



EUROPEAN UNION COMMITTEE

The EU referendum and EU reform

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Evidence Session No. 12

Heard in Public

Questions 126 - 133

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Lord Liddle

Baroness Scott of Needham Market

Examination of Witnesses

Mr Ashley Fox MEP, European Conservatives and Reformists Group, European Parliament, **Ms Glenis Willmott MEP**, Socialists and Democrats Group, European Parliament, and **Ms Catherine Bearder MEP**, Group of the Alliance of Liberals and Democrats for Europe, European Parliament

Q126 The Chairman: Good morning, Lords, ladies and gentlemen. I was going to say welcome to our colleagues from the European Parliament but actually they are our hosts and we are very grateful for the opportunity to come here.

I take the slightly flat-footed view that if you do not go and talk to people, you may not know what they are thinking about and you may not learn anything. Certainly, from past experience, it has been very fruitful to come and talk to colleagues here and to get what might be termed—and I hope this will be treated in the spirit in which it is offered—a detached British perspective of what is going on in Westminster.

I think that the three of you—that is, Ashley Fox for the ECR group, Glenis Willmott for the Socialists and Democrats, and Catherine Bearder for the ALDE group—will be known either individually or collectively to colleagues on this side of the Select Committee. Equally, you will know the terms of engagement, which are that this is a public evidence session and that we will prepare and, if necessary or if appropriate, draw for our report on the full transcript. I hope that we can keep it reasonably informal and free-flowing, and colleagues will divvy in with their questions and, if necessary, participate equally. It is not absolutely necessary for everyone to answer every question. We will take it as informally as we can. For the record, I think that you are available until midday at least, and we then have another meeting with some think tank people.

I want to say one other word. We were over here, and indeed may have met some of you, in July, when we were looking very much at the process of the UK negotiations and the reform process. We continue to take an interest in that, although we reported on it at the time in some haste. We are calling this inquiry “Visions of EU Reform” and we are also now

looking at the extent to which there is a common understanding—maybe across the countries and maybe across the political groups or various interests—of what it means to reform the European Union, how much it is a British issue and how much a European issue, and how they overlap and interlock. We would like to approach it like that. At this stage of events, it would be quite easy just to seek to have a political exchange on what is going to happen at the February Council, but do not feel that you cannot comment on that. Equally, it is not our sole objective.

I think we will start. This question is to all three of you, with your background in the groups. We called our inquiry “Visions of EU Reform”. Do you feel that the British Government have produced a clear and coherent vision of EU reform? Just to gloss that, I mean, first, in relation to the reform of UK interests vis-à-vis the European Union and, secondly and perhaps more widely, in terms of reform of the EU process itself. I do not know who would like to start on that.

Glenis Willmott MEP: First, reform is not an event but an ongoing process. It happens all the time now. Lots of reforms have been taking place—for example, around issues with the USA. So reform is happening constantly here in this Parliament. I think that there is a thread to some of the things that the British Government are trying to do. For many years both Labour and Conservative Governments talked about making the EU work more efficiently and helping European markets to work more effectively. But, to be honest, for me the whole referendum and renegotiation process is more about managing domestic political concerns rather than UK interests. I see this as being about Tory division on Europe rather than about a vision of EU reform. I do not really think that it is an issue of EU reform. There is a lot missing from it. I think that we should have talked about the environment, fighting crime, social protection and working rights. There was a lot more that we could have looked at in terms of reforms. So I am not quite sure what the vision for reform is. I think that reform is something that happens continuously. What happens when we have this event and we decide that we want more reforms? Do we then say that we are going to do this again? This has to be something that we talk about continually with colleagues, building alliances to make sure that reforms happen constantly.

The Chairman: Coming back quickly, do you think that your colleagues from other member states—not necessarily from your group but maybe—share the same sort of analysis of the British proposals? Is this seen as relief for the Prime Minister and his Government?

Glenis Willmott MEP: Yes, absolutely.

The Chairman: In your opinion, it is not seen as a major play into the European reform process.

Glenis Willmott MEP: I think there are elements that everybody would agree with. Obviously everybody wants to see Europe being more competitive. So there are elements in some of the baskets that the Prime Minister has asked for that people would agree with. There are things that need to be done and looked at but, in the main, the majority of people in the Parliament see this more as something that the Prime Minister is using to manage his own party back home. That is how it is seen not quite but more or less across the board.

Ashley Fox MEP: It will not surprise you to learn that I disagree with a lot of what Glenis has said. I think that the Prime Minister is addressing very real concerns that exist among the British people. When the Prime Minister talks about consent for our membership of the European Union being wafer thin, I think he is absolutely right. There is widespread concern

about the European Union. The Prime Minister has outlined four baskets that he is trying to change: sovereignty, the way that the eurozone functions, competitiveness and migration. If you look at the concerns of the British people, the Prime Minister is trying to address those deeply held concerns and to get the best deal that he can. We will then ask the British people whether they want to remain or leave, and we will implement their decision, whatever it is. So I think that there is a very clear and coherent vision for EU reform. The Prime Minister has made no secret that his preference is to stay in a reformed EU, but he will be able to win that referendum only if he addresses genuine concerns held by the British people.

Q127 The Chairman: Thank you. Can I just ask you to unpack a little more what you might call the issues, be they competitiveness, economic governance or migration, which we would probably agree tends to be the most politically salient, and the underlying issues of sovereignty and control? Would your analysis be that the British people are more worried about the control of the process—in shorthand, “Brussels”—than they are about the details of particular policies? Is it important that he is seen to reverse that process of what may be seen as a progressive loss of control? Is that the sort of thing that bugs them in your view?

Ashley Fox MEP: I think that that is important. The reference to ever closer political union is symbolic, but that is also important from the point of view of the Court of Justice, because it repeatedly refers to this desire for ever closer political union and it uses it as a justification for more Europe, whereas in fact I want less Europe. When we come to the referendum, the most important issue for the British people will be migration. I would make it quite clear that we would not be touching the principle of freedom of movement of labour, but the way that our tax credit and benefit system operates contributes to the draw of the United Kingdom for migrants from the rest of Europe. Therefore, if we address that, we will reduce the relative attractiveness of the United Kingdom for migrants, particularly from eastern Europe, and I think that that will go some way to solving that problem in the eyes of the British people.

Catherine Bearder MEP: Thank you for inviting me to speak here. Just to confuse you further, I am going to agree with both of them. As Glenis said, reform happens continually. The biggest reform that we had in recent years was the Lisbon treaty, which made a fundamental change in the way the Parliament works and the relationship between the Council, the Parliament and the Commission. Ashley said that this is about having something to sell at home. That is entirely what this is all about. It is not about reforming the EU per se, it is about coming back with some sort of deal that he can sell and say, “I have done something in the European Union”. That is confusing for people here, as every day we are continually informing, honing and, hopefully, improving what we do and how we do it.

There are four baskets that we are already working on. REFIT is looking at the red tape; a new Commissioner has come in with that programme. Banking reforms and looking at the relationship between the euro and non-euro countries and how we set up the management of the euro was begun in the previous Parliament but continues in this one. Commissioner Thyssen is already working on a package on internal movements and how we address some of the issues of revising them. As any department of the Commission should be doing, it is constantly looking at how things are working and trying to improve them.

One issue that is not being addressed structurally is ever closer union, which is a phrase suggested by the Brits when we first went in. It is an ever closer union of peoples, not of Governments, countries or institutions. That is exactly what being together in a vibrant and functioning union does, because we are exchanging culturally and scientifically. All the

collaborative work that goes on demonstrates that we are becoming closer as people of Europe. Nothing ever stands still: if you are not getting closer, you are probably getting further apart, which is not something that I want to happen.

Ashley mentioned the draw of the benefit system in the UK. That can be addressed without having to go through this whole process, but there is no evidence that it is a draw for people coming into the EU. The migration figures show that there are just over 2 million Brits living elsewhere in the European Union and just over 2 million other Europeans living in the UK. The difference is that the people coming into the UK tend to be economically active people who pay their taxes. They are young and they are not using the health service is much. People who leave the UK tend to be retirees. So there is an equal balance of numbers. There is an issue of migration from the outside, and we might get to that.

If we were really looking at Cameron's request for real reform, for me, top of the list would be Strasbourg, but that is not on the list and not up for negotiation, any more than free movement is.

The Chairman: Thank you. If I can respond, you and Glenis mentioned that, as you see it, reform is a continuous process here anyway. You also went on to say that, to some extent at least, the peoples of Europe are growing closer all the time, whether through economic, social or personal interrelation. If we suppose, for the purpose of the argument, that that is the case, do you concede that there is still some issue of public acceptability within the UK with which the Prime Minister appears to be concerned? If there is, within the terms of meeting that, how do you see that that could be most appropriately fulfilled?

Catherine Bearder MEP: In the UK, we have years and years of misinformation, a bad picture painted by the media, not a correct one. There has not really been a programme of information taught in schools in any constructive way, so there is huge ignorance about what happens at the European Union, the role that the British Government, MEPs and all the fonctionnaires here from the UK—the fact that we have a big embassy. When I tell people, they do not understand that. There is an issue with how we present the European Union and having an honest debate. We are where we are, so I hope that the debate will be fulsome, not rushed, and that we have a proper debate about our role in the European Union. If that happens that is a good thing, but it is much more about the UK's relationship with the European Union, rather than reforming the European Union per se.

Q128 The Chairman: Thank you for those initial responses. I will ask one final question and then remit, as it were, to my anxious and eager colleagues. It occurs to me, and I think it must to you because you work at it every day, that the language of the European Union at both the institutional level and at the practical level for you as a parliamentarian is heavily charged with technical terms and concepts that do not exactly trip off the tongue in the Dog and Duck, if I can put it that way. Words like protocol, derogation and triologue are not familiar to people. First, do you think it is important to address that in a referendum campaign, and, secondly, will it be practically possible to do it in terms in which the electorate, who are being asked to make this critical decision, will be able to understand and respond to in an informed way? Catherine, perhaps you would like to start.

Catherine Bearder MEP: Absolutely, but that would be the same for any institution. If people were going out to sell the Lords, there is an awful lot about the Lords that no one would understand in the Dog and Duck. Any trade or profession has its technical terms. Here, we have 23 or 24 official languages that we are constantly having to work around. If the Brits have brought anything, the majority of people now speak English, certainly here in the Parliament but across the whole continent. That is a huge thing that we have brought to

European unity. As Brits, in meetings we are all asked, “What would you say in English?” Yes, language is an issue. I never talk about member states, as people do here; I always talk about countries. That is something that we need to be aware of when we face the referendum, but that would be so if you were defending the House of Lords.

Glenis Willmott MEP: I agree with a lot of that. We use jargon, as does every institution. We have to remember that. When I go out to speak to groups of people I always try to use plain English of the sort that I would have understood before I was here. It is really important that we use the right sort of language when we talk to people, but when you are here you slip into that jargon and you have to keep reminding yourself not to use it. When you issue press releases, newsletters and so on, you have to make sure that it is in a language that people understand. So, yes, there is a lot of work that could be done, but I agree with Catherine that that could be said of all institutions.

Ashley Fox MEP: I would not disagree with any of that, but it is difficult to see how you are going to change the perception of the EU in the eyes of the British public between now and the date of the referendum simply by explaining yourself better.

I suspect that when the British people come to decide whether to remain or leave, it will come down to a gut feel. I suspect that the two issues that they will be considering as they cast their vote will be economic security and migration. Things about red cards and yellow cards, the technical language, are very interesting for the likes of us but will not feature one jot in the debate.

The Chairman: That is pretty well shared between the three of you, is it, realistically? I am going to ask one final question: heart or head? If you were advising either campaign, would you tell them to go to the heart, or the head or is that a false distinction, Glenis?

Glenis Willmott MEP: For me, it has to be an emotional argument. If you want to win any referendum, yes, you must have the facts and you have to be honest with people. Occasionally, I agree with Ashley that this will be an emotional argument and people will base their determination on how they decide to vote. Obviously, it will be a gut feeling and that is very difficult.

Ashley Fox MEP: On the economy, the remain campaign will have stronger arguments. The leavers will have difficulty in saying what will follow. They will have difficulty explaining that everything will be fine.

Migration, particularly the scenes we have seen over the last 12 months and literally hundreds of thousands of people coming to the shores of Europe and the difficulties we have seen in Germany, is a problem for the remain campaign. Mr Farage and others will say, “You have all these people coming to Britain”. I suspect that that will be their argument. It is not one I agree with. The remain campaign will have to tackle migration, which is why the way the Prime Minister tackles that is so important. It is essential that we get something on that subject.

Catherine Bearder MEP: Yes, it will have to be the heart when people go to vote. It is already confused because the question “remain” or “leave” is slightly odd.

The Chairman: It was recommended by the Electoral Commission, for the record.

Catherine Bearder MEP: I know. To remain is a strange thing to campaign on. So it will be in or out and I hope that when people get into the polling booth they will remember that remain means in. Migration will be tricky and it will remain to be seen how that is solved. As I said, migration into the UK is not net migration from Europe, from our partners in the EU; it mostly comes from outside the European Union and there is huge confusion, even in

government, about that. If you are wanting to stop migration into the UK, leaving will not make any difference. That is an added confusion.

