

NOTA DE TRANSMISIÓN

Emisor: Secretaría

Destinatario: La Convención

Asunto: Ponencia de la Comisión selecta sobre la Unión Europea de la Cámara de los Lores, presentada por Lord Tomlinson y Lord MacLennan
"The Future of Europe: Constitutional Treaty
- draft Articles 43-46 (Union membership) and General and Final
Provisions"

El Secretario General de la Convención ha recibido de Lord Tomlinson y Lord MacLennan, miembros suplentes la Convención, la ponencia de la Comisión selecta sobre la Unión Europea de la Cámara de los Lores, que presentan en su propio nombre a la Convención.

HOUSE OF LORDS

SESSION 2002–03
15TH REPORT

**SELECT COMMITTEE ON
THE EUROPEAN UNION**

**THE FUTURE OF EUROPE: CONVENTION
WORKING GROUP REPORTS ON
DEFENCE AND EXTERNAL ACTION**

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CONTENTS

REPORT	<i>Page</i> 4
Appendix 1: Sub-Committee C (Common Foreign and Security Policy)	6
Appendix 2: List of Witnesses	7
Box 1: Abstract	4
ORAL EVIDENCE	
	<i>Page</i>
<i>Mr Peter Ricketts, Political Director, Mr Tim Barrow, Head of Common Foreign and Security Policy Department, Mr Paul Johnston, Head of SecPol, and Ms Jill Parkinson, Head of Crisis Management/ESDP and Convention Section Common Foreign and Security Policy Department Foreign and Commonwealth Office</i>	
Oral evidence, 16 January 2003	8
<i>Ms Gisela Stuart MP</i>	
Oral evidence, 23 January 2003	22
<i>Sir Stephen Wall, Head of European Secretariat, Mr John Bourne and Mr Joe Griffin Cabinet Office</i>	
Oral evidence, 13 February 2003	32
WRITTEN EVIDENCE	
BOND	42

NOTE: Pages of the Report are numbered in bold type, pages of evidence are numbered in ordinary type. References in the text of the Report are as follows:

- (Q) refers to a question in oral evidence.
- (p) refers to a page of written evidence.

REPORT

25 MARCH 2003

By the Select Committee appointed to consider European Union documents and other matters relating to the European Union.

ORDERED TO REPORT

THE FUTURE OF EUROPE—CONVENTION WORKING GROUP REPORTS ON DEFENCE AND EXTERNAL ACTION¹

Box 1

Abstract

The Convention on the Future of Europe was set up on 28 February 2002 and is chaired by Valéry Giscard d'Estaing. It has been charged with paving the way for the next intergovernmental conference planned to take place in Berlin in 2004.²

At the Convention plenary of 11–12 July 2002 two working groups were created to deal with EU external relations and defence policies. Having met regularly during the autumn of 2002 both working groups reported their conclusions on 20 December 2002. The Convention is expected to conclude by summer 2003.

The results of the Working Group on defence were broadly welcomed. The external action debate, however, proved highly divisive.

The Committee notes the advances made by the Working Group Report on Defence and concurs with the Group's findings.³

We endorse the findings of the Working Group Report on External Action on the creation of a European External Action Service, a joint diplomatic service and giving the European Representative autonomy over funding to allow financing crisis management on an urgent basis.⁴

3. We are, however, concerned that the Working Group has not been able to reach a conclusion on whether there should be Qualified Majority Voting (QMV) on Foreign Policy issues. As the Working Group failed to reach any conclusion it is difficult to see any way forward on this regard.⁵ The Committee is particularly concerned that extended QMV on foreign policy would in effect mean QMV on defence issues.⁶

¹ Our Committee invited Sub-Committee C (Common Foreign and Security Policy, International Development and External Relations) to consider the relevant reports from the working groups of the Convention for the Future of Europe. The Sub-Committee, whose members are listed in Appendix 1 took evidence from the witnesses listed in Appendix 2. This evidence is printed with this report.

² Laeken Declaration; 15 December 2001, section III.

³ Q47–Q78.

⁴ Q25–Q27; Q32–Q37; Q44; Q107.

⁵ Q5–Q9; Q11–Q14; Q23–Q24; Q88–Q89.

⁶ Q15; Q86; Q91–Q93.

4 In addition, we do not believe that joint membership of relevant institutions is necessary.¹

5. We are open-minded on the recommendation that a single representative be appointed to carry out both the functions of the High Representative and the External Commissioner. We consider that if the roles are to be exercised by one person the High Representative role must remain firmly based in the Council.²

6. We make this short report to the House for information.

¹ Q43; Q108–Q110.

² Q18–Q22; Q41–Q42; Q106; Q111–Q113.

APPENDIX 1

Sub-Committee C (Common Foreign and Security Policy)

Members of the Sub-Committee

Lord Bowness

Lord Harrison

Baroness Hilton of Eggardon

Lord Inge

Lord Jopling (Chairman)

Lord MacLennan of Rogart

Lord Morris of Aberavon

Baroness Park of Monmouth

Lord Powell of Bayswater

Lord Watson of Richmond

Lord Williams of Elvel

Lord Williamson of Horton

APPENDIX 2
List of Witnesses

The following witnesses gave evidence. Those marked * gave oral evidence:

BOND Networking for International Development

* Foreign and Commonwealth Office

* Ms Gisela Stuart MP

▪ Sir Stephen Wall, Head of the European Secretariat, Cabinet Office

THURSDAY 16 JANUARY 2003

Present:

Bowness, L
Harrison, L
Hilton of Eggardon, B (Chairman)
Inge, L
MacLennan of Rogart, L
Morris of Aberavon, L
Park of Monmouth, B
Powell of Bayswater, L
Williams of Elvel, L
Williamson of Horton, L

MR PETER RICKETTS, Political Director; MR TIM BARROW, Head of CFSP; MR PAUL JOHNSTON, Head of SecPol; and MS JILL PARKINSON, Foreign and Commonwealth Office, examined.

Chairman

I understand, Mr Ricketts, you are to be congratulated on your promotion. You are going to be our Permanent Representative to NATO. I do not know whether you wish to kick off with a general statement.

Mr Ricketts) Thank you, my Lord Chairman. Shall I introduce my colleagues? Tim Barrow is the head of our CFSP Department in the Foreign Office. Paul Johnston is the head of our Security Policy Department and therefore has been working particularly on the Defence Working Group for the Convention. Jill Parkinson leads all our work on CFSP aspects of the Convention and civilian crisis management. So I have my strong team with me. I do not wish to take up the time of the Committee, unless you think it would be useful, with an opening statement. I have prepared myself particularly on the External Affairs Working Group part of the Convention which Peter Hain has been the UK representative on, but I am also very much up-to-date on the Defence Working Group as well.

It is particularly the external affairs that we are wanting to concentrate on. If we can kick off with a very general question, are you happy about the current state of the foreign policy, such as it is, within the EU? How would you like to see that changed or improved, or do you think it should be more ambitious or less ambitious, or left to nation states?

(Mr Ricketts) It could always be more ambitious. I think what we are particularly interested in from the Convention and the changes that will come through the IGC is a more effective and more coherent CFSP. I think the Convention is a time to take stock of what you have done so far, and there have been significant improvements over the last two or three years: the appointment of Javier Solana, obviously. The impact that he has been able to make, particularly in the Balkans and on the Middle East process, I think are the two areas that I would single out in particular. That suggests that the EU is most effective where there is the biggest critical mass of interests of the EU, not only foreign policy but also economic policy and all the other instruments we can bring to bear. That has been very much the case in the Balkans, and it has not improved the position particularly on the Middle East peace process but it has at least improved international diplomacy, with the EU now playing a major part. We have also, of course, developed the ESDP structures, and are now on the point of being able use them in the Balkans for the first time, after the agreement between EU and NATO. So there have been significant institutional developments and they have, I think, improved effectiveness in some areas, but what I am struck by is that, where you move away from the near abroad, if I can put it like that, where the critical mass of EU interests begins to decline, then CFSP

is strikingly less effective, and it is often down to one or two Member States – the UK of course and France in particular – who have an active foreign policy and can sometimes conduct it in the name of the EU. So I think if one can expand the area of effectiveness of CFSP, partly by institutional development but also partly by political will among Member States, that would definitely be a gain.

Do you think that in some ways we have been able to tackle the Balkans because we understand the problems of nearer Europe more than we do problems further afield? I know the problems there are horrendously difficult, with all the usual difficulties between different religions, and so on, but we do think in some way that we have an understanding of European history.

(*Mr Ricketts*) Of course, they are close to home, and they are on the borders of the EU, and we can bring to bear all the instruments of the Union, up to and including the prospect of eventual membership of the European Union, if the countries meet the conditions that we set. So we have incentives and we have levers that work particularly effectively in the Balkans. Those levers work with diminishing effectiveness the further away you get from the immediate near abroad. I agree with you that there is less of a critical mass of understanding and of perceived national interest at stake among many Member States as you move further away.

Lord MacLennan of Rogart

Mr Ricketts, the British position as expressed by Mr Hain in the Working Group seemed to hold to some extent in suspense the Government's view about the role of the High Representative and the role of the presidency until there had been greater clarity about the institutional reforms in the context of which these positions might be taken, but there have been developments since that report, particularly proposals from the Franco-German alliance, which have crystallised a powerful strain of thought now about both the role of the High Representative and the role of the presidency. There has also been the Benelux paper, which is going along different lines. My colleagues will want to raise specific questions about these institutional arrangements, particularly the High Representative, but I wonder if you can say anything at this stage about the decision-making processes and what you would like to see and what the Government would like to see in the final Treaty, paying particular attention to those parts of the report which spoke of the possibility of joint initiatives and which suggested a new provision in the Treaty to provide for the possibility of the Council agreeing by unanimity to extend the use of QMV, bearing in mind that, as things stand at present, it is most difficult to get agreement except on lowest common denominator issues. If the Union is to up its game, it would be important to confront that question. How does the British Government seek to confront it?

(*Mr Ricketts*) I think we start from a position of a number of clear principles: that we want the CFSP process to remain intergovernmental and under the authority of the Council principally; that we see a continuum between CFSP and ESDP, that is, that these are a series of instruments that need to be used together; and that, of course, in the area of foreign policy, and even more so in defence, individual nations in the EU will need to be able to protect their vital national interests when they perceive them to be at risk. So we I think would judge the institutional proposals against those broad criteria. I am quite sure that Mr Hain made clear in the Convention Working Group our unreserved support for the High Representative and his role and the strengthening of his role. We believe he has been a success, and we would like to see his role developed further. We can talk about the detail of that. When you come to the institutional provisions that you mention, for example, a right of joint initiative between the High Representative and the External Affairs Commissioner, you have to start making assumptions about the broader institutional architecture that results in the Convention, by which I mean, if we are going to have a double-hatted High Representative also taking on the functions of the External Affairs Commissioner, then right of joint initiative disappears, because it is a single individual. So it is difficult to take a position on that until you know with more clarity where that is going to come out. But we will certainly be ready to support proposals which we think will lead to a gain in the overall effectiveness and coherence of policy. On the issue of qualified majority voting, as you say, there are proposals in the Working Group report. They first of all recall that there are a number of existing proposals in the treaties as they are now, and will be when the Nice Treaty comes into force, which provide for QMV in certain circumstances on CFSP issues which have been very little used. One issue is whether we should not be concentrating first on making more effective use of the QMV provisions that already exist. A

second is whether there would be value in having further discussion, as you say, of the possibility of an extension of QMV. We are prepared to look at proposals on QMV, but we will want to test them against the sort of principles I have set out.

Lord Powell of Bayswater

My recollection is that Article 23 of the Maastricht Treaty expressly ruled out the extension of QMV to defence and foreign policy. Is that correct? So we are now deciding that we do not believe in what we wrote in the Maastricht Treaty.

(Mr Ricketts) I have not said that.

You have said we are prepared to consider extending it, so you must be prepared to consider ruling out what we agreed to in the Maastricht Treaty.

(Mr Ricketts) I certainly have not said we were considering extending it into the area of defence, and that highlights one of the difficulties that proponents of an extension of QMV face. They have to answer that. One of the principles that I set out was that we attached importance to a continuum between CFSP and ESDP, and I would find it extremely difficult to make an arbitrary judgment at a particular point that a CFSP issue had become an issue of security and defence and therefore fell into the area of unanimity. That is a difficulty for the proponents of an extension of QMV, and we are not proponents of it. We would like to see the existing arrangements, which are carefully delineated, put to use first, before going further.

Could you just remind us what those arrangements were? I remember common strategies was one, but I cannot remember what the others were.

(Mr Ricketts) Yes. The current provisions are that decisions in CFSP are by unanimity except where the Council takes decisions on the basis of a common strategy, or adopts a decision implementing a joint action or common strategy, or any decision implementing a joint action or common position. Under Nice, QMV would be introduced for the conclusion of international agreements in pursuit of a common position or joint action, and for the appointment of special representatives. So they are in very limited areas, and they are effectively when a decision has already been taken by unanimity to go for a common strategy.

I see the suggestion has been made in a debate in this House that one could have an extension of QMV if major members of the European Union had a right of veto. Do you actually think that is a starter? Or is it just an ingenious suggestion which does not correspond to the real world?

(Mr Ricketts) I cannot see how that could ever be written into the Treaty. If countries were intending to rely on informal assurances outside the Treaty, that would be a good deal weaker. What I think has been considered is some provision for reference to the European Council in a case where a country decided its national interests were at stake, and if the European Council were then to decide by unanimity, that would effectively provide for a country to be able to take a stand against the issue, but it would elevate it to a position where there was a very serious political crisis and unanimity could not be found. There are mechanisms like that which we would be willing to consider, but in principle, our point of departure is that we are looking for an effective CFSP and in a way, the pressures of achieving unanimity can contribute to a result where there is a sufficient buy-in by all Member States for it to be effective.

