formalised meetings. However, how can we maximise the representation of local interest? Remember that, at the end of the day, we are also elected and we have constituents who demand that we and the devolved Government provide answers.

It is important that there is cohesion in what we are trying to achieve and how we are represented. We need to get away from the idea that Whitehall can pick and choose when ministers from the devolved Administrations will be able to lead on issues. We need to be consistent. Do you agree that that would probably make us more successful?

David Lidington: I want to make three points. First, I want to challenge Mr Malik's implication that it is only by the presence of Scottish Government ministers that Scotland is represented. It is the duty of the United Kingdom minister to speak for the entire United Kingdom, taking into account the overall UK interest and the particular interests of all four nations in the UK. Of

course, on many occasions, the UK seat at important European Council meetings has been taken by a member of Parliament at Westminster who has represented a Scottish constituency. That list includes Robin Cook, Malcolm Rifkind, John Reid, Gordon Brown and Jim Murphy. There is a long track record of able Scottish politicians in UK Governments who have represented the UK interest as a whole. For that matter, one of the most distinguished recent permanent representatives, Lord Kerr, would describe himself as a proud Scotsman.

Secondly, I draw a distinction between devolved ministers being present at a council and their taking the UK chair at it. Our rule is that UK Government ministers are encouraged to invite ministers from the three devolved Administrations to take part in the delegation at council meetings if matters of particular importance to that Administration are coming up. Fisheries are an obvious example with regard to Scotland, but I should also mention a special general affairs council meeting that was held in December to deal with EU cohesion policy. Unusually, I did not go to that meeting myself; instead, my colleague from the Department for Business, Innovation and Skills, Mr Prisk, attended as the direct policy lead in Whitehall. He invited the relevant Welsh minister along because Wales has more of an interest in cohesion policy and cohesion funding than any other part of the UK. I want that positive approach to having devolved ministers present in delegations when an important devolved issue is at stake to continue.

Although devolved ministers taking the UK chair is an option, that should remain at the discretion of the UK minister concerned. Whoever takes the chair must speak to the UK position as a whole and stick to the agreed UK Government line; after all, the UK is the member state. Although I understand that there is pressure from Scotland for the Scottish minister to be in the UK chair when, for example, a key fisheries dossier comes up for discussion, I point out that we also have bids from the Welsh and Northern Irish ministers and that, usually, there is physically only one chair at the ministerial table at council meetings. We cannot put four people in a row and let each of them take it in turn; only one person at a time can sit behind the United Kingdom nameplate. As the UK is the member state, the UK Government should in the end determine who represents it.

Hanzala Malik: As a quick comeback to that, I should say that, with regard to the challenge that you talk about, I am not suggesting that only a Scottish person can represent the Scottish interest. However, Scottish ministers have a very detailed and intimate knowledge of their own area of work and it would be better for Whitehall to tap into that resource.

I absolutely understand your point that the UK Government represents the whole of the UK, which also includes Northern Ireland and Wales. However, if the conversations that I alluded to in my first question were to take place, they would certainly iron out any kinks. It is all, if I may say so, interlinked. I find the idea of having a privileged position only on certain occasions difficult to understand. After all, consistency is a merit of a lot of good practice and communication would help a great deal in that respect. All that I am saying is that, at the moment, the lack of communication is hurting our UK position as well as the Scottish position.

David Lidington: I agree with Mr Malik that we must continue to look for ways to improve communication and co-ordination.

Bill Kidd (Glasgow Anniesland) (SNP): Thank you for being here today. You are being very direct in your answers. I do not want to bounce you around the issues, but could we go back to the December meeting in Europe? The regulation of financial services was not on the table in those discussions. Which national interest was the Prime Minister protecting at that point?

David Lidington: As I said earlier, the key point for the Prime Minister and for the Government was that to agree the treaty at 27 member states would have imported into the European Union treaties—and therefore into the aims and objectives of the EU—the particular priorities that are set out in the intergovernmental treaty for strengthening the co-ordination and stability of the euro zone. In our view, it was clear that that would have a possible read-across to the single market, so we wanted a single market safeguard to balance it.

The financial services issues were a subset—but a particularly important subset—of that single market question. Our concerns arose from a number of events. First, there is a clear risk that, if the European Union sought to act on the basis of a new priority to strengthen the integration and stability of the euro zone, it would start to move into areas such as banking regulation that are very close to fiscal policy. We saw financial services, which—as Mr Kidd knows—are hugely important not only for the UK but for Scotland in particular, as being in the front line of the single market in that respect.