The Chairman: Thank you. I enjoyed those particular exchanges on the nature of the referendum question. For the record, it occurred to me that the word “remain” is concluded with the letters “IN” and the leave campaign concludes the three letters “AVE”, which some of us know is the Latin for “cheerio”. Let us think about that but now go straight to Baroness Scott.

Q129 Baroness Scott of Needham Market: Thank you. In our visit in the summer and again over these days, we have picked up a very strong sense, first, that there is a collective will that Britain should remain and, secondly, that everything will be done to give Prime Minister Cameron a deal that he can be content with.

I want to think about “what next?” and get your views about whether you think that this will further entrench British exceptionalism; in other words, that there will always be a different deal for the Brits. Also, what are your views on the impact this will have on other member states and how they feel their domestic concerns might be addressed in the future? It is really about asking you to think about the potential impacts a bit down the road once we get February done.

Glenis Willmott MEP: Thanks very much for the question. People do feel that the Brits see themselves as a special case. There is no doubt in this Parliament: people say to you all the time, “The Brits see themselves as a special case and they always want a different deal from everyone else”. The thing is that lots of other countries will want other things, too. They say, “If the Brits are going to get a new deal, what about our concerns and what are we going to do about the things that we do not like?” There is a fear that this will start a process of other member states or other countries looking to see what they can gain from it.

You are right that there is a lot of good will. No one wants Britain to leave. They know that it is not in Britain’s interest and they also know that it is not in the EU’s interest to leave. So there is a lot of good will and people are searching for solutions. As regards most of the baskets that the Prime Minister has asked for, there is general agreement that solutions will be found, apart from the four years issue on benefits. That is very difficult, mainly because of the legality of it. It is not that people do not want to find a solution because I think they do. It is just how they find a solution. We have yet to hear what is going to be suggested. I know that people are working very hard to get something that will resolve the problem and allow the Prime Minister to come back and say, “This is a good deal for Britain” and all the rest of it.

I think that it impacts on how other people see us. I think that they feel that we have not done it in the right way and that they would have preferred Britain to say, “We have got these issues. Let’s discuss it and see how we move on together”, rather than threaten exit. I think that they feel quite strongly about that. Having said that, they really want us to stay and will try to find whatever solutions they can to make sure that that happens.

Ashley Fox MEP: Will this deal further entrench British exceptionalism? Yes, I think it will, particularly if we have a reference in protocol that ever-closer political union will not apply to the United Kingdom or some declaration that we do not want to participate in any more Europe—to put it simply.

Remember that we are not in the euro and we are not in Schengen. I think that the Prime Minister’s vision is, “If the EU is to survive into the future, flexibility is key”. So if this does

lead to different countries making different demands, so be it. I would welcome that because I do not want a unitary state called Europe. I want sovereign countries to have treaties between them and govern their relationship.

I profoundly disagree with Glenis about this threat of exit. If we were not holding a referendum, nothing would happen. It is true that reform is an ongoing process and we talk about the refit programme. But this is quite a gentle process; the EU reforms at glacial speed. Without the promise of a referendum and without the implicit threat that if nothing happens we will leave, this would not be happening at all. I think that the Prime Minister's strategy of holding a referendum was essential for anything to be achieved.

Catherine Bearder MEP: No, I disagree with that last point quite considerably. If David Cameron was not proposing the renegotiations and calling the referendum, nothing would happen. How then did we ever come up with the Lisbon treaty? How then have we come up with the changes that we have had? There were problems around introducing the euro but all these things have happened despite David Cameron not being there to demand that things change.

This clearly is an issue for the Brits. It is leaving huge frustration among our partners within the EU and colleagues here in Parliament. They want us to stay and they recognise that we bring an enormous amount of history, knowledge, a way of working, pragmatism and diplomacy. All the things that the Brits are known for globally are brought to the table in the EU and that is recognised and valued. But there is growing frustration, which is beginning to turn into more than frustration. I would not call it anger but it is getting to the point where people are asking, "How much more do the Brits want? You've got a huge number of opt-outs in justice and home affairs". We are not in Schengen. Whenever there is something, we may say, "Hang on a minute, we do not want that".

So there is that frustration, but there is a recognition that we have this core at home with a divided Conservative Party and another party of nationalists in the shape of UKIP which are pulling in different ways. But there is an acceptance that we should try and get a good deal, that we can have a good result, and that Britain then will hope to stay in and then move forward.

My concern, which is a huge concern for all of us, is that if we left, the deal we would be given for exit would be such that it would stop anybody else asking to leave. We would bear the brunt of a pretty angry remaining 27 in the deal that would be given to us. They would not want anybody else to tear off and go away because then the stitching comes undone.

Ashley Fox MEP: Catherine described the Lisbon treaty and the creation of the euro as part of a process of reform. Those two were both part of European integration; that is, part of the European project as viewed here in Europe. I do not regard those as reforms. That is a journey towards ever closer political union, which I explicitly want to stop. I think the frustration that my colleagues describe is the frustration of a big country saying, "We don't want any more of this. We don't want any more ever closer political union". So of course they do not like it. But, and forgive me for saying this: tough. My view is that it is the settled will of the British people that they do not want any more Europe. I think my colleagues would acknowledge that if these reforms do not deliver enough, the danger is that we are more likely to vote to leave. Therefore, an ambitious reform programme is essential if we are to remain in the EU.

Glenis Willmott MEP: There are a couple of things that I would like to add. Ashley said that that is the settled view of the British people, and I think that is true at the moment. But that is because of all the propaganda they have suffered over the years from the Eurosceptic wing

of the Tory party and UKIP. There is no doubt that you never hear many positive stories in the press. I am not blaming the press for this, but it is a fact: the positive stories are never there; it is always the negative stories. Quite often, the stories are just not true. That is why the view of the British people is so skewed: because they do not hear about the things that we do here that are good for Britain. They also have this false view that all their laws come from Brussels, which of course we know is not true. The House of Commons Library talks about 12% or 13% of laws being initiated in Brussels, and they do not tell you that Ministers have had to agree to those laws and MEPs, who are elected democratically, have also had to agree to those laws. It is probably true that that is the view of the British people, but it is because it has been skewed for all these years.

The frustrating thing for people like me, and for Catherine probably, is that, here, so many other countries and other colleagues would really like the UK to be leading in Europe. They really want us to be at the heart of Europe. They really want us to be one of the leaders in Europe and are so frustrated that we do not take up that opportunity. Think of the sort of Europe that we could have if Britain was leading in the way that they want. We would have a more progressive Europe; we would have reforms all the time, in the ways that we would want to see. Part of the reason is our own fault, because we do not take up that challenge and that leading role that so many people want us to. That is part of the problem.

Q130 Lord Liddle: I have one question for Glenis and Catherine and one for Ashley. The first question is for Glenis and Catherine. You spoke about the frustration with the British, which I of course understand. But the Prime Minister has said that he thinks he is well on the way to an agreement in February. Do you think that, despite this frustration, our partners are going to overcome it and we are going to reach an agreement?

The next question is to Ashley. We are addressing here the vision of the EU. Do you regard the conclusion of Mr Cameron's negotiation as the end-point of reform, or do you see it giving a platform for Britain to be a more active and leading player in the European Union? Just on one specific point, the Prime Minister, in his Chatham House speech, made an awful lot of the security case for Britain being in the European Union. Does not that mean more British engagement, not the kind of standing back that you slightly gave the impression of in your remarks?

Glenis Willmott MEP: Okay, thank you very much. I think that we are well on the way to an agreement. There is a lot of frustration but so many people, as I said before, are desperate for Britain to stay, for our sake and for their own sake. They know that Europe would be poorer without Britain because of all the things that we discussed earlier. We have so many skills and we are a big country, so people are desperate for us to stay. I do think that we are well on the way to an agreement. I hope that we reach an agreement by February because, frankly, in my view, I want to get on with the referendum and hopefully win the referendum, and then move on and get on with other things that are of importance too.

What is also frustrating is that we have had the eurozone crisis and the refugee crisis. There we are, in the midst of all of this, arguing about whether we have the words "ever closer union of the peoples". You can understand why people get annoyed and frustrated with us. Having said that, I think that they are desperate to reach an agreement.

Catherine Bearder MEP: Yes, and I shall not repeat what Glenis has said other than to agree with it. Will that put the question to bed? I think that what we will have after the referendum is a better informed British public—although, looking to Scotland, that did not

put that question to bed. If we then have a Government who truly engage in the way that Glenis described saying, “We’re in and we are now going to really engage and take part in this”—instead of continually being grumpy on the sidelines—you actually end up with a stronger team. If you have a team player out on the football pitch and somebody who always sits there with his arms crossed saying, “I don’t want that ball; I wanted a red ball”, you have a team that is weak. But if you actually say, “We are part of this and are going to make it work; let’s get stuck in”, that is better. If the public are then better informed that would be most helpful.

Every MEP and every group that I am working with are saying, “What can we do to help? How can we help you in your campaign to make sure that you stay?” The smaller countries in Europe see Germany, France, Poland and Italy as the big countries, and they see the UK as one of those. They want the UK to be in there to balance the old Franco-German axis but also to bring our sense of fairness to the questions. Certainly the smaller countries are very concerned that we would leave, as are the big economies as well.

Ashley Fox MEP: To answer the points addressed to me, no, I do not think that the conclusion of these negotiations means an end-point to reform. I think that the UK has been an active player. Look at the areas where we have a real interest: the development of the digital single market; the construction of an energy union, because if we could buy and sell gas and electricity freely across the whole of the EU, it would be my constituents who had lower energy prices, and that would be a real benefit; the new trade negotiations that Britain is pushing; striving for greater efficiency and cutting the EU budget. I think we are active and we have an agenda. Now, it might not be an agenda that many of our European colleagues agree with all the time because, specifically, we do not want ever closer political union. If other people are frustrated by that, there is nothing I can do about it. I want the UK to remain an active player in pushing for things that are in our national interest. When this reform process is concluded, I suspect that in the next 10 years there will be further treaty changes, perhaps to enable the eurozone to have a single treasury. When that happens, there might be the opportunity for Britain to win further reforms, and I might be looking for us to distinguish ourselves from that federal core. We could see further political integration by some countries and less political integration by others. I do not think that is a problem.

On the security point, passenger name recognition is something that the EU will deliver next week in Strasbourg. That is an important step forward in security co-operation, and a British Conservative, Timothy Kirkhope, is the rapporteur.

Lord Jay of Ewelme: Thank you very much. Just to follow up Ashley Fox’s answer to the last question, assuming for a moment that the answer to the referendum is a yes and then we embark on the referendum campaign, would you think it sensible for the Prime Minister not just to say, “I’ve got these four baskets satisfactorily resolved”, but “Don’t forget that the United Kingdom is also making a difference to the way in which the European Union has evolved” in different ways such as those that you outlined? Do you all think that that would be a sensible and a justifiable line for him to take?

Ashley Fox MEP: Yes, it would. If the Prime Minister is going to recommend an in vote, which he says he will if he says he has a successful package of reforms, he will need to make the case on every level as to why we are better off in. I have not made a decision yet; I want to see what is in the package of reforms. However, clearly, the single market, energy union, and the ability of trade, digital services are all things that are in the interest of our consumers, so those would be the positives I would expect the Prime Minister to sell.

Catherine Bearder MEP: Absolutely, yes, we have to sell what we have brought to the European Union as well as what the European Union has given to the peoples of the UK, and that will be a comprehensive campaign; certainly the Liberal Democrats will be campaigning to stay in. Even if Mr Cameron comes back and says that he did not get what he wanted, we will still be campaigning in the referendum to stay in because we recognise that that is of huge benefit to the UK, and we will be campaigning on that, whether it is on peace, the opportunities, the economy, the environment, or security. All those issues will be the ones that we will campaign on, because it is a two-way street.

Glenis Willmott MEP: I agree with all of that. I think that he has to argue on every level the positive benefits of being in the EU. That is really important. We have seen a change in language in recent times from the Prime Minister, and he is making much more positive noises now about Europe, as he did about security. So he has to make the argument on every level. The Labour Party will campaign to stay in, whatever he comes back with, because we know that that is in Britain's interest: it is in our economic interest, our security interest, in the interest of workers' rights—everything. We would therefore argue that we should stay in, and if we need further reforms, we will work with colleagues to make sure that we get those reforms. On the discussion that we had before, when we were saying that the biggest issue would be immigration—there are lots of reforms we could make here to deal with some of those problems people have with immigration. For example, when I talk to people on the doorstep many people are concerned, not about immigration per se but about “That person may come here and do my job for less money, and that's what's worrying me because I won't have a job for me and my family”. We could do something about that here in the European Parliament if we had the will and the backing of the British Government. We could do many things to resolve some of those problems.

Q131 Lord Green of Hurstpierpoint: Ashley said just now that one of the things that we ought to be able to celebrate is Britain's involvement in a very proactive sense in pushing forward the single market, and he mentioned in particular the digital single market. Of course, one of his baskets has to do with competitiveness. My question is: what specific measures can you imagine coming in to that basket that will enable him to go back to the British people and say, “I have made a positive change to the relationship with the EU”? The risk is that this becomes a form of words and the EU itself and many people from many countries and across the political spectrum could say “Yes, the question is: what specific things do you think could be in that basket?”