But equally, pressures for QMV could place significant additional constraints on national foreign policy making.

(*Mr Ricketts*) We would have to look very carefully at proposals for extension of QMV. That is clear.

Lord MacLennan of Rogart

I really wanted to ask if you are looking for any significant changes in the constitutional arrangements for the conduct of foreign policy, or if you are really basically saying you are quite satisfied with the arrangements that have been arrived at in previous intergovernmental conferences and agreements, and you see no particular need for development of a constitutional nature.

(*Mr Ricketts*) I do not myself feel that constitutional evolution itself is going to lead to a more effective and ambitious CFSP. The primary ingredient is political will among Member States. Institutional development can be helpful, but absent political will, we will never have a truly effective CFSP. That said, we think that there are a number of proposals in the Convention Working Group report that would contribute to a more effective CFSP. One issue which will to some extent determine what is needed is decisions on the institutional framework and whether or not we go for a double-hatted High Representative and an External Relations Commissioner. Another would be whether we get the proposal agreed for an elected Chair of the European Council. Those issues will be very important influences on effectiveness of CFSP. At a more detailed level, some of the proposals in the Working Group, for example, a clear definition in the Treaty of principles and objectives of EU external action, would be useful. A clearer focus for EU development policy on reducing poverty and a clearer management of Commission development programmes would be useful, subject to the overall architecture, bolstering the High Representative's role, including chairmanship of the Foreign Affairs formation of the General Affairs Council and greater control of the resources. Those are the sort of institutional improvements which would, I think, contribute to a more effective CFSP, but without the political will to really make it work, they will not make an enormous difference.

Lord Powell of Bayswater

Mr Ricketts said at the beginning that the areas of foreign policy where the European Union had been successful were the Balkans and the Middle East peace-making process. I would certainly quibble over the latter. But if we have been successful, we have been successful without QMV. Where has the absence of QMV been a constraint on EU foreign policy making from the British point of view?

(*Mr Barrow*) One of the successes in the Balkans, as Peter was saying, was that we brought together a whole range of the instruments at the EU's disposal, and of course, not all of them are subject to unanimity. So I think it is not quite fair to those proponents of more QMV to say that it has been in the absence of QMV that we have been successful in the Balkans. Turning to what Peter was highlighting before on the question of constraints upon the EU by having unanimity, the argument would be that where there is less of a critical mass of Member States interest, then there is the risk that you are not therefore able to move forward as quickly as you would like or get agreement on those sort of policy areas. I should stress that those who are proponents of QMV suggest it not with the idea that there would be lots of votes undertaken under QMV, but it would be a stimulus to more rapid agreement, still effectively by consensus, but that the knowledge that the QMV provision is there aids progress in discussion, rather than having votes, which indeed I think you can see across other areas of EU business.

Given the wide experience that Peter Ricketts and you both have in foreign policy making, do you not think that in practice an extension of QMV would be more likely to constrain the United Kingdom from pursuing foreign policy which its elected governments have chosen to pursue, for instance on issues like Iraq, than to actually benefit the overall British interest?

(*Mr Ricketts*) I think it is difficult to make that judgment absolutely. I come back to what I said at the beginning: we are not proponents of an extension of QMV. We are proponents of an effective foreign policy. I can see that in an enlarged EU of 25 Member States the case for effectiveness can

sometimes be supported by having further opportunities for QMV, but they would have to be applied very carefully so as not to put a country into a position where it felt that its key national interests were being overruled, because that would translate a procedural problem into a crisis. It is a question of balancing the need for effectiveness where you can see sometimes that it would be useful to be able to conclude that there was a majority and to move on to action, as against protecting key national interests. That is where the balance has to be found, and I think we would be at the cautious end of that spectrum. But I am not ruling out everything in terms of extension of QMV.

Lord Morris of Aberavon

I see the argument for the extension of QMV if you have an addition of a large number of states, and you did indicate there would have to be some selection, as I understood it, as to how it could be done, but how could you spell that out beforehand, and would HMG be considering an amendment of the Maastricht Treaty?

(*Mr Ricketts*) The way all of these treaty changes would be done would be through the intergovernmental conference that will follow this Convention, which will produce a new treaty that will require ratification. If there are any proposals adopted through that process, they will change the Treaty, but as I say, we will approach this cautiously. By and large, the UK is in favour of action under CFSP rather than inaction, and so by and large, we will be interested in getting things done and in ensuring that things are not held up unnecessarily. So from that point of view, one can imagine that there might be circumstances in which some careful extension of QMV would be necessary. I say again, there are some provisions already which have not, as far as I know, ever been invoked, so in principle, we have been able to do what we have done so far by unanimity, and I do not see any crying examples where QMV would have made a huge difference.

You would have to have some guidelines, would you not? Looking at it very carefully, case by case, is one thing, but in practice, if the law is laid down, it is very difficult then to wriggle. Should you not have guidelines of some kind in order to ensure that we do not trespass on national interests by an extension?

(*Mr Ricketts*) Absolutely. Just so I am not misunderstood, what I meant was we would look carefully at the proposals that came forward for constitutional amendments. Once adopted, yes, they would have to be applied very carefully. For example, they would have to provide, as the Treaty currently does, for exclusion of issues such as defence and security from QMV, because I do not believe any country would be prepared to take decisions on committing its armed forces or policies that might lead up to that on the basis of majority voting where a country could be outvoted. The provision would have to be clear that in this developmental stage we are willing to consider what proposals other people put forward before deciding our position.

Baroness Park of Monmouth

Would you not agree though, Mr Ricketts, that defence issues and decisions usually are preceded by a question of foreign policy? I cannot see why we can be happy to have one regime for defence and another for foreign policy. They seem to me to be equally important in terms of defining the national interest.

(*Mr Ricketts*) I very much take that point.

Mr Barrow's answer seemed to me to go in exactly the opposite direction. You are saying we must stick to it for defence but for foreign policy it is different. Have I misunderstood?

(*Mr Ricketts*) I do not think that is quite what he was saying. We are not proponents of this, and we do have a very strong principle of non-application of QMV to defence and security, and you rightly say that it is extremely difficult to draw any kind of arbitrary point along a continuum from foreign policy through to defence policy. At the moment, the line is drawn in economic policy, and the dividing line is between most aspects of economic policy, which are by QMV under the Community aspects, and then CFSP, which is not, except the provisions that are already in the Treaty, which are effectively about implementation of decisions already taken, so that one's vital

national interest is protected by a unanimous decision to adopt a policy, and then there are certain careful provisions that allow QMV in the implementation or execution of that policy. That is the sort of way in which one may be able to square the circle.

Are you saying that we will accept QMV for foreign policy where we would not for defence policy?

(*Mr Ricketts*) I am not saying that. I am saying that we start from a very sceptical position about further extension of QMV. I am not ruling out any extension of the carefully targeted provisions that already exist in the Treaty, but I would rule it out in the area of defence and security policy. In saying that, I entirely recognise the point you rightly make about the difficulty of that distinction. That is a problem for the proponents of QMV really to find a solution to.

Lord Williamson of Horton

This is a different subject. I am sure that, like me, you know every sentence in the report of the Working Group on External Action. I am going to come back on the point about the External Representative. The whole of the Working Group considered that the current roles of the High Representative and the Commissioner for External Relations should be reconsidered, and a large trend emerged in favour of a solution which would provide for the exercise of both offices by a European External Representative. You referred to that earlier, and you said you would like to see clarity about that in due course, but those of us who have spent at least some part of our career in the diplomatic service like to try and pin down the diplomatic representatives. My question is, what is the view of the United Kingdom about this possibility of putting together the High Representative and the Relex Commissioner, and if we do not have a view, how do we see the balance of argument? Do we see these things are for it and those things are against it?

(*Mr Ricketts*) We have not taken any final position because we are still at a developing stage of this dialogue. You have four options set out in the External Affairs Working Group, which are effectively submitted for consideration, recognising that there is a clear link between decisions on this and other decisions on the institutional architecture that will emerge first in the Convention report and then in discussion through the intergovernmental conference. This is not a time for fixed and settled views; it is a time for shaping policy options. We also, as Lord Maclellan said, now have the Franco-German contribution to the Convention, which is not detailed, but appears to come down fairly close to the fourth option, what was called in the Working Group report the "EU Minister of Foreign Affairs." Our own approach to this is, first of all, to say, as I said at the beginning, that the High Representative has been a success, that his role and effectiveness needs to be further reinforced, so that the ideas in the first option in terms of giving him greater support from the staff, greater ability to influence resource decisions, closer links to the Commission, are all valuable proposals from our point of view. When we come to the proposals that would fuse the two jobs in one person, we have a number of questions that we would want clear answers to before we are able to rally to a particular proposal. For example, would the individual be subject to collective responsibility in the Commission? Would the individual have a vote in the Commission? How would we arbitrate differences between the Council and the Commission if in one individual fused responsibilities of the Council and the Commission? Would this individual be able to chair the GAERC, the foreign ministers' level meeting, if he was also a full Commissioner? So there are a number of questions that we need answers to. We are not closed to the idea of a single individual exercising powers which the two currently have, but we would want to be very clear about the institutional positioning of that individual and their responsibilities, and we do not have clear answers to those questions yet, so we do not have a clear view. The debate seems to be developing in an interesting way in the light of this Franco-German contribution, and if I understand that contribution right, it seems to place the individual more on the Council side of the divide than the Commission side of the divide.

One of the consequences of having a single person is you would not have a troika. That is the recommendation. Do you see that as an advantage?

(*Mr Ricketts*) I would see that as a gain, Lord Williamson, yes. I do not believe the troika as it functions at the moment is of great benefit to the European Union.

Lord Powell of Bayswater

If this individual were created as a single individual, would we see him chairing this External Relations Council. Or would that be a step too far?

(*Mr Ricketts*) It depends on his institutional positioning. If he is a full Commissioner, subject to collective responsibility in the Commission, I do not see how he could. That I think really would trespass into the principle I set out of the intergovernmental nature of CFSP. If he is effectively a servant of the Council, but with a supernumerary seat on the Commission, not subject to collective responsibility or voting, it is a new animal in the structure, but that sounds to me more like someone under the Council's authority than the Commission's authority, so from that point of view, yes, I think in that circumstance we would be in favour of him chairing the GAERC, which in principle would itself be a real gain for coherence, because he would then have, by his informal role as Chairman, a capacity to bring together the various instruments of the Commission and Council behind a single policy. So we see a lot of attraction in that, but only if he is not a full member of the Commission.

Lord Williamson of Horton

There are various varieties, of course, but once you have created this person – he is referred to always as “this person”, by the way, a very curious animal – I think the dominant view in the Group preferably is Vice President, so the tendency is going in that direction at the moment.

(*Mr Ricketts*) That is not as I read the Franco-German proposal, Lord Williamson, which appears to say that he would be a member of the Commission with a special status. I do not know what that special status is, but if that special status were as a non-voting member, not subject to collective responsibility, then we are more in option four of the Working Group territory than option three. But I think it is for the French and German governments to explain precisely what lies behind that.

Lord Bowness

Perhaps there is not an answer to this question. It was based on what I read as the firm recommendation of the Working Group, namely that this person, to use the phrase, would be a full member of the Commission, but would not have a vote in the Council. The question I was going to ask was this. Was it envisaged, when we talk about the External Representative being appointed by the Council meeting, as heads of state and approving the President of the Commission, that they would be selecting this person from the Commissioners as appointed, or that they would be appointing somebody who became an additional Commissioner, or would that person count against a Member State's allocation of Commissioners? That needs to be sorted out, otherwise it is going to be a “big nations club” is it not?

(*Mr Ricketts*) The answer is that we are not proponents of the idea that this person, this European Foreign Minister, should be a full member of the Commission. If we were to go down that route, all your questions would apply, very clearly. I do not have answers to them because I do not favour the proposal. I see the individual as in addition to the regular quota of Commissioners and in a different capacity – if we get to that at all. We are also very open to the idea of preserving a High Representative reporting to the elected Chair of the European Council, an External Affairs Commissioner reporting under Commission authority, and having tight linkages between those two individuals. We do not believe that that has been a failure as a model. It can be improved, but if we are going to develop from it, then we would want clear answers to many questions, including the questions that you raise.

Lord Powell of Bayswater

Could I come back to the philosophy underlying this whole series of questions? Does Mr Ricketts agree that foreign policy and defence must remain in the hands of national governments, cooperating freely?

(*Mr Ricketts*) In a single-word answer, yes. That is the philosophy that lies behind our support for the elected Chair of the European Council, which will be a very strong centre of gravity on the Council side, and leads us to want someone at the next level down playing the role that Javier Solana has been able to play, also, clearly, under Council authority, and the idea that a full Commissioner could have a right of initiative, for example, in defence affairs seems to us to be not realistic or not something that we could accept.

But you are prepared to consider an extension of QMV, which would actually be a constraint on national governments retaining these matters fully in their own hands.

(*Mr Ricketts*) We are coming back to an earlier line of questioning. I demarcated out from any area where we would be prepared to consider an extension of QMV anything which touched on defence and security. Incidentally, I see that that is also demarcated out in the Franco-German proposal. The problem that that creates in terms of where to draw the line between that and foreign policy, if one can distinguish between them, is indeed one of the problems that is unresolved.