We were also concerned by the European Central Bank's location policy for clearing houses, as it had introduced a requirement that they must be located in the euro zone. We regarded—and still regard—that as a breach of the single market principles set out in the treaty, and we are taking the ECB to the European Court of Justice.

As the Chancellor of the Exchequer has said, what we were proposing on financial services on 9

December was not an opt-out for the UK; it would have applied to everybody. We discussed things such as writing a safeguard into the treaty so that the principle of non-discrimination on the grounds of currency would apply to financial services regulation. We also wanted to ensure freedom for individual member states to go further than EU minimum standards, particularly on banking regulation, in order to meet global requirements and to guard against domestic fiscal risk.

Again, that is a live issue: we have the Basel III agreement to lay down certain capital ratios of both quality and quantity for banks across the global financial community, but the specific EU legislation is producing a requirement that is somewhat less than what is required globally under Basel. We think that that is wrong in principle, and, as we have a large banking and financial services sector, we are aware of the possible fiscal risks to the United Kingdom if banks are not required to have what we consider to be adequate capital reserves. We want the freedom to go further than those EU minimum standards.

12:30

Bill Kidd: That is perfectly reasonable. I am aware that, as you have said, financial services are an important element of the economy in Scotland and UK-wide. However, this was not sprung on the Prime Minister on the day—some discussion will have taken place for a considerable period prior to December, and discussion will be on-going in reaction to the ECB.

I will not embarrass you by asking you to have a go at your own Prime Minister. I am aware that it is not very nice to have a go at the person who is in charge of your political party and your Government. However, looking back, do you agree that the UK Government portrayed itself in an unco-operative light throughout Europe at a time of great danger to the euro zone, which greatly affects the world economy and certainly affects the UK economy although we are not a member of it? Given how the UK is now portrayed in the rest of Europe, could the veto not have been handled better?

David Lidington: I will make a couple of points. First, the Prime Minister had made it very clear to partners, particularly the leaders of France and Germany, that if they were to propose a European treaty change, we would want certain safeguards in place, including for financial services, and that we would want treaty change for treaty change—that it would not be sufficient for us to have a political declaration in return for our assent to treaty change. People should not have been surprised at the position that the Prime Minister took. It was a position that he reinforced publicly in

the days leading up to the summit, when he spoke in the House of Commons.

Secondly, the UK Government demonstrated that it wanted to be reasonable and constructive by going into that summit meeting saying that our preferred outcome was for a treaty at 27. It would have been easy for us to stand back and say, “Look, we’re not in the euro. You guys go ahead and do this if you want to. We will have nothing to do with it from the start.” Although we have never regarded a treaty change as being the key to stability in the euro zone, we respected the arguments from Germany, in particular, that putting in place long-term rules would help to buy some short-term and medium-term confidence. We agreed to work with our partners to get an agreement at 27, but we said that we needed things in return for that.

However the matter had been handled in the weeks and days leading up to December, we would have reached the same outcome. Some countries and leaders took the view that they were not going to agree to what we were asking for and would not have been shifted however we had presented our case. That is the blunt truth. Also, on the night, a lot of countries—particularly the euro zone 17—felt under huge pressure to come up with an agreement of some sort by the time the markets opened on the Friday morning. The elevation of the debate over treaty change into something that was crucial to the survival of the euro zone meant that that political and market pressure was felt very strongly by them and there was a feeling that they had to get agreement. It became clear that others were not willing to agree to the safeguards that we wanted which, in turn, meant that we could not agree to a treaty at 27, so the others decided to go ahead and talk about an intergovernmental treaty. We have not carped about it since then. We have respected the decision that our partners have taken and we have tried in discussions that have taken place subsequently at both the political and the official level to be constructive in our tone and our suggestions.

Bill Kidd: Thank you for that very full answer. You will be pleased to know that, at a previous meeting, the Cabinet Secretary for Culture and External Affairs, Fiona Hyslop, with whom you said you work well and who has spoken similarly about you, said that the Scottish Parliament and Government must work together and put common interests first rather than short-term political interests. Would it have been possible on that basis to have primed the devolved Governments about the direction in which the UK Government was heading in December?

David Lidington: That would have been difficult, given the timescale. In addition, there are

questions about what happens in a negotiation. For example, I cannot go to the House of Commons and take members through the detail of an on-going negotiation. I do not think that any Government or Administration in the world would happily reveal all the details of its negotiating positions in public in advance or even necessarily after the event. That consideration must be borne in mind, too.