Ashley Fox MEP: You have put the finger on the point precisely. Everyone would agree that Europe should be more competitive, but what does that mean in terms of concrete action? For example, could we have a very specific target for reducing the burdens of regulation—and let us talk about what that means to individual citizens. Therefore, for example, if you are a farmer, how will we reduce the burden of regulation for that farmer? At the moment, when the common agricultural policy is applied, farmers have six, seven, eight, nine, 10 visits from different people to inspect their farm and check different aspects of compliance. So could it mean, for example, that they would have one annual visit from one individual capable of certifying that they are compliant in every respect? I do not know whether that is possible, but I would like to see real examples of how individual citizens would benefit. I see a push to signing more trade deals around the world as important, because the EU is capable of signing deeper and bigger trade deals than the United Kingdom on its own. The but—the problem—is that it is so slow at that process. That is a criticism that those who want to leave can make, and reasonably make of the EU—that it is pitifully slow in concluding these trade negotiations. So I would look for a renewed impetus to trade negotiations.

Lord Green of Hurstpierpoint: If I may come back with a pair of observations, it seems that the risk is that, just in terms of a declaration of victory in the negotiation, it would be difficult for any Prime Minister to come up with a specific list of the kinds of detailed change that you have just mentioned. I have no idea whether one visit to a farm instead of 10 is practical. I cannot imagine that it will be possible within the next three weeks to agree a series of various kinds of detailed changes. As to trade, as a former Trade Minister I would be tempted to make the point that it takes two to tango, and often the reasons why these things take a long time to negotiate is that both sides agonise about the detail of the trade deals. But that is an aside. I am struggling to get at the two or three headline kinds of quotes he can make that are below the level of generality that we will want more competitiveness.

Ashley Fox MEP: And I am struggling as well. If there was a specific piece of legislation that we thought was offensive and burdensome about which we could say, “That would be repealed”—for example, the working time directive—that would give you a specific example. But I do not think that the Prime Minister is talking in terms of that. I, too, am struggling to answer your question in terms of concrete deliverables beyond very specific burden reduction targets for business.

Catherine Bearder MEP: You have put your finger on why our colleagues are so bewildered. What will be the benefit to five of the European member states? I am just using the jargon now. Five of the countries in the European Union are in the top world economies, leading the world economy, including the UK. So we are competitive within the European Union; we have the same regulations, unless rules of subsidiarity come into play, which is what happens at Defra. If Defra wants to make visiting farmers as complicated as it possibly can, why is the UK Government making life difficult? Therefore if David Cameron is coming in and saying, “We want to do away with these rules”, he will never do away with the rules for everybody, otherwise we are not competitive with each other and we are competing on sweat shops rather than good social care for our workers. So that is the nub of the frustration. It is not beyond the wit of the brains in Brussels to come up with something, but whatever they come up with, he has to reply.

I would have liked to have seen something from Cameron on enforcement. We pass legislation here—a co-decision of the Council—that we want people to comply with X, Y and Z, but too often it is not enforced fairly across the European Union or is enforced in different ways. That is something that we could have looked at. However, as regards competitiveness, we are all very competitive, and on red tape, you need rules to trade, and if they are the same rules for the Danes, the Spaniards and the Brits that means that you can trade fairly with each other.

Glenis Willmott MEP: Thank you. I absolutely agree. I think that is the point: we do not know exactly what he means by that, because everybody would agree that we want the EU to be more competitive. What exactly does he mean in terms of concrete issues? When people talk about red tape, that has already been dealt with. As has been said before, with REFIT the Commission is looking at the bureaucracy and trying to reduce red tape. But you do not want to make the EU even more remote. At the moment people do not buy into the EU because they say, “Brussels is over there; as MEPs we’re too remote”. We have to be relevant to people. What we do not want is just to talk about British business. That is very important, but we have to also talk about workers’ rights. If you are talking about cutting red tape, cutting rights for working people, part-time workers and women is not the vision of Europe I had. That leads to a race to the bottom. Yes, we want competitiveness and a Europe that works, but a Europe that works for everybody, where everyone has a stake. That means that we do not want a race to the bottom. Enforcement is a really positive

agenda that we should have looked at and did not. We will have to wait and see what they come up with to satisfy his needs.

The Chairman: Indeed. Thank you. We have five minutes to go and I would like to involve two other colleagues in questions, Lord Davies followed by Lord Jay. We will then have to wrap up because of a long-running session afterwards.

Q132 Lord Davies of Stamford: Thank you, Chairman. We have had two very different understandings from our colleagues in the European Parliament of the phrase “ever closer union of peoples”, one from Catherine and Glenis, the other from Ashley. I was particularly confused by Ashley’s, partially because he has constantly referred to “ever closer political union”, a phrase that does not appear in the treaty at all, as he knows very well. I hope that we do not in this referendum campaign go in for too much deliberate distortion of language, introducing new words and stock phrases in the hope that politically less sophisticated members of the electorate do not notice that kind of thing. That would be to disfigure a democratic referendum campaign, in my view.

I was also surprised by Ashley’s assertion that the European Court of Justice has based a political constitutional judgment on the phrase “ever closer union of peoples”, which is in the preamble to the treaty. I would be very grateful for chapter and verse supporting that assertion, which I am sceptical about.

I also have to say, from personal experience, that Ashley is certainly wrong in what he says about agricultural inspections. I claim farm payments and have for many years. I have never had a single inspection from anybody. I have spoken on the telephone once or twice to the people concerned, but they check the size of my holding by satellite imagery, so they tell me. I know an awful lot of farmers in Lincolnshire and I have never heard of a single farmer receiving six visits a year. That is a complete myth; all they receive is occasional spot-checks from one particular inspector. So unless something is very different between Lincolnshire and the rest of the country I think we have been sold a bit of a pup this morning in that respect.

Having made those introductory remarks, could I ask a question to all three of our colleagues from the EP? Irrespective of your views on ever closer union of peoples, and I personally feel that it would be absolutely horrific if we decided on a protocol that said that that phrase would not apply to us—in other words, that the British were in favour of ever greater disunion of peoples or something of that sort would be quite extraordinary—what do our colleagues think is a feasible and acceptable possible solution to the problem, the Prime Minister having asked for some assurance on this matter, and the obvious difficulties for our continental partners of making concessions in the particular phrase that has been in the treaty since the beginning?

The Chairman: Thank you, Quentin. While our colleagues from the EP compose their answers, it would be appropriate, as my colleague has raised it also, to declare my interest as a recipient of farm payments. I will not comment further on the frequency of inspections or otherwise, not least because I do not do the day-to-day running of my enterprise at the moment. Who would like to go first on Quentin’s question?

Ashley Fox MEP: Perhaps as Lord Davies attacked me in such a partisan manner, I will respond. On the agricultural inspections, that is not a myth, but a real example from farmers in my constituency, who complain of an enormous amount of time wasted through dealing with multiple inspections.

On ever closer union, it is contained in the preamble and in Article I of the treaty. Some political colleagues say that it is only in the preamble. Wrong: it is in the treaty; it is in Article I. There was a House of Commons research paper—my office can provide you with the reference number—which found that the objective of ever closer union is cited at least 53 times in legal cases, while the “spirit of ever closer union” is cited at least 554 times. It is not a distortion; it is fact. The Court of Justice uses those words as a justification for more Europe. In other words, when there is a decision to be taken as to whether powers should be conferred on Europe or whether it should rest with the member states, the ECJ has a reason in the treaties to justify more Europe.

Lord Davies of Stamford: That is what I am contesting, Ashley. I do not believe that the ECJ has ever based such a decision on that phrase. Can you quote any examples of when it has specifically said so?

Ashley Fox MEP: I shall refer you to that House of Commons research paper.

The Chairman: Okay. If there is anything to follow up in correspondence, please feel that you can.

Catherine Bearder MEP: I have here that the European Council noted in the concept of the ever closer union that you asked about, that they perhaps could allow for different interpretation or integration for different countries, allowing those that want to deepen integration to move ahead while respecting those that do not wish to deepen it further. So the Council has already started to move towards that. I referred earlier to the different languages and interpretations. This may well be a great example of where we can use different interpretations to mean different things to different countries.

I understand the frustration of the Parliament with the process happening and the negotiations being done by the Heads of Government, indeed, to countries that come to the Council. The Parliament has invited Mr Cameron to come here and present his requests to the Parliament, to the plenary. He has said that he is minded to do so, but offered no indication of when he is coming. I do not know how the process of how the Parliament accepts what has been agreed happens, but I know that the Parliament will want to have a say in the agreement. That is another step in that process. There has been some flexibility. I am sure that it is not beyond the wit of those people in the Council to come up with different languages and interpretations for each country.

Glenis Willmott MEP: I am fairly convinced that they will come up with a solution to that problem. I do not think that it is a problem because it is not a political union, as you said; it is a union of the peoples. If that is an issue for the Prime Minister, then fine, I am sure a solution will be found. I am more interested in parts of the EU debate that affect people’s lives. I am not sure that the ever closer union of peoples is something that somebody has ever asked me about when I knock on their door. I have never been asked about that, ever. They are more interested in working rights, consumer rights, safety, security, the environment, trade and the economy. Those are the sorts of things they are interested in. I have never heard anyone say to me, “I’m really worried about the phrase ‘ever closer union of peoples’”, never, ever—except for Ashley.

The Chairman: Perhaps I can cap this by saying that I think that they are interested in migration also. I invite my colleague, Lord Jay, to ask the final substantive questions in these exchanges. We are short of time, but I think we can just fit it in.

Q133 Lord Jay of Ewelme: Thank you very much. We touched a bit on it already, but the Prime Minister has identified “immigration”—I put that in quotes because he used that

word rather than “migration”—as one of the four key challenges that we face. In particular, he has talked about the need to exclude in-work benefits for four years. Do you see this as a particularly British concern, or whether, in particular with all the problems with migration at the moment, there is a wider concern about migration among other member states? Can you see a way through the negotiations that would meet the Prime Minister’s concerns and—a point Ashley Fox made earlier—does not touch the principles of free movement?

Glenis Willmott MEP: I do not think there is any doubt that people in Britain are very concerned about immigration and this is an issue in other countries too. As I said, it is often a reflection of concerns about people’s jobs—undercutting of terms and conditions, wages and insecure work—and access to public services. Why do we not have a European fund which can be drawn down from by areas of high migration for hospitals, school places or whatever? We could resolve that at European level. It is a multifaceted issue and, at present, to be honest, most countries in the EU are more concerned about the huge refugee crisis unfolding and the disasters that are happening around us. That is their priority at the moment. I also get frustrated that, when we talk about immigration in the UK, we include refugees and asylum seekers. It is all lumped together and people do not seem to see that there is a difference between those things. We have to be more careful in the language we use when dealing with these issues. Here, everybody’s concern is focused on people drowning when they are trying to get to a safe place; the floods of people coming in from other countries and how we deal with that in the right, humane manner. That is the concern that people have, rather than immigration as a specific issue on its own.

Ashley Fox MEP: I think immigration will be one of the key issues in the referendum debate. There probably is a way through but, not being a constitutional lawyer, I do not know exactly what form that will take. I think most migrants come to the United Kingdom to work hard. Very few of them come to claim benefits but they are, of course, entitled to very generous tax credits because of the nature of our system: we do not require people to contribute to the national insurance system before they become entitled to those benefits. That is a very real concern and if we can address it, it will reduce the draw factor of the United Kingdom. That would go part way to addressing public concerns. Referring back to Lord Davies, in Case 364 of 2010, *Hungary v Slovak Republic*, the court said that: “Such a break would, in fact, be incompatible with the integration process aimed at creating, in the words of the EU treaty, ‘an ever closer union amongst the peoples of Europe’”. I will refer this House of Commons report to Lord Davies but it does give specific instances when the court has referred to Article I of the preamble as saying that the actions of a state were incompatible with that declaration.

Catherine Bearder MEP: Yes, Ashley again used the phrase the “draw factor” of our benefits system. There is no evidence to demonstrate that European citizens coming to the UK come here for our benefits system. They come here for a variety of reasons—to seek work; to better their language skills; they come as students—but mostly because our economy is doing well compared to many other European economies. So they know that there are jobs here that they can do. All the evidence shows that they pay into the tax system and are net contributors. One of our problems is that, whether we should be proud of it or not, the UK has one of the most generous benefit systems. We give people benefits in work, which is unusual across most of the union. I would argue that that is something for domestic legislation. Whatever we do, we have to be aware that we must treat all European citizens equally. If we stop in-work benefits for four years, that must also apply to UK citizens. We cannot discriminate between UK citizens and migrants. When we look at the figures, we have to remember that EU nationals coming to the UK include the Irish. We have a long tradition of this, but they are an EU country and they are counted as EU

migrants coming to seek work. They help the economy of the UK and this has been a huge benefit. If they are undercutting, we have legislation on the minimum wage and the rest of it. We have to be aware that we should be treating all EU citizens the same and it would be illegal not to. On the subject of ever closer union, which has been raised, if you talk to any member of a town-twinning group they will say that that is what Europe is all about. We need to be getting closer: it is a lot better than fighting, which is what the history of Europe shows we used to do.