Baroness Park of Monmouth

I would have thought that we need to know what national answer we want and then solve the problems, not allow the problems to dictate our decision. That is what it seems to me is likely to happen. Could I take you on to a much more mundane issue? Would a European Diplomatic Service provide added value or simply duplicate current Member State provision? I would like to enlarge on that a little bit. We had some papers about three months ago in which it was being proposed that there would be EU bodies, Commissions, set up in various countries where aid was a major issue, and that was going to cost a lot in terms of people and money, and also it seemed likely to complicate issues quite a lot because it would possibly cut across various bilateral relationships we were having. I remember that the reply that we had from Clare Short at the time was unequivocal, that that gave her unease. If you take that further, how could this possibly work without major conflicts of interest arising between our bilateral relations with the countries concerned and our EU duties and responsibilities? In paragraph 69 of the report they are even advocating an EU Diplomatic Academy and saying that diplomatic representatives of the main Member States should cooperate closely with EU delegations and should be encouraged to provide support and information to the person holding the function of HR. Do you think any of that is (a) feasible, or (b) desirable, and how does it square with what we have been hearing in the press about the creation of instant, movable embassies? We are being required constantly to cut staff in our existing embassies. Would you say this would further complicate that?

(*Mr Ricketts*) First of all, I want to be clear on what I understand to be the proposal here. It is not that the EU should somehow take over or replace or duplicate the functions of national embassies in third countries. The fact is that already the EU has abroad an enormous number of representatives, 138 bilateral delegations and five multilateral Commissioners to multinational organisations. So there is in practice already an extensive overseas representation of the European Union, mostly Commission officials. We are in favour of more effective promotion of the common policies that we have together in the European Union, so when we have adopted a common policy, we want that put across more effectively abroad by the EU's representatives. If I understand the proposal here right, it is to bring together the representatives of the Commission, promoting Commission policies abroad, the representatives of the Council secretariat, which are much fewer in number, working with Javier Solana, and produce more effective teams representing the entire European Union common position in third countries. I think, for example, in Washington, where there is quite a large European Union delegation, it could be far more effective in promoting a range of European Union policies in the United States, where by and large the European Union is not well understood, its activities are not well presented to Congress and to wider opinion, and the resources that are there already could be used more effectively if we broke down barriers within the Commission representatives abroad and used them effectively together. That is what I understand

the position to be, and in that sense I do not think it does make more difficult the job of national governments. Indeed, it should complement what we are doing in terms of our own overseas activities, because they would be there to promote policies that had already been decided are common policies of the European Union, and it does not therefore make more difficult what are certainly difficult resource pressures for us given the many demands placed on the FCO by world events; indeed, if used properly, it should help by putting across a more coherent message about the European Union.

I am interested that you chose the United States. I would have thought that there would be rather serious complications in having one set of views from that body in Washington on Iraq and another from our embassy. My other point would be that good diplomats take a lot of training and a lot is invested in them, and I cannot but feel that the experience of sitting in an organisation like that, where you were constantly trying to find lowest common denominators and then go out and loyally promote them, is likely to be a serious waste of good members of the foreign service. I am a little surprised that you are relatively happy about that.

(*Mr Ricketts*) I do not accept your latter point. I do not think we are going to send large numbers of Foreign Office officials to work abroad for the European Union, but we have sent a number of extremely talented Foreign Office officials, for example, to work with Javier Solana in Brussels. I can see that, by analogy with that, there may be one or two places around the world where the existing Commission or Council secretariat staff could usefully be augmented by a good diplomat from one of the Member States to help in a particular task. Of course, these people could only promote agreed policies, and in the case of Iraq, we do have a European Union policy, which is in support of the UN and the Security Council resolutions and the inspection process, and I would be entirely happy for the European Union to promote that as the European Union's view of where things should go. So provided it is kept within reasonable bounds in terms of national contributions, I think it can be a help, and I certainly think that making better use of the resources they already put into their external representation can only be a good thing.

Would you take it as far as having an EU training academy?

(*Mr Ricketts*) Good training for the staff the EU is going to send abroad is a good thing. I have not seen detailed proposals for an EU diplomatic academy, but if we are talking about good training for the staff that go abroad, then in principle I have no problem.

Lord Maclellan of Rogart

I think it is fair to say that the report of the Working Group is based upon the same premise which seems to inspire the British approach to the conduct of external relations, that the impulse, the strategic direction, must come from the Council and that the major problem is delivery. With that in mind, why is it that there is this tentativeness of approach to the proposal about giving the officer to whom the Foreign Office attaches such importance, the High Representative, a position within the Commission, which is charged constitutionally with delivery and which has the resources to deliver, and which is not disposed to be an adversarial body, locked in some kind of continuing battle with the Council about foreign policy? Secondly, and related to that, you have indicated, Mr Ricketts, that the Government is waiting for the answers to certain questions before it decides what its view about this is. On whom is it waiting? The French and Germans may not have answered in detail all the questions that you have raised, but they have given a broad statement of principle, and indeed, a powerful initiative, in support of the thrust of this report, and we are told that the Government is waiting for answers to questions. When are these going to happen? The Convention is going to be faced with the task of drafting a constitutional treaty in two months on these issues. When can we, this Committee, look to have the answers which enable us to know what the British Government would like to see in that treaty on these points?

(*Mr Ricketts*) Lord Maclellan, we are in the middle of a negotiation which will, first of all, take us through to the Convention process and will then take us into the intergovernmental conference of Member States, so we are probably a year away from final conclusion on these very difficult and sensitive issues, and I think therefore it is not unreasonable that the Government should be contributing actively, as we have been doing, participating, but also judging proposals coming forward from other parties, and deciding which of them suit our overall interests and which do not. I believe we do have a very clear set of national objectives and priorities, and in many cases we can

see the debate is moving in the direction that our Government has set out. For example, on the issue of an elected chairman of the European Union Council, the proposal that our Prime Minister put forward with President Chirac and Mr Aznar. We now see that that is adopted in the Franco-German proposal. That is an enormous step forward, I think, for the approach that this Government has advocated. The proposal that others have been promoting of a fused President of the Commission and President of the European Council I think is now falling away; it has been abandoned, so I think there is a real gain there, and I think the idea that we should strengthen the High Representative and that his attachment to the Council as the deliverer of decisions adopted in the Council is gaining ground as well. Where we have questions is because the debate is still developing and because we want to influence it effectively in the direction that we want to go, but we have to recognise we also need to rally support, and we need to gather as many as we can around our approach. From the evidence I have seen I see more trace of our own influence in much of what is being said now, for example, in the Franco-German paper than might have been the case a few weeks ago. So I think there is a direction, but you cannot, I think, expect that the Government should now have an absolutely cut and dried position at a time halfway through a very long and complex negotiation.

I understand that the decisions will not be taken finally until the IGC has looked at the proposals that emerge from the Convention, but what it appears you are saying – because you have not answered my question about the probability of the constitutional draft treaty being drawn up by the Convention in two months – is what you would like to see in that treaty. It is almost as though the British Government is abdicating on that point, that you are holding your fire until the intergovernmental conference rather than seek to influence in Britain's interest the shape of the constitutional treaty on this particular matter because you have not got final answers from I do not know whom.

(*Mr Ricketts*) I do not agree, Lord MacLennan. I believe that Peter Hain has actually been one of the most active and influential members of the Working Group on External Affairs, and the Working Group report is full of contributions that have come from Peter Hain and have shaped the way it is developing. On the issue of the double-hatting of the High Representative and the External Affairs Commissioner, the Working Group report itself shows that there has been a very wide range of view in the Committee, and that is not surprising because this is an absolutely critical issue for the shape of institutional arrangements. We have had our views, we continue to feed our views in, others have as well, and the position continues to evolve, but I think it is no surprise that there is no single, clear outcome at this stage, because we are in the middle of the construction of this new edifice.

Lord Williamson has pointed to the clear thrust of this report, and you have, I think it is fair to say, enunciated a position of no certainty in response to that clear thrust. As I say, it is perfectly understandable that you should be keeping your powder dry, but I think we need to be quite clear that that is what you are doing. I say you. I do not mean Peter Hain. I mean the British Government posture on these core constitutional and institutional relationships. In place of a proposal which we might conceivably seek to incorporate in the draft treaty, you have proposed a series of questions. Those of us who have some responsibility for trying to shape the document will deploy these questions, but we have to have an answer on what you would like to see in the document.

(*Mr Ricketts*) I say again, I do not believe that the model set out as option three in the Working Group report is actually the one which is garnering the greatest support, although that is what it says in the document here, because I do not think it is where this latest Franco-German vote has come down. I think the debate is genuinely open. We started this debate advocating strengthening of links between the High Representative and the External Affairs Commissioner, which is option one. In the report we think there is still a lot of merit in that but we have not closed our minds to a solution involving a single individual provided a set of clear conditions are met. I think at this stage in the negotiations that is a reasonable position for us to adopt since we are going to have to come to a conclusion that reflects the views of all the Member States through this very long and complex process.

Chairman: Lord Inge, I think, with what we think is a much easier question.

Lord Inge

I was just going to say this is a doddle compared with the other one.

(*Mr Ricketts*) Thank you, Lord Inge.

The working group recommended that there should be an increase in the budget of the CFSP. Firstly, do we support it, secondly, what sort of size are we talking about and, thirdly, what do you see it being used for, which is what I cannot quite get my mind around?

(*Mr Ricketts*) Thank you very much, Lord Inge. The CFSP budget has already been increasing. It went up 50 per cent last year largely to make way for the new EU police mission in Bosnia, which is funded from the CFSP budget. Certainly we supported that and we would like to see some further increase as well. Even with that increase of 50 per cent of the budget it is still around one per cent of the total external affairs budget of the European Union so it is extremely small and we believe it could be increased further. Why, because in an active CFSP in the world Solana and his team will need resources sometimes, limited resources but resources which they can control and which they can deploy quickly. For example in crisis management, in preventing conflict, he needs sometimes to be able to get people on the ground, to get them active faster than can be achieved by having to go and seek extra money from the budget authority in the European Union. Now that we are moving into a phase of ESDP, active European Union work in conflict prevention of the kind that Solana did effectively in Macedonia over the last 12 months, there will be cases where he needs to deploy people and undertake activities which require money, not significant amounts of money but more than is available in his budget at the moment. So we would favour some modest further increase.

It is really an increase in what I would call running costs rather than increasing capability?

(*Mr Ricketts*) Yes, I think it is principally that. If we are talking about serious programme spending then that needs to come from the other external budgets of the Community. I think as important as increasing the CFSP budget itself will be better coherence between policy set in the Council and delivery – to use Lord MacLennan's words – by the Commission in terms of their external budget, that is where the real money is. Better ways of harnessing that to the Council's priorities I think would help as much as a little bit more running costs and administration money for Solana.

Although the running costs are clearly an important part of that and available more readily, and I understand that, in the end one of the problems is the lack of European capability.

(*Mr Ricketts*) If you are talking about, for example, defence capability, that is absolutely right. A large part of our purpose in the ESDP and the continued work and political effort we are putting into ESDP is to begin to build up that level of European capability. In the civilian area, the shortfall is less bad, I think, than in the defence area. I think that the way the European Union has been able to take on the police mission and bring different talents, different instruments to bear because of the civilian crisis management side, that is one of the benefits of the EU taking in a crisis management role.

I think the report suggested also that the High Representative or the European External Representative – whatever he is called – should have the ability to deploy money or finance initially without any real reference to anybody, some of the civilian aspects of CFSP, is that right?

(*Mr Ricketts*) The report proposes, I think, some delegation of authority to spend money in an urgent situation but it has to be subject still to the normal accountancy requirements, and that must be right.

I understand that.

(*Mr Ricketts*) A capacity to spend more quickly where there is a need, yes, I think that is important.

If I look at a lot of the situations they might be involved in, there is a military/civilian tie up, the linkage between the two I think is very clear. That came from a previous study we did in this Committee. We are not giving the same authority then to the military bit, it is purely the civilian aspect, is that right?

(*Mr Ricketts*) Perhaps I could ask Mr Barrow who is closer to this to answer.

(*Mr Barrow*) In the present instance, that is right. It is on the civilian side that it is envisaged that this person would have delegated to them some initial capacity within the budgetary ceiling and with political and accountancy procedure being met as a norm. I think one important thing to remember about the CFSP budget itself is that for the EUPM's mission in Bosnia we are talking about it covering the common cost of the EUPM and that where we have seen in some way additional resources for many of the objectives of the CFSP budget – these include conflict resolution and conflict prevention – is through the cost line where the procedures fall on both civilian and military missions and operations. The Member States are offering assets and bearing the costs of those as they contribute to objectives which are the sort of objectives which the quite limited CFSP budget is there for. The CFSP budget is a small aspect of what we do in pursuit of those broad objectives.

Lord Williamson of Horton

If you look at the total cost for the CFSP, part of it comes from Member States, we do not need to argue about that, that is clear enough, but in reality some of it comes – it may not be so labelled – from the Community budget because there are associated elements which are important for the Common Foreign Policy. Can I be clear that the idea is that the High Representative or his successor would have a bigger degree of autonomy in drawing on the Community budget? I have to say I am in favour of that myself because I can envisage situations in which it could be a bit difficult because of the European Parliament or for other reasons. Is that what is envisaged, that it would be easier for him to draw something from the Community budget within obvious limits?