Bill Kidd: Thank you very much for your answers.

Colin Keir (Edinburgh Western) (SNP): Two of the questions that I had written down have just been answered, so—

The Convener: I am happy to give you the opportunity to think of something off the top of your head.

Colin Keir: Good morning, minister. I, too, thank you for coming.

Like most people watching the television news about the Greek position over the past few weeks, I have assumed that some agreement can be made either at the top level or at a more localised one. However, if Greece defaulted completely and perhaps fell out of the euro zone, what would the effect be on the UK?

David Lidington: The big question would be about the future of the euro zone altogether. I do not want to speculate about decisions in Greece or any other euro zone country, but it is no secret that one of the great fears among euro zone Governments has been contagion—that problems in one country in difficulty can spread to another.

The direct impact on the United Kingdom of a collapse in Greece would be relatively limited. British banks have relatively little direct exposure to Greece, but there are British financial institutions with exposure to institutions in, for example, France and Germany that have lent more money to Greece or other southern European countries. If the committee looks at the figures that the Bank of England has published about UK exposure to the peripheral economies of the euro zone, you will see that there are major British exposures to Ireland, Spain and Italy in particular.

The fundamental point is that a financial collapse or a prolonged recession in the euro zone would be profoundly bad news for the UK and for our hopes of growth and jobs here. Roughly 40 per cent of UK external trade is with the 17 countries of the euro zone. Bank lending and equity share ownership throughout Europe are intertwined. Companies that are located here, whether they are UK-owned companies or companies under ownership from other countries,

would suffer if there were a prolonged recession, let alone a financial implosion, in the euro zone.

It is in our national interest that the euro zone finds a way in which to restore stability and generate growth. However, as I said in relation to Greece earlier, getting finances under control is necessary but not sufficient. The UK Government is pushing hard in the European Union for measures to be taken at European and national level to encourage economic growth. The single market in services is still not being implemented properly in every member state. We could do with a proper single market in the digital economy and in energy. When I met my Danish opposite number 10 days ago, I strongly backed the priority that the Danish presidency is giving to the single digital market. We need to make European regulation of business much less complicated and burdensome, particularly for small and medium-sized enterprises. That is why we pushed for and have welcomed the exemption for microbusinesses from certain categories of EU regulation that has now been adopted by the heads of state and Government.

That is also why we are foremost among the member states that are pushing for greater free trade between the European Union and other countries and regions of the world. We estimate that the EU free trade deal with South Korea that was concluded at the end of 2010 should be worth about £500 billion to the UK economy. At that time, the Prime Minister intervened personally with another head of Government to secure the removal of a block to the deal going ahead. Discussions are now on-going with India, Singapore, Japan and the Mercosur countries of Latin America. We want Europe to use its collective weight in trade negotiations to open up trading opportunities for all companies throughout the EU and, we hope, to build on that to provide greater prosperity for our citizens.

Jamie McGrigor: Lately, we have heard a great deal in the media about ratings by Standard and Poor's and other agencies. I have heard people now say that ratings do not really matter at all. Funnily enough, those comments are coming from the countries that have been downgraded. What effect is the downgrading in ratings likely to have on places such as France and the USA? How important is it for us to keep our AAA rating?

David Lidington: That final question should really be put to the Chancellor of the Exchequer rather than to me. It is clearly of benefit to a country to keep its AAA rating. In the case of the United Kingdom, it means that we have been able to finance our Government expenditure even as we try to carry out the difficult task of bringing our inherited debt under control. The fact that we have maintained the rating is an expression of market

confidence. The rating is a symbol of the reality of market confidence in the coalition Government's policy of reducing debt and getting public finances under control. That means that, despite the fact that we still have excessively high levels of public debt, interest rates in the United Kingdom for businesses with working overdrafts and for household mortgages are much closer to German levels than to southern European levels.

The impact of ratings on other countries is significant. The ratings are one item of information that global investors take into account, along with information garnered from various other sources.

The Convener: Before Hanzala Malik asks a question, I want to bring to your attention an issue that I picked up on earlier. The Prime Minister originally said that he did not want EU institutions to be used to administer the fiscal compact, but it seems to me that he has withdrawn from that. Can you shed some light on that for the committee?