The Chairman: In wrapping up this session, I thank our three colleagues from the European Parliament for contrasting but mutually reinforcing perspectives. We are very grateful for that. Along the way, we have had some references to the need for a temperate approach to these issues, which often become politically fraught, and the need for a certain precision in language, particularly at the sensitive moments in a referendum debate. The Committee would wish to echo those sentiments. I hope that the referendum debate can expose the issues in a fair way, with temperate language, so that people can make a serious and informed decision. You have contributed very much to our process of thought. We are very grateful to you, and if we ask you to withdraw and change seats it is because we are moving on to a session with academics. We formally declare the end of the MEP session and look forward to a back-to-back session with our academic colleagues from European think tanks. Thank you all very much.

Bertelsmann Stiftung, Centre for European Policy Studies and European Policy Centre—Oral Evidence (QQ 134-139)

Evidence Session No. 13

Heard in Public

Questions 134 - 139

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Lord Liddle

Baroness Scott of Needham Market

Examination of Witnesses

Mr Steven Blockmans, Senior Research Fellow and Head of EU Foreign Policy, Centre for European Policy Studies, **Mr Henning vom Stein**, Head of Brussels Office, Bertelsmann Stiftung, and **Mr Janis Emmanouilidis**, Director of Studies, European Policy Centre

Q134 The Chairman: I suppose, to be pedantic, I should say good afternoon, Lords, Ladies and gentlemen. We reconvene. It is one thing to talk to politicians or parliamentarians; it is another, and, in my experience, mutually complementary, to talk to academics and those who head or influence think tanks. This is a public evidence session with three academics who are active in Brussels. We have a current inquiry for which this will be evidence. The inquiry is called, slightly dramatically, Visions of European Union Reform. In doing that, we are slightly building on the work our Committee has done earlier in looking at the process of reform. We remain interested in the process but, of course, we are now moving a bit more towards the substance—indeed, very much towards that. The question that we have set ourselves is to ask: within this, and within the Prime Minister's four negotiating baskets, is there a vision in urging where a reform of the EU would go and, if there is one, is it tailored to the interests or concerns of the United Kingdom, or does it coincide with the emerging vision of other member states and the European institutions for a European future, all of which could take rather a long time? I cannot think of three academics better placed to help us in doing that. If we can proceed, because time is limited, it would be most helpful if you were to introduce yourselves for the record. We will take a record. That will be both a public document and available to you for any minor corrections in due course.

Henning vom Stein: Yes, I am Henning vom Stein. I have been involved with this issue with Bertelsmann Stiftung since 2013, and here in Brussels, heading the office in Brussels, since 2014. I have a background of 20 years in Brussels, involved with public affairs and different affairs in companies. I have been following intergovernmental conferences, the convention and the referenda in France and the Netherlands. There is a major change in the perception of the reform needs in the countries of the European Union since the financial crisis. That is much more marked than it was before. It is not about agreeing some principles on a European level and leaving the introduction of new principles to the different countries. The

awareness of the reform needs in the different countries has risen very much in the European institutions, especially the European Commission, but also in the public institutions and the institutions of national countries.

The Chairman: So reform is on the agenda.

Henning vom Stein: Reform is on the agenda. That is perhaps also where I have heard a lot of frustration expressed. But I think this is also a window of opportunity because the public perception is that a reform agenda is now on the table. Everybody sees that reform is needed, not only in the European Union but also at national level.

Janis Emmanouilidis: My name is Janis Emmanouilidis. I am director of studies of the European Policy Centre, a think tank based in Brussels. I have been working on different issues relating to the European Union for more than 20 years in think tanks in Germany and Greece, and now here in Brussels. I also have an affiliation with a Polish think tank.

Steven Blockmans: I am Steven Blockmans. I am the head of two units at the Centre for European Policy Studies, a think tank based in Brussels. One is the politics and institutions unit, the other is on EU foreign policy. In Amsterdam, I am a professor of European law, more specifically EU external relations law and governance.

The Chairman: Thank you. Just to pick up Henning's point, which I tried to summarise as "reform is on the agenda", would it be your view, and that of Janis as well, that that is the case, or is this something that people have said in Brussels every decade since the beginning of the Treaty of Rome and it never quite happens? What is your take on this? Is there a real chance of reform now?

Steven Blockmans: I agree with Henning that reform is very much on the agenda. It has always been the case here in Brussels. Indeed, the European Union has been in constant reform mode ever since the Treaty of Maastricht, one could say, dealing with leftovers from previous reform treaties. So it would only be logical that, pushed by the reform demands that the UK Government have now put forward, and driven also by some of the frustrations at the shortcomings of the institutional architecture in economic and monetary union or in Schengen—frustrations that are entertained in other member states—that there would be momentum developing towards further treaty change.

The Chairman: Janis, do you share that view?

Janis Emmanouilidis: Yes, if you look at the past and the current situation, as my colleagues have been saying, reform has always been a pattern of the European Union. At the same time, it depends on what we mean when we talk about reforms. With respect to major reforms which involve changes to EU primary law—EU treaties—that is not really on the agenda. That is not the spirit in this town and it is not the spirit in almost all EU member states' national capitals for various and different reasons. With respect to having a fundamental change which would involve also a reform of EU treaties, that is not on the agenda. Having said that, we are reforming ourselves constantly. If you look over the past five or six years in the context of economic and monetary union, all the reforms which have been made in the context of the so-called euro crisis, sovereign debt crisis, banking crisis—call it what you may—have been very substantial. If you look at the current situation with respect to the so-called migration/refugee crisis, again we see that the EU is under enormous pressure to reform itself. So, yes, reform is a constant, but with respect to major reforms involving treaty change, I do not think there is an appetite for that. If you look at the list which has been presented to us from the UK Government with respect to what reforms they would like to see, I must say that some of these reforms find interest with some

member states. But other member states and EU institutions are much more interested in issues other than the ones mentioned in the catalogue coming from London.

Q135 The Chairman: Thank you. I shall break from my normal practice and ask a question about what you might call the immediate context of some of this in relation to security both domestically, in terms of anti-terrorism, and in terms of the geopolitics and security of the European continent generally alongside some of its immediate neighbours and internationally.

We are aware of the deficiencies, which you have referred to, in the operation of the European Union, but do you think that this wider geopolitical context is also playing? When member states come forward with reform proposals, is it at least making it easier for them to be considered, providing that they can be fitted in with the existing constraints?

Henning vom Stein: There has been frustration about the European neighbourhood policy over the last few years. The perception that went out was “more for more”—more democracy for more money—but there is a huge problem in convincing our neighbours in reforming to our societal model. That is the situation we have today and I think that the perception of the public is that we cannot handle that within the European neighbourhood, while within the European Union it would create crisis—a rebellion and its consequences—on a single national matter. There is that feeling of interdependency.

Let me link migration to the euro. The perception of interdependency was first that, during the euro crisis, the Germans had become much more interested in the national reform agenda of Greece. The migration topic is very similar and the terrorism issue adds to that; it comes together. So in this perception of interdependency there must be a much broader approach to a European agenda.

I do not think that in this context the word “flexibility” in the letter of the Prime Minister is leading to the right mood or notion on the agenda. My perception in reading the letter is that there is a certain kind of contradiction. The Prime Minister says that we need flexibility and, on the same side of the same page, he says that there is certainly interdependency between the nine outsiders to the euro and the other 19 insiders. He offers, and even asks for, more integration—so, more Europe—with a closer union within the eurozone. You can adapt this contradiction to other issues as well, and the debate towards the referendum has to answer how to manage this.

Janis Emmanouilidis: If you look into issues related to security and to the geopolitical context, this has always been an issue. It is also related very much to the *raison d'être* of this European project from the beginning onwards. If you want to look at the current situation and ask yourself: how much does security, both internal and external, play a role with respect to the context in which we are now operating? Yes, it does play a role—and it obviously plays a role with respect to internal security, especially after the tragic events that we have seen in so many places, including in Istanbul yesterday. Co-operation with respect to terrorism is an issue high on the agenda these days, and I think it will remain there.

With respect to the migration and refugee crisis, if you look at the root causes, obviously one has to look at the deep geopolitical context, including Syria but also going beyond it. Having said that, yes, security has always played a role and still does so. However, what we have been seeing in the past years, and I think we will continue to see in the upcoming years, is that we have a lot of navel-gazing in Europe—we are concentrating on us. On our own continent, we have so many issues which we have to deal with: a long list of crises which confront us. There is probably a poly-crisis, if you add up all the crises that we are having, as

we have not been solving them. In moving from one to the next, we have been adding them. So we are very much engaged with ourselves, and that is why I mentioned navel-gazing. When it comes to the geopolitical setting, we are obviously playing a role that is well below our abilities. At the same time, I do not think that we will see in the foreseeable future, in the upcoming years, major movements with respect to Europe's global role in developing, for example, a common foreign and security policy or a defence policy worth its name. Despite all the challenges that we are seeing in the areas of security, I do not see the EU progressing hugely on them. Yes, there is a need for more co-operation, but I do not think that we will see a qualitative leap.

Lord Davies of Stamford: Why not?

Janis Emmanouilidis: Why not? Because there is not a readiness on behalf of the member states. This touches very much on the core of sovereignty and the readiness to further integrate, which goes beyond mere co-operation on individual issues, most of which is intergovernmental. I do not see a readiness on the side of member states to co-operate in a way that would deepen integration, because it goes to the core of their national sovereignty. Look for example at the past few months, when Commission President Juncker asked—not for the first time, but it was him this time—about the need for a European army, and you see what the reactions have been on behalf of member states. I do not see much of a wish to go in that direction. It is also because many people think that there are many other things we need to deal with, first and foremost.

The Chairman: Just to pick up on that, do I sense that there is a certain fatigue around here for what might be termed old-style European integration, where you solved the problem by saying that the answer was, in shorthand, more Europe? Is it that fewer member states and their political constituents are now interested in finding solutions which are badged as institutionally European solutions, rather than as ones which are accommodated or maybe flexed between, say, the national level and some European component, or some element of mutual assistance? If you are looking at migration, you do not have to have a single migration agency handling the issue but might have a series of multilevel solutions. Is that the way in which it is evolving, in your view? I am conscious that Steven has not contributed yet.

Steven Blockmans: I think that it would be an exaggeration to say that there is a fatigue with the old-style integration, which was centralised in that direction. There may be member states that are less interested, the UK being one of them of course, in further institutionalisation of the European Union as the only answer to resolving European problems. There is a majority of member states which are still willing to subscribe to the notion of ever closer union, and I think that is what lies behind your questions.

We can talk about that later, but I would like to slightly differ from my colleagues on your previous question. I do not think that the UK Government gave enough attention to the geopolitical context in which they have dropped their four baskets of EU reform demands. Other heads of state and heads of Governments are actually resenting the British Prime Minister and his Government for that, especially for sucking oxygen out of certain debates that they feel we had embraced in Brussels, especially to co-operate on and tackle challenges of a wider nature. By the way, the four baskets do not seem to address specifically the geopolitical context that you have alluded to. Ever closer union has to do with the form of direction and the shape of the European Union as such; eurozone integration is not to be seen in a similar context. Perhaps on migration, the emphasis seems much more on the restriction of welfare benefits for EU migrants rather than tackling the issue of refugee flows.

To me, it seems rather paradoxical that the Prime Minister could sign off on a national security strategy late last year which states that it is in Britain's national interest to have a safe and prosperous European Union and then, on the other side, could almost threaten to lead the "Leave" campaign if he does not get his way on the fourth reform basket, as he has reinterpreted it, on the restriction of welfare benefits. That is exactly because it seems a bit out of proportion to make such a, dare I say it, trivial reform demand a hostage to the survival perhaps of the European Union as such.

The Chairman: Can I just comment on something you said? Over and above the four baskets, which of course were set out in the letter to President Tusk on, I think, 10 November, the Prime Minister made a speech at Chatham House on that day and began to introduce some of the security themes that we have just been talking about. The inference that I got in London was certainly that some of the other member states were quite welcoming of this approach. Did you discern that there is some nuancing of the British position from the four baskets towards a wider agenda?

Steven Blockmans: You started this session by asking whether there was a vision for Europe as such, as expressed by the UK Government. I have not been able to discern it in a single document, but I have picked up pieces along the way from speeches and leaks to the media. If hard security issues come into play, that seems to me to be driven less by the UK Government and more by claims that have been attributed to leaders of other member states, with references to the creation of an EU army by Juncker, which resonated in Germany as well as in other member states. But I do not see there has to be a foreign security policy aspect to the reform negotiations.

Lord Liddle: I would just like to pick you up on this. I am not a defender of the Prime Minister's referendum and renegotiation strategy, but are you not missing the significance of something that is a big change? The British Prime Minister is saying, "Give me some changes in these four baskets and I will argue for British membership of the European Union, but at the same time I will also say that if you in the eurozone want to integrate, you go ahead". Britain will no longer be a block on that integration, which a lot of people have always said was the case in the past—"The Lisbon treaty wasn't radical enough because of the bloody British", and all that sort of stuff. That is quite significant, is it not?

Steven Blockmans: I would agree with that reading but we were talking about security issues.

The Chairman: This point is more general.

Steven Blockmans: Yes. That seems to be how the debate has been framed by David Cameron. The word "flexibility", as has been mentioned, is quite prominent in his letter. Of course, euro integration and the democratisation of decisions by the eurozone on non-euro members is quite central to a definition of the European Union where differentiated integration is the future.