(*Mr Ricketts*) I think what is proposed here, Lord Williamson, is a small addition to the pot of money in the CFSP budget that the High Representative can deploy in urgent situations. I think tapping the Community budget, the proposal is not here that he should be given delegated authority to tap into the Community budget, that I think is achieved more by the sort of issues we were discussing earlier, his chairing the GAERC, for example, or his having some double hatted function involving sitting in the Commission. That is where I think we would try to get at access to the Community funding. This proposal is simply to give him his own resources under his own control at a slightly higher level.

In reality, I think, drawing on the Community budget, not on his own line but what I call the traditional Community lines, would probably be a lot more important if you look ahead five or ten years. It is quite an important point that he should have better access to that.

(*Mr Ricketts*) I can absolutely see that. I can see the level of resistance which would probably be encountered from the Commission as well.

My successor would be opposing it no doubt. I am in favour of it.

(Mr Ricketts) Right.

Lord Harrison

Mr Ricketts, I would like to come to question six but before I do so could you clear up what the Government's view is of the title of our putative Javier Patten or Chris Solana. In a note on page five of the working group this person, as we have called him so far, is intended to be called a European External Representative because that has the advantage of not corresponding to a title used at a national level. Earlier you used the phrase "the EU minister of foreign affairs" and personally I favour something which is indeed familiar to the people of this country, something like EU foreign secretary, so what is the British Government's view on that?

(Mr Ricketts) I think the honest answer, Lord Harrison, is the British Government has not taken a view on that yet because we do not yet know what this person is going to be, and I think the titles are used in this working group report to distinguish the different models, so the European External Representative is their way of referring to the third option, which would be someone who is a full member of the Commission. The fourth option is labelled an EU Minister of Foreign Affairs, that is someone who is largely under the Council although they may have a seat but not a vote in the Commission. So they are trying to distinguish those two models, and until we know what model we get I think it is difficult to make a final decision on the title. Although there is no formal Government position, my instinct is probably that ministers would not want to see someone called an EU foreign minister or an EU foreign secretary because then you risk confusion as to whether you are still in the area of common policies adopted together and pursued individually, or a single policy and a single foreign policy implemented by a single foreign minister.

Yes, but is the material point not that if we are bringing the European Union closer to its members, its people, actually using designation or formulation which is familiar in British political life, like Foreign Secretary, will have the benefit of making clearer what the possible function is for this new putative person?

(Mr Ricketts) I entirely see your point. I think it is a decision that our Ministers will have to take, but I take full note of it.

Can I go on to question six. In particular I would like to focus on the eurozone members who are mentioned on page 10 of the working group report under paragraph 13, the third paragraph there. The proposal might be that the eurozone members of the group expressed support for a single representation of the eurozone in the international financial institutions. Two sets of questions really. First of all, if there was such a person, would it be drawn, would it be part of the function of the new hybrid person, would it be a separate person or would it affect the EMU Commissioner who exists presently or what relationship would they have with the ECB President who does represent the eurozone on certain IFIs now? The second question in that area, if that were to happen, if there were separate representation of that kind of the eurozone, which is growing in membership, especially with the accession of the new accession countries, what is the Government's view about the isolation of possible confusion of policies that might be expressed if you have a eurozone representative separate from an EU representative?

(Mr Ricketts) Lord Harrison, I find this a particularly difficult area to give you authoritative answers, partly because it lies outside my area of competence in the Foreign Office and partly I think because the Treasury will take a particularly close view of these issues, so I do not want to say things which my Treasury colleagues would find difficult. But, as I understand it, first of all, there is an issue about the statute of international organisations like the IFIs as to whether that statute allows for an EU seat as opposed to seats by individual members of the IFIs, so there is a prior issue there, and partly as a result of that we are not expecting there is going to be any early movement in the direction of a single EU seat in the IFIs. Of course, we are not a member of the eurozone and therefore we are not part of the group referred to in this report, but I do not expect that we will see early moves in that direction. I think the questions that you raise in terms of overall coherence of representation, if we have one, are very relevant certainly I would not think that it would be the High Representative/European External Representative EU foreign minister figure who would take that function on, because I do not believe that whatever role that person had in the Commission it

would include the sort of Financial Commissioner matters that would be covered there. So I do not think we are talking about that person doing it and I do not expect it to happen soon. I am afraid that is about the limit of my knowledge of that issue, but it seems to me to be one that the practical problems in terms of the statute of the institutions will prevent early progress in this direction.

Lord MacLennan of Rogart

With reference to the issue of an External Representative, the concluding recommendation in the report refers to the overseas representation bringing together Commission representatives, Council representatives and representatives of national governments, and in particular suggests that those embassies or delegations could service Member States not represented in a particular country. Would the British Government be willing to be represented in a particular country which is not otherwise represented by such an embassy? I think, for example, of some West African countries where I understand that there are current arrangements to be represented by the French. Would that be thought to be preferable to being represented by the European embassy?

(*Mr Ricketts*) First of all, what we are talking about here is not representatives of national governments joining Commission representatives and Council representatives, I think it would be people seconded from national governments. So if we sent a British diplomat to join the EU delegation in a third country he would not be representative of the UK, he would be seconded to the European Union. I think you raise an interesting question about representation in a country where some Member States are not represented. I would see that as applying more to the small Member States who may have very limited external representation, including some of the new Members who will be joining in 2004 who have probably extremely limited overseas representation than the UK with our very extensive network overseas. As you say, there are already a number of cases where certainly we are co-located with other European embassies, for example, in Reykjavic where we and the Germans share an embassy, in West Africa there are examples of that as well. I would have thought that would be our first approach in countries where we ourselves are not going to maintain a separate embassy, there would be co-location with other European Union Member States. This idea I think will take several years to develop.

Chairman

Have you finished your answer?

(*Mr Ricketts*) Yes. I would not rule anything out for the longer term. I doubt that we are going to see useful options emerging in that area, at least for some time.

Did anyone have any other questions they want to ask before the alarm starts going off again? Mr Ricketts, thank you very much indeed for setting us on fire with your various thoughts. We are most grateful to you. Thank you very much indeed.

(*Mr Ricketts*) Thank you very much indeed, Chairman.

Present:

Bowness, L.
Harrison, L.
Hilton of Eggardon, B.
Inge, L.
Jopling, L. (Chairman)
MacLennan of Rogart, L.
Morris of Aberavon, L.
Park of Monmouth, B.
Powell of Bayswater, L.
Williams of Elvel, L.
Williamson of Horton, L.

MS GISELA STUART, a Member of the House of Commons, examined.

Chairman: Thank you very much for coming. You are most welcome. Many of us admire the way that you seem to spend your entire time going from committee to committee. Thank you for coming to this Committee. As you know, we are particularly interested in defence this morning and, therefore, because I believe we are going to have divisions in their Lordships' House this morning, I want to get on as quickly as possible so we do not interrupt your time with us. Can I ask Lord Inge to open, please.

Lord Inge

Could you say whether you think the euro defence mechanism is going to be included in the Treaty? I think the reason we are asking that is so we allow some members to develop defence capabilities further through enhanced co-operation. I have some difficulty understanding how this might develop and I think what France and Germany are doing is an example of how we handle Iraq which adds a dimension to that sort of question.

(*Ms Stuart*) First of all, thank you for asking me to be here because I think it is quite unique that we have Treaty preparations where parliamentarians are involved. That is why I think it is important for me to report back to you where things are going. It is a very strange mechanism, also, in which decisions are made because we have working groups which are dominated by neutral countries in terms of their membership. A report then goes to the whole Convention, the whole Convention then debates it and around that you have governments taking actions as they do that, so you have three inputs. What appears to be happening is you have quite a firm commitment to have in the new constitution provisions for foreign, security and defence. The Treaty as it stands at the moment has got two separate headings, something which I feel very uncomfortable with because I think defence and foreign policy, one supports the other, and to try and separate the two is something I am still very much working on, trying to combine it and make it clear that the two are together. I have always taken the view that, yes, there will be a provision but it has to be one where we build up capacity, where we build up capacity not in competition with NATO but in support of NATO. The big political debate which is as yet unresolved is that there are a group of people in the Convention who think the reason why the European Union does not have a clearer foreign policy is because we do not have the mechanisms. There is another group of people who say the mechanism will not create the political will and it is no good pretending that something is there when it is not. I have always taken the latter view. It would be not very sensible to create a mechanism which binds the euro into a common position and then there will be countries which will still break ranks and then it seems a failure of the Union. We say yes to enhanced co-operation but is the political will there, we do not know. One final point: I have always taken the view that in those areas which

remain inter-governmental we must not overlook parliamentary control which is not yet entrenched currently.

I am confused, I have to tell you. I am a simple soldier. If you are going to run complex military operations, it is very easy to talk about them in peace time but if you are involved in something like Iraq, there is a need for clear understanding of who does what. Do you think the people who are devising these structures really understand that? It does not matter in peace time, it matters dramatically when you are doing something as complicated as Iraq or maybe even worse. Is there an understanding of that complexity, how you need – I have bored this Committee with this – strategic direction which you give at the top and then you allow people to get on with it or is going to be micro-managed at the same time? So not only do you have a very complex structure but on top of that you are trying to micro-manage something which cannot be micro-managed.

A. If I can quote what Lord Stockton said in one of the working groups when he reminded everyone that it is politicians who decide to go to war but it is the soldiers who actually then, on the ground, fight the war. If we confuse those two things we are in trouble.

All I would say is that soldiers need politicians to give them strategic direction and not micro-manage the campaign once they have told them what they want them to do. I think perhaps I would disagree with you in the sense that actually you get the best out of your military if you are getting the right strategic direction from your statesmen.

A. Let us put it that way. It will be a constitutional Treaty and I think within that Treaty it should be clear who makes the decisions. What you are worried about actually would not be in the constitutional Treaty but that is a different aspect.

Lord Powell of Bayswater

I just want to pursue Lord Inge's point. One gets the impression reading through the very full report that there is a willingness on the part of most people involved to do everything together except spend more money on defence. The impression left is that this is really about institutions, not about defence. The willingness to have any substance to a European defence policy just is not there. Is that a fair criticism?

A. It is a fair criticism and it is not. This was a report of the working group, the most detailed one, which was, as I said, very much dominated by neutral countries, if you look at the composition of it. There were three members which were two government representatives from Germany and from France and I was the British representative from the parliamentarians. It was really the three of us who kept stressing it is building capacity which is very important, not trying to provide the structures because it is no good pretending that we can do something when the capacity is not there. The noble Lord Robertson, I think, made the very forceful point to the group when he said when Germany after their long political struggling finally decided to deploy 600 soldiers in Kabul they had no means to fly them to Kabul, they had to hire Russian planes, 145 at a cost of \$245,000 each. I think that point really hit home. You are quite right, there is a large number particularly of neutral countries who want to focus on the institutions. It is a conflict that is there.

Do you think the more realistic view which you clearly represent will be properly reflected in the final outcome of the Convention?

A. I think so. The reason why I am quite confident is that all the Conventioneers – if you would like to call them as such – realise that unless our Treaty is accepted by governments we will not have succeeded and governments are probably more realistic on that point than we would be.

Lord Inge

By that you mean that they will give more money?

A. That would not be in the constitutional Treaty for the European Union.

The two are not connected.

A. There was one example. There was a suggestion at one stage that we should create a group who would co-operate on defence and you would have a mechanism where you can be part of that group based on your percentage of GDP spending on defence. That was rejected in the end because individual countries calculate defence spending so very differently. In some countries pension payments are part of the defence budget, so you would not be a good admissions criteria. So it will not be enshrined in the constitutional Treaty but there is an awareness that it is the political will which matters.

Lord MacLennan of Rogart

In the provision of the working group which speaks of collective defence and the possibility of there being a collective defence clause in the Treaty it is made clear there is a division of opinion about this. What I am not clear about, and I know I should be by this stage, at least as clear I suspect as Ms Stuart, is whether what is described as a closer type of co-operation on defence, which is set out at paragraph 63 of the working group report under the Treaty, actually represented the view of the committee at all, a permissive clause, a kind of enhanced co-operation. It does read as though this is the conclusion of the whole group although there were differences of views about who would wish to participate.

A. That part of the report is a clear joint view, the defence co-operation.

Yes.

A. Where there was a real political divide was whether we should have within the constitutional Treaty an equivalent of Article 5, which would be a mutual defence clause. The view I took in the committee was that I could live with an Article 5 of the WEU Treaty provided it was made clear that it is delivered through NATO, and that was when the political divide opened. Therefore, you will find a commitment in that report that the European Union is not a defence union, an aggressor, and the report is slightly unclear where it leaves us in terms of the equivalent Article 5.

Lord Williamson of Horton

Can I ask you a question specifically on that part of the report which is headed "More Solidarity". I am very much in favour of creating more solidarity but of course it is the way that you handle it which is very important because there is going to be a clause, is there not, in the Treaty. It is going to be a major clause, so we have to be careful about it. As I understand it, there are basically three positions. There is one for which there is broad support which does not imply 100 per cent support, broad support, which is a clause which provides an obligation to work together in the face of threats from non state entities. This is what I call the "against the Ricin makers' clause" and there seems to be quite big support for that. The second one is where there would be a common security clause which would go much wider and not be necessarily a military defence. The third is a collective defence clause. Could you give us a view about, first of all, which way you think it is going to develop, this approach, and the extent to which you support that which has the broadest support, which is the first one, the solidarity clause related to threats from non state entities?

A. I was very content with that clause. The only word in that clause which slightly worried me was to "prevent" terrorism.

Yes.