12:45

David Lidington: Yes. There are two ways in which the intergovernmental treaty seeks to involve the institutions. First, a great deal of it is an expression of political support for bringing forward legislative measures under existing EU treaty arrangements; to an extent, that happens under enhanced co-operation procedures or under article 136 of the Lisbon treaty—which, I point out, is an article that deals with countries that have the euro as their currency. If a directive is brought forward under an existing treaty base—in other words, the pre-existing Treaty on European Union and the Treaty on the Functioning of the European Union—the use of the Community institutions is by definition already authorised, because it is already happening lawfully under existing European treaties.

The intergovernmental treaty also talks about using the institutions, particularly the European Court of Justice, in other ways to police and administer the new arrangements that the parties to the intergovernmental treaty—and they alone—have accepted. We are reserving our position on that. Our clear view is that, as is plainly written down in the Treaty on European Union, the institutions have a duty to act on behalf of all member states. The treaties also contain certain limited provisions for the institutions to be invited by a group of member states to act on their behalf in respect of some self-standing co-operative arrangement with regard to the subject matter that the treaties cover. We have said that any use of the institutions outside what is covered by the TEU and TFEU needs the agreement and authorisation of all member states and we are also clear that nothing in the intergovernmental treaty can in any way supersede or cut across the obligations and

rights provided for in the European Union treaties themselves. Of course, it would be contrary to those treaties for member states to come to any arrangement that cut across their primary obligation to those treaties and to EU law.

That said, we accept that the intergovernmental treaty's declared purpose is to establish means by which our friends and allies in the euro zone can try to put out this fire that has threatened to devastate their economies and which unchecked would do serious damage to ours. We want them to succeed in that task and are not going to try to get in their way while they set about it. However, we are reserving our position on the legal use of the institutions and watching how things develop very carefully.

The Convener: In that case, did the Prime Minister act a bit hastily when he said that he would not allow the use of the EU institutions?

David Lidington: On 9 December, there was no treaty text in front of the heads of Government; there was a declaration of the principles that would be expressed in such a text. Coming to the official working group on the text of the intergovernmental treaty, we see that a large element is, as I have said, an expression of political support for measures that can in any case be accomplished under existing treaties. To be honest, it is something that the Commission and President Van Rompuy have always wanted to do, well ahead of the December Council. It is fair to say that, although the German Government in particular was keen that there should be a new treaty, an awful lot of member states that signed up to the intergovernmental treaty did not, at the start, see it as something that would be of key significance in resolving the problems in the euro zone. There are still things in the intergovernmental treaty that concern us, some of which I have mentioned, and that is why we are reserving our position.

The Convener: We are in the last 10 minutes. I know that the minister has to get away, so we will do a quick wash-up of the committee. Hanzala Malik was first in as usual.

Hanzala Malik: I would be failing if I did not press you on employment, minister. Are you in a position to give us some hope that you can create employment in Scotland in the manufacturing industry? We have a large, growing and keen educated labour force, which we are keen to use. However, we are struggling, particularly in the manufacturing belt. Is anything in the pipeline to encourage industry to consider Scotland as a destination?

David Lidington: Many powers concerning industrial policy are already devolved to the Scottish Parliament and the Scottish Government.

I was listening to a radio programme only this weekend that featured a business leader in the north-east of England complaining loudly about the fact that the Scottish Government was able to offer all kinds of incentives for businesses to locate north of the border, which were not available to him if he wanted to expand or to help to attract new businesses into Northumberland or County Durham.

The role of the UK Government should be first of all to have a macroeconomic policy that will get public finances under control and maintain the confidence of international investors that the UK—whichever part of the UK it is—is a good place in which to do business. That means that we need a tax regime that encourages business and that UK regulations need to be made simpler and less burdensome for businesses. To try to secure that effect, the coalition Government has put in place an entirely new system of dealing with domestic regulation and the implementation of EU regulation.

Then it is a question of different parts of the UK—whether it is the devolved Administrations or the local authorities in England—having a responsibility to promote economic regeneration in a way that is specific to their area. It seems to me that what Scotland has to sell is the tremendously good quality of life here. We can look at the number of international businesses—admittedly a lot of them are service businesses—that are choosing to locate in Edinburgh and Glasgow. The international oil and gas industry still regards Aberdeen as a major centre of operations. There is some good news coming out of Scotland.

When I went to Azerbaijan in the autumn of 2010 I spoke to the British Chambers of Commerce. Normally, in the British Chambers of Commerce, I come across smart-suited young men in financial services. In Baku, I was confronted with about 200 almost entirely Scottish petroleum engineers and geologists, who had gone in on the back of BP's exploration and development of the Caspian gas resources.