Janis Emmanouilidis: I agree with what Steven has said. In principle, this has been a big change. This is not something that we have witnessed just in recent months; for very good reasons, it has developed over several years. If the eurozone crisis had developed further in a negative way and even threatened the coherence of the common currency, the negative effects on the UK would have been enormous. So it is in the interests of the UK to support eurozone integration, which has been done in part although more still needs to be done.

I want to pick up on a word Steven was using: "paradox". We do indeed have a paradox. If you look at the current European Union, the vast majority of member states, as you were

saying, are supportive, for example, with respect to further developing co-operation when it comes to global law. I agree with that, but the chances of it happening at a given point in time are rather low if you want substantial changes that might even affect the EU's treaties. If you are expecting that, the chances are low. Not having it mentioned in the letter makes sense, because that would have raised expectations which would probably not have been fulfilled. I am not saying that that is a good thing; I am just trying to be analytical. The paradox here—this is one example; there are others in respect of the eurozone and the current migration and refugee crisis—is that we know, as Henning was saying earlier, how interdependent we are and that the solution can be found only at the European level. We realise that but we are unable to link it to concrete deeds. We are not living up to the facts that we have analysed correctly. We need further co-operation but we are not translating that into reality, and it is interesting to ask oneself why that is not being done. I think there are deep-rooted reasons why that is not the case. I do not want to go into that in depth now; still, there is a paradox that we know that we need to do more at the European level, and we often have recipes that make sense, but we are not implementing them.

The Chairman: Can I ask you this blunt question: is one of the difficulties that national Governments, not just the UK Government, would have a great problem selling that to their electorates? Is it as simple as that?

Janis Emmanouilidis: I think the simple answer to that simple-sounding question is yes. We have these difficulties, and the situation is not improving as we speak. The pressures on member state Governments are increasing in many member states, with a lot of populists on the right. Populists are also targeting mainstream parties and getting stronger, so yes, there is a problem with regard to the situation in member states with their Governments being under pressure.

Henning vom Stein: I think that there is a huge problem in telling this story, but it depends on who you talk to. There is an intergenerational split, there are the people you were talking to this morning, the members of the European Parliament and there is this mobile Erasmus-generation. Getting rid of what you called the “old-style” fashion for European integration? Yes, there is an opening up of positions in the letter, saying, “Okay, we want to be out in certain areas but please you go ahead”. This is a changing environment, moving away from the old style. But at the same time there is a paradox, this contradiction. If you were to open that up and say, “Yes, Europe has to integrate further in certain areas but not all together”, that is the old model. Ever closer integration, meaning that we would go and end up at the same roundabout at the end of the story, will not be the future. Not for the French public, not for the Germans and especially, in this situation, not for the Polish. Today there is this window of opportunity to make that story more differentiated. It is not a question of the eurozone and Great Britain; it is the eurozone and another group. In the letter the Prime Minister makes a distinction between the nine and the 19. This is the clearest distinction that people can see today. With that distinction, in saying “Go ahead” there is already an argument for saying, “Go further, go closer, but without us”. Putting that “without us” and the four baskets into a protocol for the UK only will not lead to the broader debate that we urgently need within the EU. I argue that he should use this window of opportunity in 2016, just before the elections in Germany and France, to make himself the leader of getting rid of the old-style integration of the EU in favour of a multilayered approach. In making the argument that national parliaments need to be more influential in this process, he is approaching this multilevel argument that you mentioned. Today there is more cross-border institutional integration. It is not the permanent representatives who are the influential people in Brussels but the interim Ministers for migration, but people's

perception has not come along with that. It is not right to think that the eurozone should be the most integrated; it is differently integrated.

Q136 The Chairman: I have a quick question, then we shall go on to other colleagues. Does this also have implications for the European institutions? I have set out for shorthand a kind of traditional model—not quite a command model, but one where things float to the centre and then are decided. If you have this multilayered approach, it is quite difficult both to determine the responsible institutions and, perhaps more subtly, the links between the different layers and different types of participation that are mutually supportive.

Henning vom Stein: Perhaps I may come in on that. If you look at the last years of the crisis, which institution in the European Union was the most visible and best able to manage it? It was the European Council, and the Prime Minister mentioned that in various speeches. He said that not having a seat at the table of the European Council would be a disaster. At the same time, the mirror of that is that you can see the absence of the European Parliament in the process. There were no talking heads telling the European story in the regions and the constituencies. So the old style of bringing positions up to the European level was good for the old days, but now we have to tell the story from the top down.

The Chairman: And that is in order to win political consent.

Henning vom Stein: Yes, and that needs reform. Getting national Parliaments more involved is a very strong argument. That is my personal opinion. Out of that, Prime Minister Cameron could drive a campaign reaching out into the European Union as a whole. We need it in 2016 due to the elections in Germany and France in 2017. If you listen to Berlin, there is no story about the vision of Europe before 2019, and that is too late.

The Chairman: You have taken us into some very deep waters, and in a sense it is a slight departure from our immediate concern with the agenda and the baskets. I think that my colleagues will respond to you, but let us take up the initial theme. We have talked a little about flexibility, but I think that Ros might like to reflect in particular on diversity, and a Europe of 28 rather than a smaller one.

Q137 Baroness Scott of Needham Market: You have begun to go into the territory that I wanted to explore, which is that while on the one hand we can pick up all the points about irritation with the Brits both in terms of the long-term irritation—why are the Brits always so awkward?—and the immediate irritation of why are they taking up our time with a domestic issue when we have bigger things to worry about? We can pick up on the irritation, but we are also picking up on a real determination to sort this out, to get a deal on the table that Cameron can agree to, and all the rest. I am interesting in thinking about what goes on beyond that. If there is some sort of deal that kind of enshrines British exceptionalism, which we know we already have with our myriad opt-ins and opt-outs, what happens then? Does it come to an end with the Brits and that is the end of the story? Alternatively, are we beginning to think more about other countries coming forward and saying, “We want this and that”? To add to that, to what extent are the sort of changes to which you referred, Henning, not just about treaties and institutions, but about approaches? I am thinking about my own sub-committee which includes energy in its remit. There have been moves recently where a binding target is set at the European level and member states are then left to choose the method by which they can achieve it. That has not required any form of treaty or legislative change, it is just a different way of doing it.

Henning vom Stein: Yes, I think today there is an idea an agreement on a reform agenda, for example, for the energy market, the healthcare systems, the education systems, social

security, labour markets, youth unemployment. Regulating quotas at the European level and then go back implementing them does not really lead to the fruits that we could have by dynamising these things in a single market. This cuts it short. For example we have made calculations about Greece being in or out of the eurozone and the UK in or out of the European Union on a trade basis. If you approach the single market only as an arena for trade, you do not analyse the dynamism which lies within the existing supply chain network. That is not good. It is about the global value chain. For example, let us look at Poland's economy. Some 10 years after enlargement, Poland is just moving towards better management of integrating of its own economy within the supply chain and value chain system of the single market. From an outside view, the functioning and reliability of the supply chain system that we have in the single market is the key argument for foreign direct investment. You would not find it in any other cross-border situation in the world. So it is a reliable system. Competitiveness is not about reducing the burden, it is about investing in networks. That will lead to a new level of international and global competitiveness for the European Union. If you are on the outside because you do not agree, you are not investing in the decision-making process towards that future potential, and you are not building up the right business model for your economy.

Janis Emmanouilidis: Perhaps I may go back to the initial question you raised with us in respect of irritation and awkwardness. As you highlighted, the UK being an awkward partner is not a new picture. But if we look at the long-term perspective, in some ways the EU has moved in a direction which has become more British while other member states have also moved in a direction that is more British in the sense of being more pragmatic. There is now a lot more pragmatism evident in many member states which does not make business at the EU level any easier. In that sense there is a kind of imitation which is not driven by the UK, rather it is driven by things which have happened and the reactions that we have seen in member states, including political developments which Lord Jay mentioned earlier. One question asked was that there is British exceptionalism, and might others follow in that? As we all know, British exceptionalism is not new, it is not a new quality in these negotiations—they are developing negotiations and we do not know exactly what the outcome will look like—but we know at the same time that the outcome will not be as massive or in-depth as some might have thought or even hoped for some years ago. I do not see it as a path that others will follow when they themselves would ask for more exceptions. What I would fear more, from more of a general EU perspective, is if the referendum leads to what you call a Brexit. That would open up an avenue which could become in more substantive terms difficult for the future of the European Union. Other member states might argue: is that an avenue that we might look at? I am half German and I would have also argued the same thing when the German Finance Minister was advocating a temporary exit by Greece from the eurozone. That would have opened a door which I think would have been dangerous for the EU in general terms. If that is the avenue which we would be led down, that could mean that others might follow, or argue that they should follow it. That would be a very negative move from the general European perspective.

The Chairman: Can I pursue that for a moment? Are you implying that if there were to be a Brexit vote in the referendum, the European institutions would want to play hardball—it was an argument that was made in the earlier political debate—because they would need to set an example by showing that a withdrawing state availing itself of its rights under the treaty to withdraw was not going to have an easy ride on the way out? Is that your view?

Janis Emmanouilidis: If you follow the logic which I have tried to develop, I think that it would be a sound political reaction to a Brexit in the sense that one would not want to set a

precedent which might go in the wrong direction. So, yes, I reckon that if we see that kind of outcome from the referendum, it could lead to this kind of reaction.

The Chairman: Steven, do you want to add to that?

Steven Blockmans: Yes, I would think so. Certainly I do not think that it would be a soft exit for the UK if the Government were to follow up on a majority no vote in the referendum, or rather a “leave” result.

The Chairman: Is that the agreed view of you all? Does that include Henning? Would the Council and the Commission play hardball in Article 50 negotiations?

Steven Blockmans: I would think so. You would have what is essentially the reverse of an accession procedure. It would be carved up into multiple chapters that each would be dealt with on their own merits. The remaining 27 member states would try to safeguard as many interests as they possibly could in the renegotiation with the UK, which obviously would be standing alone in that context. So, yes, I do think that it would be hardball. I also think that two years would be insufficient to come to a satisfactory conclusion for both sides.

Lord Davies of Stamford: How long would you estimate?

Steven Blockmans: I would not know, but if one looks at how long it takes to negotiate accession to the European Union, which of course departs from an entirely different perspective of lots of preparation for the acceding country, it takes between five and 10 years. Even in the Icelandic model, which was supposed to have been very swift, we were two years down the line before Reykjavik pulled the plug on its accession negotiations. I do not think it would be that easy, especially if one would have to carve up parts of the single market in the sense that Prime Minister Cameron seems to want in his four reform baskets. I do not think it would be that easy. Flexibility and diversity would be here to stay. They have been around for a while. The UK has five opt-out protocols, exceptions and derogations; other member states have two. It is remarkable that in this renegotiation process, which mostly happens behind closed doors, the four baskets and the negotiations have been ring-fenced only to the UK. It seems that other member states have not yet put their own claims on the table. If Cameron wants the legal straps and belts that he is looking for on each of these reform demands, which potentially would have to lead down the line to the negotiation of a protocol or even a treaty change, who knows what other member states might bring to the table at that stage and what exclusions they would seek?

Lord Jay of Ewelme: Just to continue on the Brexit theme for a moment, in the discussion so far we have stressed the importance for Britain and the EU of Britain’s full participation in CFSP. I think, for example, of the Iran negotiations, to which over a number of years Britain made an important contribution for both our own benefit and for the benefit of the EU. Against that background, if there were to be a Brexit, what effect do you think the absence of Britain from the European Union would have on the conduct of the common foreign and security policy of EU foreign relations?

Steven Blockmans: Well, foreign policy writ large—not only CFSP, but development co-operation, humanitarian assistance, enlargement and neighbourhood policy—would suffer if the UK were to leave the European Union. On development aid co-operation, Britain is one of the biggest contributors to the budget. About one-sixth of budget revenue is derived from the British quota, and it would have an enormous impact on the overseas development assistance that we can give. It is currently the biggest in the world. It would be the same on humanitarian aid and, ironically, on the budget for CFSP, at least as far as it comes from the general budget of the European Union, but perhaps less so in recent years on the

enlargement, seeing the reversal in position that the UK has undergone. You are absolutely right in pointing to more classic CFSP matters where Britain has taken the lead, for example, in negotiating sanctions against Iran and against Russia over Ukraine. The European Union would lose one of the three big member states in this respect in driving foreign policy, and it would essentially drive Germany and France closer together in forging that access. Trade has already been mentioned in a previous context.

Where I do see that secession from the EU by Britain would potentially benefit the European Union in this area is in common security and defence policy. Reference was made to a European army. There are certain member states which want to go in the direction of differentiated integration and to pool resources, budgets and planning and have an operational headquarters here in Brussels under the form of enhanced co-operation. Certain member states feel that Britain has been very much putting on the brakes, and that brake would be lifted.

Q138 The Chairman: Building on this question—this is perhaps unfair to you, and if the others want to contribute they can come in—what impact would it have on its general credibility, heft and clout in world negotiations if the European Union were deprived of one of its major member states, not only losing the resources or market access, potentially, of that state but sending the signal that it did not want to be a member of the EU? Is this significant or is it fictional as an issue?

Steven Blockmans: It is very significant. Already a very powerful negative signal is being emitted and picked up in Washington and Beijing.

The Chairman: And in Moscow?