A. Which I feared suggested pre-emptive action, so that is open to debate. As to the following ones, the big political debate here is countries like Finland, for example, will argue that if we want mutual co-operation, mutual defence, we can join NATO, it is open to us. It is a political choice. If, for whatever reason, we have chosen not to join NATO, then that is a signal that we do not wish that. I think for the third option there is less support. In the middle you will find there is a fair amount of movement. Some countries have got real problems, the Swedes, for example, the minute you mention the word defence, they will not accept it but they will work more in peacekeeping. The big debate in the working group then was where does peace keeping stop and where does it become

proactive. Again, I think in terms of the constitutional Treaty, we will end up certainly with the first option but I would be very surprised if it went further than that.

Lord Williamson of Horton: Thank you very much. I must say the collective defence clause would be difficult from the point of view of the British public because of our other obligations in NATO. The first one does have quite a bit of attraction.

Lord Morris of Aberavon

May I quote the apparent differences in the philosophy regarding the European Arms Agency. In paragraph 64 we hear that many groups supported it, HMG apparently has not done so and there is a long history of the desirability of a coherent European arms procurement. I have an interest in this as far back as 1968 when we built the Tornado. As regards operational requirements, I always thought it difficult to understand, as we have tank warfare, we are about to engage possibly in the same war, a wholly different approach of Germany on the one hand and ourselves on the other. There is a long history of failure to meet agreed government targets. The order is agreed and then it is changed. Is this the reason why we are less enthusiastic for the European Armaments Agency or is there something more fundamental and deeper and can the two views be reconciled?

A. I confess I was slightly surprised when I read it was your Lordships' Committee's impression that HMG was not in support of that. Certainly I made the case in the working group, and because defence is an issue which is so deeply governmental I very much took the advice of the Foreign Office on this, we are in favour of it but we prefer the phrase "capabilities agency". What my concern was, and I know the Government's concern also, that we did not wish to create a bureaucracy which did not deliver the capabilities on the ground. In the early stages of the work I sensed there was ever such a slight movement of some people to move defence procurement which at the moment is not within the remit of the Commission into a Commission remit which is something which we would have objected to. We kept stressing the word "capabilities". In that sense it is very much the UK Government view of the more we can co-ordinate that procurement which increases real capability on the ground without just raising a bureaucracy which will look good on paper but actually does not deliver, so I think it has our support provided it is practical. Is it undermined by the history of failure to deliver? When you hear the target of this aircraft or not, it is 200 aircraft for Germany and 100 for Italy and 50 somewhere else and then the financial ministers a year later say "not 200 we will make it 50", that makes a nonsense of aspirations. When you talk of capabilities I say it is whether it is going to be effective.

A. You are quite right, we keep coming back to what a constitutional Treaty can provide in terms of what we wish to do. If the political will is not there, which in this case is the will to provide the money for it, then these aspirations in the Treaty will come to nothing. I think what we tried to avoid was creating a structure which pretended to be something which in the end it was not.

The emperor has no clothes.

A. Indeed.

Lord Powell of Bayswater

Is there not a point going beyond Lord Morris's, which is that if you had a European armament agency it would only be a short step before all European countries were expected to obtain their military requirements through this agency? That would by implication shut out the United States supplying the European market and in turn mean the United States not buying from Europe. It seems to me that it would be a hugely protectionist step.

A. Which is something we very much try to avoid, to make it protectionist. Again, it was in the evidence which Lord Robertson gave to the group when he actually quite bluntly said: "...If we proceed with the level of armament spending which we have now, in a few years' time it will not be a question of whether we wish to work with the Americans, it will be a question of are we technically still capable..." The suggestion is that probably the answer would be no and it is that realism which has to enter the final Treaty. We had the debate on capabilities in one week where you had the Franco-German Paper and two days later the German Government cutting defences.

With respect, that is what worries some of us about this debate in the Convention, it is being conducted in a sort of airy fairy world which bears very little relation to reality.

A. This is where I am sometimes accused of being typically British by introducing a touch of realism and just saying what is really happening in the world here.

Lord Powell of Bayswater: More power to your elbow.

Lord Bowness

One of the recommendations of the working party report deals with improving the arrangements for crisis management (paragraph 52 I think it is). In a report which we are likely to make, the Committee probably would recommend that the civilian aspect of crisis management decisions needs to be approved. Do you feel the recommendations in the working party report go far enough in that regard, particularly on crisis management?

A. On crisis management I personally would have liked it to go further, but it was simply how much consensus you could get within the group. Again, what you have to be aware of is that what will have been a paper or a pile of papers four inches high of working group reports, Convention discussions, gets distilled into two or three lines of Treaty text, if that. So I think that was part of the debate. I would not expect the precise details of this to be in a part of the Constitution Treaty which we agreed on.

Baroness Hilton of Eggardon

In a week where we have seen France and Germany again reconfirming their close relationship, do you think that in a wider shallower EU scene, with Greece or somebody like that coming in, even the large countries like ourselves will be left more and more out in the cold, or do you think ESDP will be a joint effort by all European countries?

A. It is very difficult to say. I regard what happened yesterday as an in-depth Relate counselling for a couple who have been married for 40 years . I shall wait to see how permanent this newly-found love is.

You think there may be a divorce yet?

A. No, they are bound together geographically and historically. That is inevitable. That is the world. What was quite interesting in terms of the Convention was that neither Germany nor France anticipated how badly the Convention would react to the joint paper. It was the first time, in my memory since Joschka Fischer has been at the Convention, that he spoke and his speech was followed by total silence in the whole room. The method of the Convention is one where, for the first time, you involve parliamentarians, and not just the parliamentarians but also the smaller countries reacted very badly to what appeared to them an attempt by two big ones to say: "We have made a decision and this is where we think it should go without your consent." So that is one aspect. The other aspect is that when we came to areas of defence the candidate countries for the first time in the Convention started to take extremely firm positions. The very firm position was: "You do anything to undermine NATO and we will not agree with this." So the reality of this will be yes, it will be shallower. There will be a strong commitment to NATO because of the new countries who have come in – some of which have only just been invited to join NATO – and I confess it probably will be a very different NATO in a few years' time than the one that they thought they were joining. In the end what will happen – as it did in the St Malo process – is that those who have the political will and the capability who will drive the process forward – and in St Malo it was France and Britain – and I would not be at all surprised if the next step ahead again would be on that basis.

Lord Watson of Richmond

I would like to follow up your last remark. Firstly, I would preface it very much in support of what you have just said because I was at a lunch at the Hungarian Embassy yesterday with the head of their Foreign Affairs Parliamentary Committee, and it was quite clear from the discussion that their reaction to the Franco-German initiative – if you can call it that – is that Europe has actually changed quite fundamentally with enlargement and the French and the Germans would be well advised to take that fully on board. On the second point, you say that the next initiative in the defence area might well follow St Malo in the sense of the same key participants. How do you judge the awareness on the part of both the French and the Germans as to how really quite fundamentally their defence postures differ?

A. That is a very difficult question because the real difference is so fundamentally psychological and, because it is so deep, it may be more apparent to an outsider than it is to them themselves. I was trying to explain yesterday to a German television crew the difference of the attitude to war in Britain to that in Germany and it is that you are stating the obvious, which just becomes very difficult to explain. So it will continuously show itself in the practicalities, but Germany has moved. Their deployment of troops in Afghanistan was a huge step and I just do not know how it will proceed. I would expect France in this area to continue taking the lead, but there is a deep Germany unease about anything to do with the military.

Lord Inge

Could I follow up Lord Watson's questions. I would not disagree with what you say both on the psychological problem that Germany has in committing troops for reasons we all understand, and equally I think what a dramatic step it was for them to deploy troops to Kabul, which I thought was an enormous plus. Having said that, if Germany does not come and fill its place in the size of the capability – because, to be honest, in terms of military power and military capability they must be an absolutely fundamental player if Europe is going to have the capability – if they cannot produce that capability and still have problems, then I would argue that Europe still has major problems.

A. I think you are right.

Chairman

I have a couple of questions really based on the Franco-German Partnership. I note what you said about the reaction of the Convention and how they have acted, but is there nevertheless not a danger that what these countries say carries a huge amount of weight regardless of what happens in other countries and, in a sense, what Paris and Berlin are trying to do is to start the Intergovernmental Conference early, that is to say, they are putting in their national equivalent of what is their position, and whether the Convention likes it or not, that is going to be very significant? Is there not a danger that we in Britain are missing from the nucleus? It is the consensus view that the British representatives have done brilliantly so far in the Convention in adding a touch of realism to debates, but the danger now surely is that other countries follow the lead. Mr Papandreou is going to come on the Convention in February, and we obviously need to take the lead, otherwise however sensible our objects are we are going to find ourselves outflanked by these States.

A. I see why you asked that question, but I think you are wrong and I will tell you why. You will be wrong if the Convention proves its worth. It is a challenge now for the Convention. If we, as the Convention, allow this to become an intergovernmental conference, then only we will be responsible for that failure. The great strength that Peter Hain has is that, unlike Joschka Fischer and unlike de Villepin, he sits through two days of preliminary sessions, he responds to the debates, he intervenes regularly, he sits through his working groups – he is now on his second working group, which is a huge chunk of his time. Foreign Ministers arrive with their television crews. The Convention gives them a time slot so it meets with their diaries. If they have the time they may listen to the speech before, in courtesy just to one speech afterwards and then they are out. So they do not affect the kind of real opinion-forming in the Convention itself, and both Joschka Fischer and Villepin were severely criticised last Tuesday by a number of speakers. One of them described it as saying, "I object to being used as a posting box for tomorrow's newspaper articles by foreign ministers." I think that probably the Greek foreign minister will find the same problem, the time commitment, to influence the thinking in the Convention. So if in the end you are right, then it will have been our failure by allowing this to happen.

Lord Williams of Elvel

How do the applicant countries that you have react to the SDP in general? Are they happy with the recommendations about increasing the Petersburg Tasks and all that? Will they join in, do you think?

A. Yes, I think the applicant countries would. Quite a number of them would have liked to go further on this area. They feel quite comfortable with military action. They may have some problem with up-to-date capabilities, but in terms of the political willingness, that is not a problem for them. You have to remember that at the time this debate was held and concluded there was also quite an unease between those in late November, would they be likely to join NATO in Prague, and then there was a huge relief in December that yes, they were all invited. I think they had succeeded.

Lord Powell of Bayswater

My Lord Chairman, I would like to come on to the issue of qualified majority voting, QMV. Last week we took evidence from the Foreign Office who assured us that there could be absolutely no question whatsoever of QMV in the defence area, though they might consider a limited extension of it in the common foreign policy. Yet reading this report and some of the associated papers, one gets the impression that the French and the Germans at least are thinking of QMV when it comes to reinforced co-operation. Is this yet another area where you think the Working Group is all hot air, and governments are not going to let it happen? Or do you think the resistance, which was encapsulated in the Maastricht Treaty, to having QMV in defence is going to hold?

A. I come back to the fact that the Working Group was dominated by the neutrals. That is reflected in some of the aspirations. What I regard as my task is to undo what at the moment is in the Treaty, which separates foreign policy from defence, try to get that back into one article which makes it quite clear that one is dependent on the other – and that actually is the area which has fairly strong consensus – that this is, and will remain for quite some time, intergovernmental. There are some aspects of foreign policy where you have no input, you can be communitarian, willing and able, but I think that there is a really broad consensus that this is an area which is intergovernmental.

I accept that there is a consensus that it is intergovernmental, and I accept that the Working Group was dominated by neutrals and this is actually a Franco-German proposal. Some of us might think that Germany is getting a bit close to getting neutral. In practice, they are talking seriously about QMV, extending it to areas of defence and seeing what happens in other areas of Convention business where the French and Germans are agreed. You do not think there is a serious risk of their attempting to introduce QMV into defence?

A. Yes, I think there is a serious risk, but I think it would be one of the areas where there will also be a significant group simply saying, “This is one step too far”, and I would be amongst them.

Lord Powell of Bayswater: Again, I hope you prevail. Thank you.

Chairman

By the time the Convention is over, it looks like it will be the will to go to war. It will be a war fought mainly by the Americans using a bit of NATO around Turkey maybe. I worry sometimes that the European Union is in danger of making itself look silly by sitting in committee rooms in Brussels discussing enhanced solidarity or enhanced co-operation in defence matters, whilst a war rages not too far from its borders, in which it plays only a minimal part. By the fact that we are discussing this while war is going on, it seems to me, we run the danger of losing credibility in Washington, at a time when that is the last thing we ought to be trying to do. Do you think there is any danger of this?

A. Yes, I think there is a danger. For example, when people talked about the Rapid Reaction Force and the initiative then of the European Union to have almost a kind of duplication, again as Lord Robertson said, we have two million people in uniform in the European Union, but when it comes to finding soldiers who can actually be part of that Rapid Reaction Force we have a problem just finding those 60,000. It is now the real crunch time, as far as I am concerned, between those who I think politically almost wish to alienate the United States and wish for NATO not to

continue, because their vision of Europe has always been one of being an alternative power bloc to the United States, and those who do not wish that to happen. I think the sheer reality on the ground, that we do not have the capability to develop, I think will begin to sink in with those who seriously think about it. As to what happens now in the outside world, it is never the right time, this is where we are, and I do not pre-empt anything that will happen in Iraq. In the meantime we will have to try to write our constitution.