One reason I strongly support what we are trying to do in terms of opening up global markets is that those markets provide great opportunities. They will not only provide opportunities for foreign direct investment into Scotland, England, Wales and Northern Ireland, but give innovative companies in Scotland, as elsewhere in the UK, the chance to go out and sell their goods and services to the growing middle class in China, India, Brazil, Indonesia, Turkey and other emerging economies where we still have growth rates from 7 per cent and into double figures.

Although the stock of our current investment and trade is still very much with Europe and North America, if we look forward over the next 20 to 50

years, the growth in investment and trade will be in those emerging economies. I think that the entrepreneurial spirit that is found in the best of Scottish business means that Scotland is well placed to take advantage of that, but it also means that the Scottish Government has to do something about it as well as the UK Government.

Hanzala Malik: It is the UK Government bit that I am interested in. I want to find out how you can help us to encourage that activity and whether there is anything on the back burner that we can capitalise on.

David Lidington: I hope that when the chancellor delivers his budget statement in a few weeks' time, Mr Malik will find a number of measures that meet the need that he has identified.

The Convener: Hope springs eternal.

Jamie McGrigor: The upcoming reform of the common agricultural policy is extremely important to Scotland. Last time, during negotiations, the UK Government managed to produce four different systems that worked very well for each member of the UK. Will the UK Government again be able to satisfy the needs of the four different regions of the UK?

David Lidington: There is no reason in principle why that cannot happen, although it obviously depends on the outcome of the negotiations overall. I would have to defer to Department for Environment, Food and Rural Affairs ministers in the UK Government to give Mr McGrigor and the committee a more detailed analysis of the current situation.

As far as the UK Government is concerned, our overall objective remains to secure a reduction in the CAP budget, which, at the moment, still accounts for 40 per cent of all EU spending. Although I acknowledge that CAP support is still very important indeed for the viability of upland farmers, when we look at the rates of unemployment throughout Europe and at the needs of other sectors of our national economy and of the European economy, it is very hard to justify the fact that 40 per cent of all EU spending goes on agriculture. We think that there needs to be strict budgetary control in the EU and that agriculture should take a significantly smaller share than it does now.

The Convener: We will have a final question from Dr McLeod.

Aileen McLeod: Thanks very much, convener. I again thank the minister for coming to our meeting and welcome his efforts to improve communication between the UK Government and the devolved Administrations.

I have a quick question about the Prime Minister's call for the repatriation of powers back from the EU to London. What particular policy areas or pieces of legislation does the UK Government have in mind? Has it sought any legal advice?

David Lidington: As Dr McLeod knows, the Conservative Party went into the 2010 UK general election with a manifesto that included specific objectives for the repatriation of powers. The Conservative and the Liberal Democrat manifesto commitments have been superseded by the coalition agreement and programme for government. Both parties have agreed on work to examine the current balance of competencies between the European Union and member states, particularly the UK.

In particular, we have agreed to look to limit the impact of the working time directive on the UK, which has created particular problems. We want to address the challenge of maintaining the right of workers to opt out of the 48-hour limit and also, if possible, to reverse the impact of the SiMAP and Jaeger judgments, which, as Dr McLeod knows, counted on-call time and rest time as working time. That has caused problems for many member states, not just us.

13:00

The work on examining the balance of competencies has only just started; it is in its early stages, and we will make further announcements on it in due course. If I listen to my colleagues in the House of Commons, I will find a range of constructive and imaginative suggestions. Some members of Parliament will argue for the formal repatriation to national competence of some things that are done under European competence at present. That would clearly require a treaty change, and therefore the agreement of all member states.

On fisheries policy, for example, it is suggested that we move towards a system that, while maintaining EU competence, devolves power much closer to home, to local and to regional management of fisheries. Parliamentarians and think tanks are already putting various ideas on the table. I cannot really say any more about the Government's position at present, but we will make further statements in due course.

The Convener: We look forward to those statements. I will get our committee clerks to chase up with DEFRA the specific points that were raised, and it would be helpful if you could do the same. I thank you for your attendance at committee today. It has been very helpful, and I think that we are pretty glad that we shifted our days around so that we could accommodate each

other and we could be here to take evidence from you. We will take the issues forward as part of our committee inquiry. I thank you and your officials for coming to Scotland, and you should always feel welcome to come back.

David Lidington: Thank you very much indeed.

The Convener: Item 3 is to be taken in private, so I ask for the public gallery to be cleared and thank the public for their attendance.

13:02

Meeting continued in private until 13:30.

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