Steven Blockmans: Yes, differently though. It would result in huge reputational damage to the European Union if one of its biggest member states—with France, the only real military power of the European Union with the nuclear deterrent in its tool box—a member of the Security Council, the G7, the G20 et cetera, turned its back on the European Union, which is seeking to play a bigger role on the global stage, and a more comprehensive role as, aside from its trade persona, it has a diplomatic and even, in future, a military arm.

Henning vom Stein: It would be difficult to keep that policy area at the level of the European Union. If that happens, it will come to the level—whatever the outcome—of a core European Union. Britain, with its engagement and its reputation, can keep that issue on the agenda of the EU of today, but ownership and commitment are needed. There is a need for European-wide debate on this. It is not only a UK issue. If Britain left the European Union, this policy area would go down into something else, which would be the remainder of it. Additional flexibility would be needed because other countries will also not join this. Look at Poland; there is a lot of dynamism in this process. Keeping in could be an argument for keeping that level of debate in this EU arena alive.

Janis Emmanouilidis: The general effect of the UK leaving the European Union would be very negative, with respect to internal potential negative developments following thereon, but also with respect to the external role in more policy terms. In terms of the reputational issue, it would do harm to the European Union. Having said that, if you look back over the past years and compare the position with 10 or 15 years ago, the UK's role in foreign policy proper and more generally has become less, and many member states are not happy about the fact that the UK has not been playing a strong role when it comes to issues related to foreign policy. For many other member states, not having the UK on board would be very negative news. They want a stronger role for the UK when it comes to foreign policy.

Lord Jay of Ewelme: Could you give some examples? We talked about Iran as a matter where there has been involvement. I suppose in Ukraine there has not been. Are there other examples which you would cite, or is it just the French and the Germans acting together on Ukraine and Britain not being there?

Janis Emmanouilidis: When you started to make your intervention, immediately Ukraine came to mind. It is the case where it became most obvious, but the budget for investment in UK military infrastructure having gone down, which we have witnessed in other member states, also plays a role.

I subscribe to everything that Steven said, but there is one thing where I would have a bit of a difference of opinion. With respect to other member states and their readiness to implement in practice what they often say in Sunday talks, we often hear pledges that we need more co-operation with respect to foreign and security defence policy, with people even asking for a European army, but they do that in their Sunday reaction. On the Monday, reality comes, and in their readiness to invest and to do the things that would be necessary to implement that, many member states are not doing their part. We have seen that on many occasions in the European Union, not only with respect to foreign policy. One often likes to hide behind others and say that it, because XY is not doing AB, we are unable to do so.

The Chairman: Thank you. I think what we will do now, and I am conscious of the time, is perhaps distil the remaining exchanges into two. One is to invite Lord Green to give his thoughts on what might be termed the economic and trade case and the competitiveness issue. Then I will ask Lord Davies to come in on the ever closer union issue, which we have not specifically addressed yet.

Q139 Lord Green of Hurstpierpoint: If I may add an observation on the preceding discussion, it seems to me, and I am not an expert in security policy, that there is not a whole lot of difference between the British and the French postures vis-à-vis any common European policy. Yes, the French are more involved in the Ukraine, it is true, but when you talk about common European defence capabilities, the French are as reluctant to give up their independent capabilities and right to make their own decisions as the British have ever been. That is a comment on which you may or may not wish to respond.

To turn to the economics of it all, two of Prime Minister Cameron's baskets have to do with economics. One is the eurozone question and the other is the single market. In the case of the eurozone, he has called for guarantees that protect the position of the non-eurozone members. As the largest non-eurozone member, we clearly have a special interest in that topic. To what extent do you think that people in this town and around the eurozone member state capitals recognise that this is not just about protecting the single market interests of a non-eurozone member but also about protecting the ability of the London capital market, which is really a European capital market, to function effectively as the capital market of the European Union even though it is not a member of the eurozone? That is question one.

On the single market itself, the Prime Minister has called for a bundled commitment to the single market, to trade and to competitiveness as a demand for an all-embracing change in the DNA of the European Union towards more competitiveness, openness and flexibility. What might that amount to in specific terms? The phrase he has used, "one clear commitment that writes competitiveness into the DNA of the whole European Union", is a piece of rhetoric that almost any member state could sign up to across the political

spectrum. But what does that translate to in specifics if he is to be able to go back to the British people in a referendum saying, “I have negotiated real change in the way that the EU does things”?

Henning vom Stein: I have written a paper on how the euro is more than just a currency, and about the integration of the real economy.

The Chairman: Can you share that with us? That would be really helpful.

Henning vom Stein: Yes. So it is not just a currency; it is an important factor for the business model of countries. Look at Greece. Inside the eurozone, it has to find a different way for the future and completely re-establish a functioning and competitive business model within that framework of a monetary zone. Being outside this framework, like the UK is, leads to a different point of departure. London for example is a financial market cluster. I do not see where the problem would be in guaranteeing its functioning within the single market, the UK being outside the Eurozone. The exchange rate should not be the problem being efficient with its own currency.. However, remember that in 1992 on Black Wednesday the pound had to leave the exchange rate mechanism. London might be able to be a cluster for financial services as long as the euro is an anchor currency. That is in fact the argument in the letter that if the eurozone can handle its future, the UK and the other outsiders will be able to handle their own economic environment in the single market. There is interdependence. If you drive the logic of protocols, of exceptions and individualism, to the edge, it will not become a sustainable and stable system.

The Chairman: There is a kind of symbiosis.

Henning vom Stein: I think the public has to hear this. It is about value chains and supply chains. Take for example the Benelux and North-Westphalian cluster. It is not the money there; it is the material competence and logistics of the harbours in Amsterdam and Rotterdam.. That is the argument I am making. The European institutions and the whole of the atmosphere has become much more micro. Look at Portugal. Why do you have two harbours doing the same? Why is there no distinction between the business models of the two harbours there? That was completely out of the range of thinking in the 1990s and was not on the table. With regard to your question, yes, there is a possibility to handle the cluster of the London financial market if the whole set-up of the single market is functioning. And in this set-up, there should be an argument for saying that we do not all want to share the euro. There should be the ability for the British people to say, “Leave us alone with this euro perspective, and this not only with a protocol for a permanent opt-out. “We want this European Union to be a multicurrency union” should be put as an argument on the table. It would also open up a new perspective for the eurozone itself as well: if Greece does not survive in that monetary union, it could leave and join another layer of integration within the EU.

Lord Green of Hurstpierpoint: It has one or two other more specific implications, such as the ECB not trying to force euro clearing to take place within the geography of the eurozone, because that cuts across the interests of the single market.

Henning vom Stein: Yes, you would not have a seat on the general council of the ECB. You have to live with those consequences of not being in the club. “Club” is perhaps not the word, but there will be consequences, and political negotiation is needed to handle these things. Inside, it should be possible. Outside, it will not be possible.

Janis Emmanouilidis: Just a word on what you started with, with respect to the UK, France and security and foreign policy. I think that the French would be very unhappy in the case of

a Brexit with respect to that area, because in terms of strategic thinking they are probably the ones who are most like-minded in the European Union in their approach to foreign policy. Having said that, and coming back to economics, the point with respect to the potential for discrimination against non-euro countries is valid. It is a point that has been raised over the past years when we have seen reforms in the area of economic and monetary union in the euro area, and it has been raised by many other member states, too. It is valid and it is also recognised by other member states. If you look at the experience of past years, when decisions were taken there were always moments when there was an awareness of the fact that it might be discriminatory or might have discriminatory effects, which always meant that non-euro countries were consulted in one way or the other. Given that that is a precondition, the non-euro countries will not stop the euro countries from further integrating—which, as we discussed in the beginning, is also in the interests of the UK. Having said that, there is room for something like what people call an emergency brake at the European Council level to make sure that when decisions are being taken—and there is a precedent in the area of justice and home affairs—at the level of the European Council things can be stopped if member states feel that it is moving in a way that discriminates against them.

With respect to the single market and competitiveness, this is an area where we ought to ask ourselves what we can offer—I witnessed the end of your previous discussions and heard many witnesses asking themselves what could be offered—with respect to that area. Here, what can be offered is rather limited. There are certain things that are already under way when it comes to cutting red tape. By the way, it might have been smarter politically to do that later in the first phase of the Juncker Commission and then to offer it to the UK—that is a side remark—as some people had already been saying early on in the process. That could have been an asset, which was not used.

What could you offer in addition? It is very difficult to make a concrete offer in that area, not least because the key to competitiveness lies at national level; it is the member states themselves that have to make their economies competitive. The EU's ability to influence that is there, but it has certain limitations. However, having said that, there is something that people now take for granted, which might not be taken for granted for ever, which is that in the European Commission there is a general attitude that less is more; let us concentrate on some things but not overdo it. That approach is different from what we have had in the past. If you could enshrine that in some way—I do not know exactly how—to say in effect that this is an approach that should also be followed in the future, it could be offered in the future and I think that many member states would support it, as they are supporting.

The Chairman: That is subsidiarity in action, is it not?

Janis Emmanouilidis: It is subsidiarity in action, and it is also something that we are already witnessing. By the way, I am among those who are not as fearful about the argument as some with respect to subsidiarity, because there is already a lot of subsidiarity control inherent in the system, but we have seen a political development with respect to regulating, which has a link to competitiveness and which could be prolonged in one way or the other.

Steven Blockmans: I will add just two footnotes to what my colleagues have said. First, on the similarity in approaches by the UK and France on defence issues, I concur with what has been said before, but the two countries also signed the 2010 Lancaster House treaty, which seemed to be approached through very different lenses. Looking at it from your side of the Channel, the UK clearly sees it as a bilateral treaty that allows for defence co-operation with the only other military power in Europe and allows the UK to do that outside the European Union—whereas for France the philosophy is very much integrationist

and an effort to use the Lancaster House treaty as a way of bringing the UK into further co-operation on CSDP.

The other footnote was about the emergency brake that Janis mentioned. In fact, CEPS and Bertelsmann Stiftung had a simulation game with members of 14 other think tanks around Europe simulating the European Council negotiating its way through the four reform baskets. On the issue of non-contamination of non-eurozone members by eurozone decisions, we could not get to the classic type of emergency brake as we know it from the treaty. The best possible compromise that we arrived at was not the double-majority mechanism that exists in the European Banking Authority but, rather, a system whereby cases of national and vital stated reasons of countries with derogation from eurozone legislation would trigger a suspension of the proceedings at European Council level, with voting being delayed and being transferred for negotiations at the highest level of the European Council.

The Chairman: I think we are probably reaching the limits of your tolerance. You have been very gracious with your time. We have a number of unanswered issues, some of which are self-evidently important for the negotiations. One is the issue of migration. Another is the question of how these vehicles may be delivered to be legally watertight. In a sense, that will perhaps come out of the decisions of the next month. There is also the question of ever closer union, which Lord Davies has taken a particular interest in. It is probably in the common interest that we subsume that as a third area that we have not completely covered. If you feel strongly about that or other matters—I know that Professor Blockmans in particular, as a law professor, has a strong background in that—we would love to hear from you, perhaps at leisure, as to what it all means and whether it means something substantive or is merely a political device or a comfort. What we should probably do at this stage is stop and say how very grateful we are, how very much you have stimulated our thinking and taken it into other areas that are peripheral to this and are perhaps a long way from what is, at the moment, in the public debate, although perhaps it should be. In the words of trade negotiators—we have one in the room; a former Minister, Lord Green—let us develop the concept of a living relationship. You can contribute to us and we can perhaps share with you as this develops. It has been very fruitful for us. I record our thanks, and close this session.

Elmar Brok MEP and Danuta Hübner MEP—Oral Evidence (QQ 120-125)

Evidence Session No. 11

Heard in Public

Questions 120 - 125

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Lord Liddle

Baroness Scott of Needham Market

Examination of Witnesses

Elmar Brok MEP and **Danuta Hübner MEP**, European Parliament

Q120 The Chairman: Good morning, my Lords, ladies and gentlemen, and welcome to a formal evidence-taking session of the House of Lords EU Select Committee in Brussels. We are delighted that Danuta Hübner is here, as chair of the European Parliament's Committee on Constitutional Affairs. We are also grateful for the hospitality of the European Parliament. From our previous hearings from COSAC and others, we can probably say that we find an easy working relationship much better than a stand-off between the two groups of institutions. We welcomed the AFCO visit to London and subsequent contacts that we have had in Brussels, where we were invited to be represented—I was able to go to your committee. Clearly, there is a strong coincidence of concern and interest between our two institutions in relation to the British process of negotiation and referendum, as well as the wider issue that we are looking at in particular in this current inquiry. Here as we speak we welcome, as well as Danuta, Elmar Brok—we are delighted to see you, Elmar. I just reminded everyone that we are on the record. I also said how much we had enjoyed the AFCO visit to London and the fact that we had a chance to participate, as national parliament representatives, in your considerations in Brussels. On the whole, I think it will be very much more constructive if we work together rather than distance ourselves from each other.

The immediate business is about the British negotiations and referendum, but we have concerned ourselves as a Committee, and will continue to concern ourselves, with the mechanism and process for that purpose. We are taking an interest in that here, too, but we are particularly interested in looking at the extent to which there are visions of a European future and the extent to which the British proposals are relevant to, and consistent with, those sorts of shared views and opinions.