Lord Watson of Richmond

I have two questions, if I may. First of all, how significant do you think it will be, in how the whole issue of European co-operation in the defence sector is seen, if the French actually in the end do play a military part, albeit rather small, in any action that takes place in Iraq? That is my first question. I was at the German Embassy last night where all the celebration was going on. It was extraordinary how careful the French were being about committing themselves – I am sorry, how careful the French were being *not* to commit themselves and not to take any action. I thought that that was quite interesting – double negatives. My second point really goes back to the earlier question. For better or worse, the French and the Germans have taken the initiative, have laid things on the table, have a certain momentum therefore. Whether that is part of an attempt to turn us all into the IGC or not, we shall see. Do we not need some significant proactive initiative from the British side? Would it not be better if we were putting things on the table, rather than skilfully objecting to what other people put there?

A. Yes, I think you are touching on the age-old British problem about whether we are, or whether we are only seen to be. Whenever we enter these European negotiating rooms we have a list of things that we do not want to see happen: the others have a list of things they wish to see happen.

Can you jump the box? Can you do it differently this time?

A. I think we have actually been on this occasion extremely positive and have been seen to be positive on certain areas where, as in the area of capabilities, we really wanted to build that up. You have to understand, in the Convention there are very few people who really want to talk about defence; most of them politically do not want to talk about defence. I attended a working group by the European Socialists where we discussed defence, and there the speaker opened his remarks by actually saying, “We have got to get through this, because it is not really terribly socialist to talk about defence.” The political battle of the Convention is really that the European Parliament feels this is an area where they are completely excluded from the decision-making process, and for them success would be if they now have a say in defence. So that is where the real debate will be. Again, as to what Germany and France will do, I do not know.

Lord Harrison

I, too, want to talk about the age old British problem in respect of the European armaments agency, and you were very clear that you would not want the right initiative to lie with the Commission in this area if it were to happen. Like, Lord Morris, I have a sense that there is an awful lot of duplication going on when we are calling – as we repeatedly do – for an increase in resources. This is one way to achieve that – not the only way by any means, we still need an increase in expenditure, but it is a way. I thought that the Prime Minister in his Cardiff speech was implying that something positive has to be done in this area. Can I invite you, again, to say how you can negotiate this tricky area but come up with the result that we can pool resources together much more effectively than we have done hitherto, so that we do fulfil the ambition of providing greater resources for our armies?

A. We already have some very good structures, which are all in existence, whether its OCAR or LOI, and all the systems are there. What we, as the Convention, cannot do is impose the political will amongst the Member States to contribute to that and I would have thought the United Kingdom, for example, also probably would not react too well to a suggestion that the European Union dictate to us what the percentage of GDP on defence spending would be. So whilst this is an area where we are very active, we would not like to give the European Union the power to tell us. If we say we do not want the Commission to have the right initiative, then this is a consequence we have to live with. This is where we run up against this age-old problem of being seen as negative. There has been the suggestion of, for example, a military college which should be created, to which

we in the United Kingdom say: “That is fine, the concept is fine, but we already have one in Rome in the context of NATO. Why are we creating something new which would cost money but not increase capacity?” At that point we are seen as negative. Actually I do not think this is negative, if we stop people from doing something which is expensive and highly aspirational, but does not deliver anything on the ground.

We rightly cower against the duplication of institutions, but we apparently do not cower against the duplication of resources. When you say what is required is the political will, I want us to move on to the front step and to have those kinds of initiatives which make a reality of the ambitions we have.

A. We probably are already on the front step in the sense that whenever it comes to any of these demands, we are one of the very few who can actually deliver them. When it comes to any kind of joint action, who has the expertise, who is providing the staff and who is providing the soldiers. So we are on the front step because we are amongst the very few countries who are actually able to deliver. What I hope will happen is that we have a kind of recognition that the headline goals are starting to be met, we do not just have paper commitment; if we look at both the candidate countries, the kind of expertise they have, that that gets better co-ordinated. I come back to what I keep saying time and time again during all this work which is that paper commitments are worthless, it is capability building and it is real capability. The figure of two million soldiers in uniform is meaningless unless you can go deeper and say how many of them could you actually send into action. Probably the most significant thing, which happened over the last couple of months was the final agreement by Turkey and the finally moving ahead of Berlin Plus.

Lord Inge

Perhaps I could direct you to the point you made – it is a slightly woolly question – about people not really being interested in defence. They have to go through the motions, but they are not really interested in defence. Is that because they actually do not really believe it is necessary? In other words, do they not recognise the challenge is out there, or do they think that if we need defence it is probably only peacekeeping, peacemaking, right down the lower end of the spectrum, so you do not have to worry about that; that if there is something really big and nasty, America will do it anyhow?

A. If I turn the answer almost on its head, we had some very interesting discussions about whether the word “peace” should be included in the objectives of the European Union Treaty. I then queried a wording which was put forward – which sounded extremely worthy and wonderful and highly aspirational – and I said that that wording you are suggesting would actually mean that should, God forbid, the United Kingdom, only with the United States, take action against Iraq, we would be in fundamental breach of the European Union Treaty and could probably trigger off the Article 7 procedure to have us expelled from the Union, which to me was an argument I thought would defeat it, it was so fundamental. There were some people who looked at this quite seriously and thought this would be a very good idea that we bind ourselves into being terribly peaceful. There is a whole generation out there who think it is our duty to get to a position where we would not need defence and they see it as a kind of political failure that we still need the military. They look at Britain and they have said this to me: “You are the only country which regards military action as a means of achieving glory.” This shows you a very fundamentally different attitude. I just say: “We are more realistic.” It is not that we do not share the aspiration of a peaceful world, but if you have not got it you have to have the means to do something about it.

When evil crosses the borders the Balkans and Europe does absolutely nothing?

A. Indeed.

Lord Williamson of Horton

This is perhaps more a comment than a question. You did comment on the reaction in the Convention to the arrival of the two bruisers, the Franco-German bruisers, who rather messed up the tea party temporarily. I do understand, however, that it is most important for us to understand the effect on the Convention. My comment is that from the British point of view there is quite a lot to be said for action which smoothes the passage from the end of the Convention to the IGC and perhaps this may help a bit in that direction. The reason why is that I would not like to see a big break between the Convention and the IGC. The British public would immediately get rattled and say: "We did not get it, it was going to be good and now it is not good" and so on. It is quite important to show that it is one continuum if we can do that. Do you wish to comment on that?

A. No, you are absolutely right. At the early stage of the Convention some people criticised Giscard D'Estaing for doing a continuous round of capitals. I have always defended him for doing that, I think he was absolutely right and proper to do so. As you say, the Convention can only be a success if at the end, broadly speaking, the governments accept this. The point I was trying to make earlier is that the Convention is also a process by which all of us learn and all of us at some stage change our minds on positions which we came in because we become aware of different dynamics. and that is why I think if you have the bruisers doing short appearances, not only do they deprive themselves of this opportunity to really learn but it also means that they are not influencing the floor of the convention, they are not changing minds and hearts, and that is where I think Britain has actually been really strong because all of us have been there, have taken part, and have always engaged in the debate. That has changed people's minds about our attitude. We are no longer seen as the wreckers but in many areas they do understand why we have particular views. We have huge support, particularly in Scandinavian countries, where they view the world in very similar ways.

Chairman: I think that brings our session to an end. I think I speak for the entire Committee by saying we have had a fascinating period with you. Thank you very, very much for coming. You have been admirably concise and thoughtful and interesting. Speaking as a former government chief whip, I do not know what on earth you are doing here and why you are not running a department halfway up Whitehall as a minister of the Crown! We appreciate that.

A. Thank you.

THURSDAY 13 FEBRUARY 2003

Present:

Bowness, L
Inge, L
Jopling, L (Chairman)
Harrison, L
Hilton of Eggardon, B
MacLennan of Rogart, L
Morris of Aberavon, L
Park of Monmouth, B
Powell of Bayswater, L
Watson of Richmond, L
Williams of Elvel, L
Williamson of Horton, L

SIR STEPHEN WALL, Head of European Secretariat, MR JOHN BOURNE and MR JOE GRIFFIN, Cabinet Office, examined.

Chairman

Thank you for coming and we owe you an apology for keeping you waiting in what must be an extremely busy life at the moment. Would you be kind enough to begin by introducing your two colleagues and let me say that the Committee would very much welcome either of them chipping in at any stage where you or they feel it appropriate.

(Sir Stephen Wall) Chairman, thank you very much. My colleagues are Joe Griffin and John Bourne who both work with me in the European Secretariat of the Cabinet Office, Joe in particular dealing with the Convention and accompanies Peter Hain to most of the meetings and John deals with defence issues insofar as we in the European Secretariat do so. As you know, there is also an overseas and defence secretariat in the Cabinet Office who have the prime responsibility for co-ordinating Government business on defence matters, but our responsibility is to co-ordinate EU policy as a whole, so we have an interest.

I wonder, just in a very broad outline, how you see CFSP now following the events of the last couple of weeks. It looks a little ragged, does it not?

(Sir Stephen Wall) It does look ragged and I think what we are seeing is a very clear demonstration of its limitations. I think, given that the issue of Iraq in particular is one that is divisive within nations, it is perhaps not surprising that it is divisive between nations as well, and I think that our approach to the evolution of common foreign and security policy (ESDP) has always recognised that there are certain limitations and that you cannot handle this issue in the way that you handle legislation on the single market, for example. I think that we have made some progress on the development of a common foreign and security policy over the last few years, but it has a very long way to go.

Lord Morris of Abervon

Sir Stephen, what is the momentum for changing the CFSP? What is the drive, is it desire or institutional effectiveness or is there a broad agenda and would that not militate possibly, if not probably, against national interest?

(Sir Stephen Wall) I think there is a tension there. I think the prime motivation of most people in the European Union, and most of our partners, is a belief in having a European Union that is an effective actor on the world stage. If you think of aid relationships and the trade relationships that as a Union we have with most parts of the world, that is an effective instrument of policy that is not

matched by the foreign policy side and their natural desire to make the two things coherent. At the same time there is tension between those countries who believe that their interests within the European Union are best advanced by the traditional community methods, and those like ourselves who believe that foreign policy has to be a matter for governments, involving all the institutions but in a more limited way. In addition to that, inevitably when you get a negotiation of the kind we now have in the European Convention, you get tensions between institutions. There is a certain amount of jostling for power between the European institutions: the Council on the one hand and the Commission and the European Parliament.

We have just seen the draft convention Article 14, "Member States shall actively and unreservedly support the Union's common foreign and security policy in a spirit of loyalty and mutual solidarity. They shall refrain from action contrary to the Union's interests or likely to undermine its effectiveness". What is your view on that?

(*Sir Stephen Wall*) Subject to correction from my right or left, who have the text in front of them, the language of that particular clause is the same as the language of the existing Treaty. What is different, this is really the burden of the argument we have been making over the last few days since those articles appeared, is that at the moment Common Foreign and Security Policy is set in one of the pillars of the Maastricht Treaty, the intergovernmental pillar, and it is very clear, even when we talk about the Union, that it is the Member States who are in control. On the language of the Treaty as put forward by the Praesidium, I believe it is not their intention to change that legal basis as regards foreign policy, in the sense that it is still the intention to carve out a foreign policy, albeit within a single Treaty structure, on a different basis from normal community law. Nonetheless there is an impression given, certainly politically, the way those articles are drafted, that somehow there is an authority which rests in the constitution and is then devolved down to the Member States, whereas our view is the opposite: the authority rests with the Member States and it is up to the Member States to determine how far they devolve that authority to the Union. We have an opportunity now to put in amendments, which we will be doing. There will be a debate in the plenary of the Convention in the next few weeks. Whatever the Convention does there will be an intergovernmental conference where decisions will be taken by governments.

That is what I was asking you, although I do not think I put it to you properly, what would be the view of HMG as regarding words such as "unreservedly support", is that in accordance with what we are trying to do or is that something that is external?

(*Sir Stephen Wall*) I think "unreservedly support", if the policy of the Union is something which we by unanimity have agreed, once you have agreed it you should unreservedly support it. What you cannot do is have something which assumes, whether you have agreed or not, as it were, you will support it.

Which is our view?

(*Sir Stephen Wall*) Our view is that it is the former, ie that Member States should reach an agreement and when they reach that agreement then, yes, they should support it.

If that hurdle has not been crossed this does not mean anything to us?

(*Sir Stephen Wall*) That is right.

Lord Watson

Unanimity and momentum are two very important aspects of this Court. There was a report, which this Committee has seen, in the *Financial Times* on 7 of this month which is describing Giscard as saying he is against the extreme irritation of the European disunity over Iraq and then writes the following, "Underpinning the exercise for a Common Foreign Security Policy would be the extension to majority voting and the reduction in the use of national veto. France and Germany recently proposed such a move and it has been privately endorsed by Britain in spite of earlier reservations". Would you comment on that?

(*Sir Stephen Wall*) The French and German proposal suggest that majority voting should be the norm, except for issues relating to security and defence. We certainly agree with what they say about security and the defence, the question is about majority voting for the rest of the foreign policy. The obvious driver for this is the feeling among many of our partners, and it is perfectly valid in a Union of 25 or 27, and ultimately more, does the vast majority want to be held back by possibly one Member State? Our feeling on this is that it comes back to the convoy argument in the sense that it is rather irritating if the convoy has to proceed at the pace of the slowest ship. On the other hand, if it does not there ain't no convoy. How effective is a foreign policy if it is not bought in by the whole of the Member States, particularly if we are talking about action as opposed to words, which is why we have been very cautious and continue to be cautious in terms of the fairly restrictive provisions on majority voting that are in the existing Treaty. I think any British Prime Minister, certainly this one, will want to continue to be in a position where ultimately he is answerable to Parliament for British foreign policy. That does mean that in terms of the extension of majority voting there is more to consider than the French and German paper. There may be scope for greater use of enhanced co-operation for which there is also provision in the Treaty. Our feeling is that that has to be limited probably in the terms in which it is limited now under the Nice Treaty.