We will start, if you are happy for us to ask you questions. The first question that we would like to ask is how your committee aims to respond to the United Kingdom renegotiation agenda in the weeks to come. Are you doing an opinion? Will you be making speeches about it? Is it difficult to form a common view among your members, or are some treating it with indifference? How will it go? Danuta, do you want to lead? Members of the Committee can join in if they want to.

Danuta Hübner: Thank you very much for coming. Our visit to London was very useful for us, too, hearing different interests from the people we met. It was a useful exercise for us, which is why we went there. We understand that it is up to the British citizens to decide, but we believe that it is our duty to share with you as much information as we can on our position on the most important issues. In general, the role of the European Parliament is rather limited—although I hesitate to say that—in its involvement, because it is the European Council and the heads of state and government that will hopefully hammer out an agreement with the British Government. In the negotiation process, it is the secretariat of the Council that is leading the whole process, with the participation of the taskforce from the European Commission, with a limited involvement in terms of direct participation of the Commissioners.

The European Parliament will take the floor the moment a deal is proposed and on the table. Depending on what form the final deal will take in terms of vehicles to implement the commitments, the Parliament will be involved if it comes to treaty changes or to changes to secondary level legislation. Also, politically—Elmar may know more about this at this stage—there will certainly be a tendency on the part of the political groups to make a strong statement from the Parliament, hopefully to support the result of the negotiations. I can also say that we are all committed in the European Parliament—at least, those who follow the whole process—to give support as early as possible in this challenge.

Hopefully, the February Council will finalise the negotiations between the EU and the UK. That is our general attitude. When it comes to the AFCO committee, our involvement later on will be crucial for the implementation of the deal, depending on the vehicle taken on individual issues. Otherwise, the role of the European Parliament is mostly political, I would say, in support of the process. That does not mean that we are not technically involved and it does not mean that the role of the Parliament is not important. Without the support of the Parliament, which will later on have to be involved in the implementation of the negotiation results, the process will lack political support on the side of the European Union. We know that relations between the national parliaments and the European Parliament are not always the way that we would like, but nevertheless we understand very well that the European Parliament is directly elected to represent the citizens, so we see the European Parliament as an important political actor in the whole process.

On AFCO's side, we are keeping our hands on the negotiations through inviting the chair of the European Commission task force, Jonathan Faull, to share with us information around the process. We also had two or three discussions over the last months in the framework of AFCO meetings with different experts and representatives of different institutions to better understand the process but also to share our views. You can find different positions within different political groups in the Parliament, but generally I would say that there is a lot of openness and support for the process, understanding that once we have it we will be in a win-win situation for both sides—it will be better for Europe and better for the UK. So here we have people who want to have the UK in the EU, but we also say, "Not at any price". That is very important.

Q121 The Chairman: Thank you for that. In welcoming you to this discussion, Elmar, I am conscious that you have to go at 9.30 am, so perhaps we could give you an opportunity to make a comment on that general question now. We will understand, of course, if you need to go because of other engagements. What is your take on this from the point of view of the Foreign Affairs Committee?

Elmar Brok: I think that the Foreign Affairs Committee is not so much involved, because there are no positions on the table that have to do directly with foreign policy. We are only concerned that the progress that is possible is on the basis of the Treaty of Lisbon, such as permanent structured co-operation and so on. It is not developed at the moment because of the British referendum, so it is more on that side where we are critical. If the agreement is done on the basis of promising treaty changes, in protocols and so on, then the European Parliament might ask for a constitutional convention and, for sure, as Danuta mentioned, if it comes to the second level, the European Parliament is in a position of co-decision.

Let me give a few examples. I think that the most difficult question is about free movement of labour within the European Union. If this touches on the principle of non-discrimination, we will have a problem. I understand that you have a problem with that question in relation to in-work benefits—that is a British speciality in law. A solution might be possible, but it might involve both acceptance here and perhaps a few changes in your legislation. We have also had this question sometimes in Germany. The national legislator very seldom checks whether this is compatible with European law. Here we have to find a solution, but it cannot be done against the principle of free movement and the principle of non-discrimination. This is not so much a political point but a way of finding a legal solution to avoid contradicting those principles.

The second point relates to parliaments. The proposal on the table is that the Treaty of Lisbon is used and there is a certain self-commitment of the Council. That is the right way. The Treaty of Lisbon gives the orange card, which says that if 50% of national parliaments are against a legislative proposal because of the principle of subsidiarity and proportionality, the European Parliament or the Council can stop the legislation. The proposal now on the table is that if 55% of national parliaments—exactly the number that you need for legislation in the Council—say no, the Council commits to ensuring that the legislation is finished. This I think is an interpretation of the Treaty of Lisbon, so that with the self-commitment of one of the institutions this would be acceptable. That might perhaps be a way out of that situation.

The Chairman: Just to be clear, that has been floated, if we may use the phrase, as an idea by the European Council and the secretariat of the Council. Nothing is agreed until everything is agreed, but this is, as it were, an interim proposal that there should be a blocking majority of national parliaments, which then triggers some action by the Commission.

Elmar Brok: Yes, if 55% of national parliaments say no, because of the principles of subsidiarity and proportionality—not whether you like it or not—the Council makes the commitment that automatically the legislation is finished. I think that the European Parliament would stop legislation then, because if 55% of national parliaments are against a certain law it does not make any sense to continue. Therefore, this does not need a change of the treaty and it might be the best way to get out of the situation.

On the question of competitiveness, I do not think that there is a problem, because the policy of the Juncker Commission is that we are already on the way to having in this period 50% fewer legislative proposals than before. My main concern is the fact that the Cameron

letter says that the European Union should not have one currency, as in the treaty. The euro is the currency of the European Union and Britain has an exception from that—

Danuta Hübner: Can I just add something to that?

Elmar Brok: Can I just finish my sentence? Therefore, we have to make it clear that the euro is the currency of the European Union. Britain has an opt-out; Denmark has an opt-in; others have an obligation to join. We have now 19 countries—another country joined last year. We will not accept making a division between the 19 and nine. What we agree on is that we should find a mechanism that you, as a full member of the internal market, will not be negatively influenced by the work of the euro countries. Here we have to find a mechanism to do that.

Danuta Hübner: On what Elmar started to say on the law-making exercise, we have just finalised negotiations between the three institutions. By the time you have the referendum, this should be voted on. There will then be negotiations between the Council, the Parliament and the Commission on what we call better law-making, in which we address a lot of concerns of the British people. When it comes to, for example, avoiding excessive and unnecessary legislation, we will have much more consultation by the Commission at different stages, such as when the law is ready for negotiation with the Parliament. Also we are going to have much better impact assessment, where the impact in terms of the administrative burden on territories will be more deeply analysed. So we have moved a lot when it comes to rationalising the law-making activities in the European Union.

On welfare benefits, it is important that we make it clear that we all hope that the outcome of the negotiations of the new relationship between the EU and the UK will be based on the rule of law. We should make that very clear. On welfare benefits, we understand—the Lords were very active on this—that you are not open to any reform of the British system, which is very different from the continental system. That leads to the problems that we face. The example of tax credits shows that there is no willingness to change the law, so we understand that there is a need to find different solutions. We also think that another issue that is important to the British people can be addressed, which relate to cases of abuse of welfare benefits by those who come to work in the UK. We already have a lot of jurisprudence coming from the European Court of Justice, which we can use in the future. In looking into this in the negotiations, we can find other solutions that would make the new approach non-discriminatory. I am optimistic that, on this issue, we can find solutions that will be satisfactory to both sides. We are certain that there is a lot of commitment on either side to find solutions that respect the rule of law.

The Chairman: Those two contributions are very helpful. They touch on some of the areas that I think some of my colleagues will want to ask about during this session. Perhaps while Elmar Brok is here, I can ask him a question.

Elmar Brok: I can stay a little bit longer.

Q122 The Chairman: That is great. I want to ask you a question from the viewpoint of the Foreign Affairs Committee. To what extent has the perspective of your committee changed—maybe the whole European argument has changed—in relation to questions about not only internal security and terrorism but also external security, in terms of external threats, as a result of recent events? It would be fair to say that the British perspective has rather opened up in this matter, because clearly there are some very serious issues around the world. Indeed, David Cameron, in launching his letter to Tusk, talked about some of the security themes. Is your committee responsive to that or anxious to have a dialogue on it?

Elmar Brok: We are ready for dialogue, and we have started to prepare the annual report about foreign policy. What we would like to do is to use the potential of the Treaty of Lisbon That I think should be the agreement. Let me give you an example. France has asked for Article 42.7, which is about co-operation between member states, not the European Commission. But does it not make sense that we have a headquarters that tries to be helpful in co-ordinating this—not seven Danish fighters go there and 12 French ships go there? We should have one mechanism to be helpful without destroying the sovereignty of member states. It is a question of co-ordinating, so that we have such facilities. Does it not make sense to discuss this question, which in the past it has been quite difficult for Britain to do? It is the free choice of everyone to take part or not take part in that, but we do not want to stop people who want to do that. In internal security, we see now the question of fighting terror. I shall give you an example. Europol should co-ordinate and make it possible to exchange information. Only five of the 28 member countries give the information that they have to Europol—your country not, my country not. None of the big countries does so. Should we not come to the idea, when we have to fight terror, not to set up a European intelligence service, because I am against that, but to co-ordinate so that we have an information centre where we bring all our data together to make it possible to fight terrorism? Does that not make sense? That is possible with the Treaty of Lisbon, and it may be much better to fight terrorism. We know a lot of cases where terror was successful because there was no proper exchange of data. In this question, we should have discussions on how to make us stronger in that regard.

The Chairman: That is very interesting. Of course, recent events have shown that even the exchange of data within the member states is not always seamless; we need to remember that. If I might just add—putting down a marker, as it were—if we are to move towards this kind of co-operation structure there will also be a need for a sensible understanding about parliamentary accountability and governance for that. We will have to think in parallel about how to achieve that to meet the needs of member states and of course the parliamentary organisations.

Elmar Brok: I think this is the responsibility of national intelligence services, which are controlled by national Parliaments. I do not want to set up a European intelligence service; I would like this national data to be used to fight terrorism through Europol. We can already get such data, we have the route to do it, but it is not done in practical terms. If we do not want to change anything, let us not do it—but the intelligence services are totally under the control of national Parliaments.

The Chairman: Thank you for that. I shall pass on to other colleagues—first, Baroness Scott.

Q123 Baroness Scott of Needham Market: I wanted to ask you about perceptions here about Prime Minister Cameron's letter to Tusk in the autumn and the extent to which you believe that it sets out a coherent vision. It might not be one that you agree with, but has Prime Minister Cameron succeeded in setting out what looks like a coherent vision for the EU? He would argue that his vision is about maintaining diversity in the Union and allowing sufficient flexibility for that diversity to take place—but I wonder whether the view here is that that is a coherent vision, or whether it is seen as an unconnected collection of four baskets of particularly British preoccupations.

Danuta Hübner: The letter of Prime Minister Cameron was read here with great interest, as was the response of Mr Tusk to this letter, because these are important sources of information on the position of the UK. We have known about the four baskets from before

summer, when Mr Cameron was making visits. He did a lot of exploratory work; he has done a lot of work in Europe and has talked to all the member states. So we knew about that and it did not come as a surprise. On the vision that comes out from the four baskets, I think that on competitiveness we are absolutely in line with the UK, and have always been so. I guess that this part of the challenge that the European economy and the European Union are facing is to make us competitive in the global context. We seek to achieve that competitiveness through different policies; this is something that most of us probably fully share. That is one of the arguments where we can say that it is important that the UK stays with us, because the UK has knowledge of bringing this element to the discussions on markets and on new policies. I hope that in the future, when we go more deeply into energy and digital economy, we will also hear from Britain useful comments for our new legislation. What I find legitimate also is the need to have a look at the relationship between euro and non-euro countries. I come from a non-euro country, so we have had a lot of discussions, and within our political group, on how to make sure that the fact that we do not share one currency across the European Union does not have an inhibiting effect on the coherence of the single market and the benefits that we can all draw from it. But we have been investing in accommodating the rights of non-euro countries for years, especially with all the regulations that came out of the crisis, especially with regard to the financial sector but also with regard to the governance of the eurozone. We have adopted special clauses on non-discrimination against non-euro countries, which are in the regulation on the single resolution mechanism. So there has been an effort to find ways and means on the one hand to open the possibility for those who want to join and want to participate in the banking agreement, so that it is possible that they have participation in decision-making. That has been done. On the other hand, we are fully aware that the decisions made within the eurozone context have to lead towards deepening the eurozone and making it more effective and efficient, safer and more stable. That we heard also from Prime Minister Cameron for years—that the eurozone should be fixed in such a way that the functions were better for the UK, too. So euro/non-euro is an issue that we are aware of, and we are looking at it from the point of view of openness and from the point of view of the integrity of the single market.