Sir Stephen, I imagine you would agree there has rarely been a moment in recent history where there would be widespread perception amongst the British public of how very different our government's position is particularly from France and Germany. My concern was in that environment if there is too great a gap between what is privately endorsed and what is publicly stated we add to public confusion and the debate deteriorates.

(*Sir Stephen Wall*) I accept that. I think, although the perception may be of Britain on one hand and France and Germany on the other, in terms of Iraq in particular, that is in reality far from being the case. We all want to see a more vigorous and effective Common Foreign and Security Policy and we sometimes pay a price for unanimity in terms of our ability to act. The argument I am making is that in terms of the overall balance of interest that is a price which, with the exceptions that are already in the Treaty, we have to pay.

Lord Williams of Elvel

Sir Stephen, I was surprised to see the French Government putting forward an extension of qualified majority voting, do you really believe that President Chirac has come to a decision on something that went against him?

(*Sir Stephen Wall*) I think the French Government probably feel, partly because of their relationship with the German Government, there would never in practice be a situation in which they would be out-voted, and in terms of an assessment of political risk that is probably a pretty fair assessment. I do not believe in our system we can base our policy on the assessment of risk, although the chances are that 9 times out of 10 on something really serious we would not be out-voted. The French and the Germans, by inserting security and defence caveats, probably exclude from majority voting a very large portion of grave issues. Nonetheless we have to be able to give clear and ultimately legally clear answers before Parliament and the public as to what might be subject to majority voting and what might not. The Franco/German formula does leave you ultimately at risk.

Lord Powell of Bayswater

Pursuing this question of QMV a little further: in answering Lord Morris you said that we could probably accept the draft Article 14 if it was based on unanimity. Then in your subsequent answers you have been visualising the creeping use of QMV. I think I am right in saying QMV is already agreed to a limited extent where there is a Common Strategy. Equally you seem to suggest that it could go beyond that. In a sense we are being asked to consider Article 14 knowing that could be QMV, at least in some cases. Is that not going to make it all a little tricky?

(*Sir Stephen Wall*) I was not intending to suggest a creeping QMV. I was really talking about QMV in the terms in which it is laid down in Article 23 of the Treaty. What I was suggesting was that it might mean in practice greater use would be made of enhanced co-operation, but enhanced co-operation is itself hedged round by the same provisions in Article 23. I am not suggesting a change in the parameters within which we operate.

When it comes to the Intergovernmental Conference, is it your impression that ministers are going to stand very firm that foreign policy is going to have to be a matter of unanimity, if they are to be answerable to Parliament on behalf of the British nation?

(*Sir Stephen Wall*) Yes.

In this Committee we have tended to take the view that it is very difficult to separate foreign policy, security and defence. If limited QMV for foreign common policy begins to erode the position of unanimity on defence and security. Do you see a danger there as well?

(*Sir Stephen Wall*) I think there is a danger. That is one reason why, when we were drafting the Nice Treaty, we insisted that an enhanced co-operation provision, even in a very limited form, should not apply to decisions that have military or defence implications because of the risk that if you had a group of countries who could go their own way, as it were, on something like defence implications then that could easily break the umbilical link we have established with NATO through the arrangements in the CFSP.

We understood from Mrs Stuart there was quite a lot of pressure for enhanced co-operation in the area of security and defence, which would imply some Qualified Majority Voting there. Is this another area where you think ministers will be absolutely stalwart in resisting any advance?

(*Sir Stephen Wall*) I think the tension here is with the desire for action on the one hand; there may well be instances where we want to take action and we find it at the very least inconvenient to be held back by one or other Member States. On the other hand, you have to accept that if you are operating within a European context that is a necessary constraint and does not necessarily stop you operating at all. You then have to operate in a coalition of the willing, which may be less desirable, but nonetheless it means that your hands are not completely tied. I think that that is one of the reasons why we believe you have to accept that there are some constraints on the way in which ESDP will develop in practice. I think in that context the convoy argument is a valid one. If you are taking action in the name of the Union it has to be action where the Union carries credibility, and it will not carry that credibility unless it has the support of all the Member States.

There is the convoy argument. There is also the argument wherein the past one starts out with ministers informing Parliament that they are opposed to the QMV being extended into certain areas and then that begins to erode round the edges. It may erode a little bit more in the context of this convention. When it comes to the IGC they may trade it for something else, another article we are interested in, and in you end up finding an important principle has been breached. Do you think the wall we are building against this is impregnable? Would you prefer to reserve your position on that?

(*Sir Stephen Wall*) There will certainly be pressure. I do not myself believe that the Prime Minister or any British prime minister would want to be in a position where in the last analysis they cannot take the decisions they need to take in Britain's national and foreign policy interest. At the end of the day we have to have a legal framework that has that right.

Lord Powell of Bayswater

Thank you, Lord Chairman. We have moved on to a subsequent question.

Chairman: Move back if you wish, by all means.

I wanted to go back to this vexed question of Article 14 that Lord Morris mentioned. In your reply, Sir Stephen, you mention it used the wording of the existing treaties and indeed the paragraph in the draft about the Union's competences also repeats the existing treaties. You also said that you would be tabling amendments. The question I wanted to ask you is are the amendments designed to take us back from the previously agreed position as in the treaties or are they merely to clarify that present position?

(Sir Stephen Wall) They are really to ensure that that draft constitutional treaty is consistent with the existing treaty provisions that are in force. We are not seeking to roll back to a position before the existing treaty.

I just wondered why the amendments were necessary when the words were the same.

(Sir Stephen Wall) We believe the amendments are necessary in order to make it clear – and we do not think the draft is clear – that the Union has powers to the extent that the Member States confer powers on it, and for whatever reason the draft that has come out implies there is a body of constitutional law which will have been decided as a result of which there will be duties beholden on the Member States rather than those duties arising out of the decisions which the Member States will themselves take. In other words, it is reversing what we think is the proper constitutional order in that sense.

Are these really matters for the Part II which was referred to and which we have heard about from Lord MacLennan and have not seen, and maybe nobody has seen as yet?

(Sir Stephen Wall) Nobody has seen them as yet. That is one of the arguments that is put to us by some of the people working on this drafting – wait for Part II. On the other hand, this is the constitutional treaty, which is designed to be read not just by “anoraks” like myself or by lawyers but by people who now cannot read the treaties and make sense of them, and therefore it seems to us the clear basis on which the Union operates has got to be there clearly stated in the first part of the Treaty.

Lord Bowness

Is this question of Part II going to be approved by the Convention? The reason I ask the question is that the Convention which dealt with the Charter of Fundamental Rights produced Part II as an explanatory document but in theory it was never the Convention's document. It was produced by the Secretariat which sought to explain, and in fact very adequately explained, the Articles of the Charter itself, but if Part II of this constitution is going to have the implications which you suggest then presumably the Convention ought to actually approve it?

(Sir Stephen Wall) Yes and that is the intention. As you know, they have got a relatively short period of time in which to do this work given that their business is supposed to be completed in June. That is the intention, that both Part I and Part II will be before the Convention and the Convention will aim to reach consensus on them.

Lord Williamson of Horton

Of course we have to react to the proposals on the table, including Article 14 and whatever comes in Part II. I absolutely agree with you that it is a good principle in negotiation not to wait. It is good to react when you have to. I am 100 per in favour of that. I want to ask a slightly different question, which is irrespective of what we are reacting to: what changes, if any, in the foreign policy arrangements would we like to see in the Treaty? I know we are sticking with our basic principle of Pillar II, and I personally would not like to see many changes, if at all, but are we looking for some changes in the operation of Pillar II and its links with Pillar I? Is that something we want or not on the foreign policy side?

(*Sir Stephen Wall*) We do want to see greater coherence between Pillar I operations of the Union and what happens in Pillar II, but that is more a matter of practice and coherence in the way policy is implemented than in treaty change. We also want to see greater coherence in the way that the Union operates in terms of arms procurement, for example, in order to increase our capacity and capability but again there are very strict limits, in our view, on how that can be done. Primarily it is a matter of better and more efficient co-operation between governments rather than applying the procurement rules from the rest of the treaty to the area of arms, not least because, in our view, it is very difficult if you go down the Community route to ring fence that and prevent it going beyond procurement into other areas.

Lord Morris of Aberavon

May I return to the answers you gave to Lord Powell and myself. I assure you I am not in the process of drafting an amendment but would the thrust of your remarks amount to, if there were such an amendment: "Member States shall actively and unreservedly support, on the basis of the existing need for unanimity, the Union's common foreign ... et cetera".. Is that the kind of matter that would meet our general concern or the wishes, perhaps more importantly, of HMG?

(*Sir Stephen Wall*) Yes, that is certainly one aspect of it. The other aspect of it is to make absolutely clear in the treaty that the Union's policy is the policy that the Member States decide it to be, not something which otherwise exists separately from the powers and decisions of the Member States.

Baroness Park of Monmouth

But in that case how does that square with Article 10.4: "The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy". Are we going to challenge that statement?

(*Sir Stephen Wall*) Article 10(4) of the draft constitution? That is exactly one of the points to which we are suggesting amendments because in the context in which this language appears, it does give the impression that there is a policy of the Union which springs almost unbidden from within the constitution to which the Member States have a duty of co-operation. What we are trying to get back to is what seems to us to be fundamental, which is it is for the Member States to decide what the policy is and once they have agreed the policy loyally to carry it out. They do not loyally carry out something that they have not agreed.

But there is also progressive creep in the framing of a common defence policy.

(*Sir Stephen Wall*) That particular language is consistent with the language of the existing treaties. In terms of what we want, we have to go back to the existing treaties and the way that is constrained which is not only in terms of the unanimity rule but also in terms of the very clear statement of certain Member States, and that has to be read absolutely in accordance with our obligations in NATO. That is absolutely vital for us, which is one reason why we have, frankly, held up any operations under ESDP until the Berlin Plus arrangements are formally agreed. That is absolutely critical for us.

Baroness Park of Monmouth: That is very reassuring.

Lord Bowness

Sir Stephen, I understand what you are trying to do and I do not disagree with it, but is this not going to make the document impossible as a constitution to try and write into each paragraph a standing order that applies to each policy? Surely these are to go in the other part of the document?

(*Sir Stephen Wall*) I am not suggesting that every single bit of what is in the existing Treaty has to go in Part I as opposed to Part II. What I do think has to be in Part I is the basis on which you Union's policy is constructed. There has to be a very clear political statement, which is also a

legally watertight statement of the kind I described, so that nobody has any doubt about whence the powers of the Union come.

Lord Inge

This is probably not a fair question. My concern is – and I know there is another part of the Cabinet Office dealing with defence – how can you have a credible, and I stress the word “credible”, Common Foreign and Security Policy if Europe does not have what I call really credible armed forces? How much movement do you see, or do you see any movement, of Europe recognising without that there is a deep flaw in the whole thing?

(*Sir Stephen Wall*) I think there is a recognition in principle, which is a long way from being turned into practice, this is one of the ironies of the situation, because the one other country that really shares that view is France. Part of the agreement which the Prime Minister and President Chirac reached at Le Touquet a week or two ago was to try and take steps that will encourage, urge, cajole and push more of our partners into putting improved resource into defence. There has always, I think, been a risk, is European defence something that you put on note paper or is it reality? For us we want to make it reality, not just something which exists in theory. That does require, as you say, more capability.

Is there any real sign of that happening?

(*Sir Stephen Wall*) Limited. It is going to be one of the on-going bits of pressure that we have to apply. I should say for the sake of clarity that in no circumstances are we talking about a European army, we are talking about national forces acting together in a coherent way.

Lord Watson of Richmond

This idea that the EU should be able to deploy national force within 5 to 10 days, which emerged from Le Touquet, how real is that?

(*Sir Stephen Wall*) For countries like ourselves and France it is real. What we were trying to do at Le Touquet is something that successive British governments have been striving to do for a long time, that is actually to have sensible coherence, both in terms of procurement and also better co-operation on deployment. If you are deploying to the Mediterranean it would make sense to do that in a co-ordinated rather than an un-co-ordinated way and obviously try to see to what extent more generally we can work together on procurement. These are very difficult issues and the 5 to 10 day thing is obviously aspirational but not unrealistically aspirational.

Baroness Park on Monmouth

Does the Government agree with the idea of double-hatting. Is it not a bit difficult to reconcile the fact that it might be quite difficult for them to representing one coherent policy on a serious issue?

(*Sir Stephen Wall*) We certainly need to have better coherence than we have had up to now, and that is no criticism of Solana or Patten, who have worked very well together but there are institutional tensions in the their respective organisations. For us, and the Government have not taken a final decision on this, the critical element for us in all of this is that a person who is responsible, if there is a single person who is responsible for the conduct of European Union Foreign Policy, has to be answerable to the Council, clearly answerable to the Council. We could envisage that person attending meetings of the Commission but we could not envisage that person being a member of the Commission and answerable to the Commission, subject to the collegiality of the Commission. We are basically saying that the Commissioner for External Relations job gets taken over by the Patten job. That is the model we would consider. If it was the other way round we would not consider it.

Taking it further, the Working Group suggests increasing the CSFP budget and giving the higher external representative the authority to finance the initial stages a civilian crisis management. We know there has been problems over that. Does the Government support that?

(*Sir Stephen Wall*) We do support that. It would be advantageous to that person, if they were answerable to the Council, to have that authority, it would then be subject to budget confirmation and it is also in our interests to expand the CSFP budget, and we have done so to an extent this year. It is critical for us that the budget remains under the control of the Member States of the European Union. We would not go beyond that in the conduct of the CSFP budget.

Lord Harrison

Sir Stephen, I am moving on to question 7, in your impregnable defence to Lord Powell's set of questions on slippery slopes you rightly said what the British Government decide will be decided by Britain's best interests, so can I modify question 7 to say, is there any advantage to Britain to be gained by the EU representing Member States within international organisations? What are the principles that would govern the decision to say, yes, it would be used in this area and, no, it would not be used for another area?

(*Sir Stephen Wall*) Hopefully in a reasonably enlightened way it does come back to national interests. If you take the most extreme example, which is not an active issue at the moment, nonetheless it is more than just theoretical: membership of the Security Council. If you have a single EU seat on the Security Council, from the point of view of a large number of EU Member States that would be a big advantage. From our point of view it would be a massive loss of influence and interest that is unacceptable to us. In other international organisations it makes more sense for the European Union to speak with one voice than to have a single representative. We have 25 votes and if you can exercise them in the same direction that is a good thing. In one context, namely trade negotiations, where the Commission under community law operates on our behalf, that works well in that particular context, where the power of a united European Union enables you to make trade-offs which enables you to achieve something in those negotiations which you cannot otherwise do. I think that we would be very opposed to a situation where the idea of a single EU representative meant that our own interests could not be properly represented – Lord MacLennan knows much more about this than I do because he was on the Committee that dealt with legal personality. If we go down the route of legal personality you have to protect yourself from that but it does not necessarily flow from legal personality that you have given that away. You have not given it away but you have to make sure you have steps in place to make the decisions that you want to, and maintain the individual membership of Member States, where in the vast majority of cases you will want to do.

On the Security Council, clearly we are not going to give up because there would be a loss of British interest, but there is a compelling logic from the EU that they ought to have some form of representation, is there a way that we could finesse this one?

(*Sir Stephen Wall*) I think it is very difficult. For those of us who are permanent members we make a real effort on the vast majority of issues to co-ordinate closely with our partners, so when we speak in the Security Council we speak if not on their behalf at least knowing what their positions are and hopefully in a way that is consistent with our common interest. There are obviously certain issues like Iraq where that cannot happen.

Lord Morris of Aberavon

Is there the machinery for doing that? We saw this letter in *The Times* the other day of some countries in, some countries not in.

(*Sir Stephen Wall*) The machinery that works in New York as between European countries that are on the Security Council, yes, and beyond. Our mission to the UN makes a point of having regular consultations with the 14 partners in terms of all the on-going business, so it does happen.

Sir Stephen, would that come back to the point that in any case if there were one EU representative, he would have to clear every major issue with the 25 countries, which he is probably fairly unlikely to achieve anyway, so would we not come down to him representing the EU basically only on things with the lowest common denominator, really minor issues that do not matter?

(Sir Stephen Wall) Yes, I absolutely agree with you.

Lord Watson of Richmond: Lord Chairman, this is not about the Security Council issue, it is a more general towards the end of our discussion question.

Chairman: I wonder if in that case Lord MacLennan would like to come in.

Lord MacLennan of Rogart

Really as a follow-up to Lady Park's question about the spokesperson role in this area of the High Representative, in your view, would the President of the Council be in any stronger position to speak on these matters than the High Representative? Would he not also be bound by the views of the 25?

(Sir Stephen Wall) We believe that the High Representative role, as carried out by Solana, has added to the effectiveness of the European Union. I think the way he has been able to operate in the Balkans, particularly in Macedonia, is both an example of common foreign and security policy working but also working partly because of his personality and ability. If you look at the Middle East peace process, however much we regret the lack of progress there, I think since Javier Solana there has been a greater coherence to the way the EU has operated and I would argue a greater acceptance by the United States of the EU as a partner as opposed to a potential rival or nuisance in terms of the handling of the Middle East. That is one level. Our view of the role of the permanent chair of the European Council is two-fold: one is management of the business of the European Council, simply ensuring that the Council is properly prepared, there is continuity between Councils, because all the things done by the Presidency on a six-monthly basis will become very hard when we have a larger European Union simply in terms of logistics rather than anything else; but also to represent the Union at the top level in the numerous summits that take place on a regular basis between the EU and third countries. We think there is a role at a head of government equivalent level as well as what I would call common foreign minister level.

I understand that, but I was simply seeking to clarify whether you thought that the top role, as it were, the role of the Chairman, would be any more unconstrained than you thought the role of the High Representative would be?

(Sir Stephen Wall) No, it obviously has to be constrained in the same way, but one of the things that Javier Solana has shown is if he has the authority of the Council behind him – obviously he has to report back to the Council – nonetheless, most of the situations he is dealing with are dynamic situations and individual ability does count for a lot in terms of moving the situation forward. He has to have very clear regard for the views of the Member State and one of the things Solana has done extremely well is to keep in very close touch with the Member States to ensure he is not getting out of sync with them.

Lord Watson of Richmond

Sir Stephen, you may think this is a slightly mischievous question but it is seriously meant. Standing back and looking at these rifts which have opened within NATO and the European Union on foreign policy and defence policy, is not one of the more unexpected aspects of the current situation the emergence of Donald Rumsfeld as a kind of recruiting sergeant for CFSP?

(Sir Stephen Wall) One thing from Romano Prodi's speech to the European Parliament yesterday that I agreed with was his statement that our effectiveness does depend on a very close relationship between the European Union and the United States. It seems to me that has to be a very central aspect of everything that we are trying to do. So if that has been the effect of what Donald

Rumsfeld has said – and I question whether it has – it seems to me that we have got to try and get back to a situation in which it is seen by, not just ourselves and those who are clearly on the same tack as ourselves, but more generally as being absolutely in the interests of the European Union to have a really close and effective relationship with the United States. The United States on the one hand and we on the other do represent the two greatest forces for democracy in the world, and it is absolutely critical, therefore, to our mutual interests that we work together, and I think that has been central to the policies of successive British governments and has to remain so.

Chairman: Are there any more of my colleagues who would like to ask any more questions?

Baroness Park of Monmouth

Might I ask a question which is way wide of the mark. We happen to have been discussing earlier the latest Council decision on Zimbabwe. I wonder, Sir Stephen, whether you would agree that from the very beginning the measures were unlikely to be seriously effected because of that let-out clause which allows each country to decide whether there might be serious advantage and wise policy results from stepping outside the agreement and for instance inviting Mugabe to Paris. Do you feel that since that is going to have to happen for the rest of it to be renewed, the rest of the sanctions in any way compensate for that major flaw?

(*Sir Stephen Wall*) I think it is a case where something is better than nothing. We have this regime and, as you say, it has with it the flaw that had we not agreed within the Union to the meeting in Paris going ahead then the sanctions would not have been rolled over. At the same time it is not yet absolutely decided but we have a very real prospect that either the EU Africa Summit will be postponed or it will be clearly established that Mugabe is barred from attending. That seems to me a net plus. Not a very big net plus but it is better than having a situation where you have nothing. When I think back to the 1970s when I first had the privilege of knowing you when we were dealing with Rhodesia, there was a British policy and an American policy and no European policy at all. I do think that what we have got is preferable to the absence of any policy, even though this one does not go as far as we would like.

Baroness Park of Monmouth: Unfortunately, one thing that is visible to Africa is that he could be attending as a guest of honour. Still I entirely accept what you say. It is another example of lowest common denominators as a result of a common policy.

Lord MacLennan of Rogart

Is this an example of the convoy moving at the slowest pace and might that situation point to the possible justification in some circumstances of qualified majority voting being the better way here?

(*Sir Stephen Wall*) It is a very good illustration of the dilemma and there is a trade-off between the potential ability to take decisions and preserving all the things which I have been arguing that actually we need to preserve because the interest in preserving them outweighs the interest in getting a decision. I also do feel that if you have got a European Union which is divided on an issue of action, as you would by definition have under majority voting, then the effectiveness of the policy is pretty limited. If you have a visa regime which is only operated by the majority and not by the minority, it is worthless.

Chairman

Sir Stephen, thank you so much for coming. You are having an extraordinarily busy time at the moment, therefore we are doubly grateful to you for finding time and bringing Mr Griffin and Mr Bourne to whom we also owe our thanks although we are sad not to have heard from them as well.

(*Sir Stephen Wall*) I will probably get stick for that afterwards!

Chairman: Thank you very much.



BOND'S RESPONSE TO THE CONVENTION EXTERNAL ACTIONS WORKING GROUP FINAL REPORT

BOND is a network of over 270 UK NGOs working in international development and development education with links in over 200 countries worldwide. Millions of UK citizens directly support the work of BOND agencies whether as volunteers, members or donors.

Summary assessment

The Working Group on External Action's report risks not only sidelining development policy commitments, but subordinating EU development cooperation instruments to the Common Foreign and Security Policy (CFSP). There is a minimal reference to development cooperation and poverty eradication in the 34-page report. The objective to "defend and promote the Union's values in the wider world" has dominated the Working Group debate with a minimal acknowledgement of Europe's global responsibilities in the preamble. Throughout the substantive part of the report, the notion of 'values' is replaced by 'strategic interests'. Development cooperation is regarded as one of the 'instruments and tools' that the Union has at its disposal in the attempt to 'maximise its influence'. This narrow vision of development and humanitarian assistance as a means to political ends would undermine the EU's credibility as a global development actor. The Convention must ensure that the European Community Development Policy Statement of November 2000 is strengthened and safeguarded through a development chapter maintaining the strong legal basis for EU development cooperation in the treaty (Articles 177, 178, 180) and strengthening EU institutions for an effective and independent development policy aimed at poverty eradication.

Positive proposals in the Working Group report

The final report of the Working Group on External Actions contains a number of suggestions that could potentially improve the effectiveness of EU development cooperation, with certain provisos. BOND welcomes the proposals to review and simplify legal and administrative instruments for EC aid, but stresses that a rationalisation exercise should not be based on administrative and management grounds without serious strategic analysis of the respective roles of thematic and geographic lines in EU development aid. A thorough analysis of the role of the current budget lines, their contribution to poverty alleviation, and of the EC capacity to manage these in cooperation with its external partners should be made. This analysis should be based on the EC's Development Policy Statement of 2000. The proposal to bring the European Development Fund (EDF) within the overall EU budget would introduce European Parliamentary scrutiny, but should not result in funds being reduced or diverted to other regions. However, if development cooperation is not maintained and strengthened with a legal basis, EDF budgetisation will be counter-productive and detrimental to a poverty-focused policy. Finally, BOND welcomes the call for the European Commission to work to ensure greater complementarity and consistency between EU and national Official Development Assistance (ODA).

RECOMMENDATIONS IN RESPONSE TO THE WORKING GROUP REPORT

1. A separate chapter for development cooperation

As the main trading partner of developing countries and the world's second largest multilateral donor of Official Development Assistance, the EU has a profound impact on the ability of developing countries to tackle poverty. Development cooperation should remain a separately defined Community competency with its own principles and objectives, in recognition of the EU's global responsibilities. A comprehensive, independent development policy at an EU level has an extremely important function to play in promoting and securing adherence to international standards and targets; and is essential if the EU is to speak with credibility, with one voice in international development fora and be truly effective in eradicating poverty.

2. Poverty eradication as the primary objective of EU development cooperation and mainstreamed into EU external relations

The policy for development cooperation jointly adopted by the Commission and the Council in November 2000, and approved by the European Parliament, clearly set poverty reduction as the primary objective of EC development policy. In the Convention's proposed constitutional treaty, under the section entitled 'Principles and Objectives of EU External Action', it is imperative that poverty eradication, human rights and sustainable development feature as the primary objectives for EC development cooperation. Development commitments should be mainstreamed into the EU's decision-making on all external actions.

3. Strong institutions for development in the Council and the Commission

An effective development policy requires a well-defined and separate political responsibility for development with both procedural and institutional reforms to promote transparency, accountability and participation in decision-making. It requires a Commissioner for Development whose priorities are not determined by an 'EU External Representative', a Service or Directorate for Development that is focused on supporting sustainable and social development, and not the EU's own commercial or foreign policy agenda, a re-activated Development Council that creates an independent space for European Development Ministers to confer and a European Parliament that maintains its crucial role in scrutinizing aid programmes on behalf of the EU public.

4. Clarification of the definition of coherence and consistency – Development instruments to be determined by development policy

The Maastricht Treaty defined 'coherence' as the need for Community policies to take development objectives into account if they have an impact on development countries. The Amsterdam Treaty introduced the concept of consistency and defined this as the need for all Community policies to be consistent with the objectives of the CFSP. The confusion of the definitions of coherence and consistency is evident in the Working Group's final report. This risks dismantling the principle of coherence and rendering it void of any political or legal value. Development cooperation should remain firmly based on the principle of coherence as defined in the Maastricht Treaty. An absence or misinterpretation of the Maastricht commitment to coherence in the new Treaty would be indefensible. What the EU offers developing countries with one hand, it should not take away with the other.

5. Member State development programmes compatible with and complementary to EU development cooperation in tackling poverty

Development cooperation must remain a separately defined policy area within the constitutional treaty and its nature as a complementary competence shared between Member States and the EU institutions should be enhanced. Member State development programmes should adhere to the fundamental principles of EC development cooperation enshrined in the treaty, first and foremost, in terms of poverty eradication. The European Commission should facilitate Member State efforts to increase national aid levels towards the 0.7% target and improve the quality and effectiveness of EU development assistance.

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