On the question of ever closer union, we should be able to explain to the British public that what is meant by the ever closer union in the treaty is something different from what you normally hear from those who fear closer union. This is not a legally binding article of the European treaty; it is an article saying that the peoples of the states belonging to the European Union should get closer and closer, in the course of the evolution of the European Union, because we have common interests and common risks and challenges to face. So the article is about peoples getting closer and very strongly, in its second part, says that the subsidiarity principle must be respected when we look for closer relationships. So it is not against anybody, and not legally binding. What is wrong with students from Poland getting closer to students from the UK or Germany, or people who co-operate on research? We should get closer, because that is how we make ourselves more effective globally—because we are small. Even with the UK, we are still only 7% of the global population. If you look at the map, we are really a tiny peninsula attached to a huge Eurasia. That is why we have to stick together and get closer as peoples of the European Union. We cannot forget that the EU has competences only when member states decide unanimously to confer those competences on the European Union. It all starts as national competences, and then we come to the conclusion that we can do better together. But as member states, we have to decide that we want to do that—so there is no risk. In that sense, on all those elements of migration and welfare benefits, non-discrimination is absolutely fundamental. There are probably 2 million non-British EU citizens in the UK and more or less 2 million UK citizens

in the other member states, so we are all moving to find better jobs and a better life. Here we have to find a solution: how to make it in such a way that it is acceptable for different countries and different benefit systems. But these are elements of division that some will share, and some will think that we should continue to have a dialogue on them and come together to find a solution.

The Chairman: Thank you. Elmar Brok, do you want to add to that?

Elmar Brok: First, the question is: what is the vision?

The Chairman: A vision can be a nightmare or it can be a pleasant experience, I suppose.

Elmar Brok: Helmut Schmidt once said that a visionary has to go to hospital. But Helmut Kohl's answer to that was that only a visionary is a real realist. I think that that is true in this instance. In practical terms, the question is: what do we mean by competitiveness? In legislation, we have always a fight between political groups. The Tory Government would not deal with the social issues and the relation between the social issues and competitiveness in the way that Labour would.

Danuta Hübner: Or the Greens.

Elmar Brok: Or the Greens. When it comes to the environment, they are the same as here. The same thing applies to national Governments. So it is very difficult to define exactly what competitiveness is. In a democracy there is always a question of majorities and balances. What we provide here is a mechanism that makes change possible. We see that decision-making in the Council means that you need 55% of the countries to pass legislation, and these countries must represent 65% of the population, so Britain, Germany and Poland are the weaker part in that. All this is bequeathed by Governments. When it comes to the final point, we always need an overall majority in the European Parliament, not a simple majority, when it comes to legislation. In that context, there is a competitive programme in the common market all the time. The principle is that instead of 28 laws we have one law. Sometimes that law will not be liked in Germany or in Britain because it will be different from what was there before. It is a way in which the world can finally compromise. But it is better for business. A business in Birmingham knows how to sell products in Milan, because we have the same rules. That is the way for competitiveness in the real market. It makes us altogether stronger. That is the positive result.

Sometimes idiotic things are decided in the European Union—that is true, too—but we do not have the sole privilege on that. It happens from time to time also in Berlin and London, I fear. But we have proceeded in that context and come perhaps to a fairer situation. The only clear example that I got from Britain was always the working time directive; I have never heard of another proposal. The principle is that of 48 hours a week, which became law in Britain in 1908, proposed by the Home Affairs Secretary, whose name was Winston Churchill. If we find the right working time for nurses, for example, that is not a question of destroying our competitiveness. We have to discuss it in such a context.

On the question of free movement, I can give you an example of where we cannot destroy that in the social field. If a young Brit came to Germany to work and he lost his pension rights after four years for his whole lifetime, that is not possible; that is an old rule from the 1960s or 1970s. Then there is the question of unemployment, if he works and pays his contributions to the national system, or the health system. So the principal question of social affairs is when you have a job, not when you are looking for a job; you have to pay not a penny to someone who does not have a job. Looking for a job is not enough. It is European law, and many countries use it in the wrong way, as the European Court of Justice has

proved in the past 12 months. You have only the right to get social benefits if you have a job, or if you have enough money to look after you and your family and social assurance, if you want to settle in another country. Otherwise, people have no right to any social contribution. The health question, the unemployment question and the pension question are not met by these four years. We can discuss the rest, the in-work benefits, whether it is social policy or a type of tax policy.

The Chairman: It is really helpful to have that presentation. We were anxious to discuss some of the issues in the four baskets of negotiation that the Prime Minister has indicated. To some extent, you have already brought those up, but colleagues may want to comment. For a few moments, I would like just to concentrate on the rest of the process, as far as Parliament is concerned. You have also spoken on that.

Q124 Lord Liddle: You have been very eloquent about some of the problems in the British position. Our Prime Minister has said that he thinks that he is well on the way to reaching agreement and hopes to wrap it up at the February European Council. Do you think that that is realistic?

Elmar Brok: Yes.

Danuta Hübner: I think we have no other choice. There are interests on both sides. We even hoped that we might move further in December. We all hope to reach agreement at the February European Council. I am sure that on the EU side we will spare no effort to reach agreement, which we hope would allow the British to have a referendum in line with the timing that is envisaged.

I shall add one thing in the context of what Elmar was saying. We sometimes forget that when we come with European laws on competitiveness, for example, which are important for the UK, we are aiming to replace the 28 national regimes with one European law—so in a way we should be reducing the number of legal frameworks that we have at national level. That is not always the case, because there is a lot of gold-plating by the member states, and all those additions. Secondly, in the context of legislating in those areas that are important to the UK, we have a lot of instruments in the European Union to accommodate national interests. We have shown through the history of UK membership in the European Community and then in the European Union that we can respond as a Union within the treaties to requests. That is why you have the lists of all sorts of special solutions for the UK to opt out in different areas; Schengen and the euro are examples of that, but there are also examples in justice and home affairs and many other areas. We can be open to that. The European Union handles this issue of unity and diversity and national differences in a way that allows us to move forward safely as a community but, at the same time, allows for extremely important national specificity. We have to make sure that through European law we are not undermining the changes at national level, but it is also important that national specificity does not undermine European Union interests, because we have common interests and there is a common good in European integration. We all have to care about that, including the Brits, because, finally, the stronger the Union, the better all of us feel.

Q125 The Chairman: Can I just respond to that—it is very helpful—by asking you whether you recognise a tension between, on the one hand, welcoming flexibility and diversity to accommodate the needs of a member state, not necessarily Britain, which is a strength of the European Union because it makes its members happier as members and creates a stronger unity, and, on the other hand, while you have spoken of strong political

support for a deal on the negotiations with Britain, is there perhaps an unspoken fear in some member states that making a deal for Britain will open the way to uncontrolled—

Danuta Hübner: Europe à la carte.

The Chairman: Yes, Europe à la carte, and then it loses its coherence altogether. Is that a matter that your committee, or indeed the Parliament, will discuss and debate here?

Danuta Hübner: I am sure that Elmar will comment strongly on this, but I will start by saying that from the very beginning the European Union got together countries, states, societies, nations that were different. But with all the enlargement, especially in 2004, the diversity has skyrocketed, with different levels of development and different traditions, cultures and histories. Some of us were strong enemies in the past, and we should never forget that the Union is an important table that we sit around to solve problems. We do not go to war or into battles. If we had no euro, you could imagine all the 18 national banks in the crisis fighting for the strength of their currency. I am convinced that everybody on the continent would have run to the Deutschmark. The euro has saved us from a currency war in the European Union. Before the war, we had trade and currency wars. We do not have them today, so it is a problem-solving machinery. At the beginning, we had to push very strongly for homogeneity because we were building a single market, and we had to overcome the differences in order to have a space where we could all be treated equally.

Today we see that more space is needed for diversity in order better to use countries' potential, and we are more open, say in the context of climate change, to allowing for different speeds in moving towards fewer emissions, because we understand that we have different starting positions. I would say that there is an understanding of the need for flexibility, but there are limits to it, because we cannot undermine unity. The single market is always a wake-up call for us; are we doing anything that would undermine unity, because we all benefit equally—is it a level playing field on which we can all compete fairly? We have to care about coherence and unity. That is why there are limits to diversity, and there will be colleagues asking how many opt-outs you can have and still remain a member of the European Union. It is about having the right balance and seeing that we all benefit from the relationship between individual member states and the European Union.

Yes, there are very many fears about being open to UK expectations and demands and how far we can go before we create the situation where everybody starts asking about individual solutions, but I must say that there is still good understanding among peoples in Europe that we need common solutions. As I said, I think there is this common public good, which is integration and being together on the economy, foreign policy and social issues—social issues are becoming increasingly important in the eurozone as well. It is a moving project; it will never be fixed. Sentiments will also move. In the UK, there are a lot of sentiments behind a referendum, so we have to welcome it in order for Europe to be safe and to give people security. We just have to stick together.

Elmar Brok: First, Danuta spoke about gold-plating. I read a British study some years ago which said that, in Britain, one piece of European legislation transforms into 1.3. That is the classical gold-plating thing. It is similar in Germany. I think you might be in contact with national Members of the European Parliament and national parliaments. This gold-plating is normally done by the national Administration, where they put on top of European legislation something they never wanted and blame Europe for that. It is taken in the national parliament, because they do not know. Here, having in legislation a closer relationship between the experts of the European Parliament from your country and Westminster would be helpful; you could find out what European legislation is really needed and what needs to

be done at the administrative level of your own country to put something on top of it. You need to find mechanisms so that national parliaments are aware of what the Administration do to them. That would be very helpful in order to keep competitiveness, because most legislation—this is the flexibility answer—is done in directives, which are not 100% binding. This gives room for manoeuvre for national legislation. Very often, that is misused against a competitor of a country because of administrative influence. Some people already say that we should not make directives any more but that we should make 100% binding law in order to prevent these possibilities. I am against that, but sometimes there is good reason to believe that that is the right approach.

Secondly, I remember very well a four-day meeting at the intergovernmental conference on the constitution treaty, which is now the Treaty of Lisbon, in which the present phrases “enhanced co-operation” and “structural co-operation” were defined. We made it clear that enhanced co-operation, which gives flexibility, should not be done for the parts of the internal market where majority matters are decided. Why? When you have different legislation in the internal market, you no longer have an internal market. The countries must know that they all have to apply the same rules; otherwise, you have a problem again. The internal market must have the same rules. If every country can have different legislation on every issue under the term of flexibility, which goes over the possibilities of this written directive, you have a problem. It is in your interests to have an internal market where the same rules are applied, because if you say that there can be flexibility and every country uses it in a different way, the end result is that you have to decide whether a product coming from a foreign country should be allowed in or not.

The same is true for environment rules. You can have higher standards on environmental questions if you just stick to your country, but when it comes to products there must be the same rules. The same rules must apply when you sell a car in Europe; otherwise there is a problem for the internal market. Here we have to see where we can have flexibility and where we cannot in order not to destroy the internal market. It maintains the coherence of the internal market. You should think more in that way.

The last point is about taxation and security schemes. They are the reason for this flexibility; security schemes can be harmonised only by unanimity. There is, de facto, no European competence in that. As long as the difference between national economies is as big as it is, you cannot have the same pension law for Britain and Germany on one side and Romania on the other. It would be idiotic to have flexibility. The same is true for taxation; in most cases, it is a question of national responsibility and therefore also falls under unanimity. None of us wants to destroy the internal market, but here, again, we have to look at certain questions. There is a debate at the moment about some companies in countries such as Luxembourg that have very low taxation—nearly zero. Is it right for the internal market that Luxembourg gets all the post addresses for companies and companies do not pay taxes in the countries where the work is done? That is a principal question, which we have to discuss. The bigger countries have bigger problems than the smaller ones, because it is an advantage for smaller countries. Here we have to think about whether we can have nothing to do with Europe or whether we have to do something as a result of the internal market. That is the question. There is a need for flexibility but there is also a need to discuss certain rules. Perhaps you can do that with taxation, but on the question of enhanced co-operation there are countries that do not want to do that. They should stay out and let others do that together in order to come to fair conditions for companies. If we see what Google is paying in taxes in Europe, we might consider what we can do in order that they take their fair share in financing the state and national taxation. Flexibility is an interesting question that we have to discuss. It is

not yes or no; it is something in between, but always under the headline, “Keep legal unity so that you do not destroy the internal market through diversity”.

Danuta Hübner: We have, of course, the legislation, and on the top of that a treaty that does not simply establish the rules but protects us as individual companies and individual citizens from what others could do if there were no rules. That also allows us to go to the European Court of Justice if we see that others are not respecting the rules and hindering our interests. That is why we need rules, regulations and the treaty, and we have to see that it is not only about responsibilities and duties but also about rights and especially the protection of our interests.

Elmar Brok: Sorry, but I have to intervene. I have to do an interview on German TV, not on Britain but on Poland—keep them moving here some time.

The Chairman: Indeed. I am conscious that a number of our colleagues have questions about some of the details, but you have given very full answers, which have been helpful, on those issues. You have also given us a very useful political perspective on the process and, indeed, the level of support or interest and some of the tensions that exist. That is only realistic: that is what parliamentarians should share. We are very grateful for that. Particularly, but not exclusively, in relation to AFCO but also to the Foreign Affairs Committee, we are open at any time to anything that you want to say to us or any concerns that you want to express to us. I hope, both in the context of the British negotiation and the decision that we anticipate and which, I think like you, we would rather wish to get resolved in February and out of the way—and then we have a referendum campaign—we would like to maintain the dialogue with you. We have found it both politically and intellectually very stimulating to have this exchange of views. Do colleagues want to add anything? The session has been very helpful and very useful for us, and we are grateful for your time.

Elmar Brok: I would like to make you a proposal, if Danuta would agree to that. I am rapporteur to her committee at the moment, looking at what is still possible with regard to the treaty of Lisbon. If you like, after the agreement is done and you need interpretation, both Danuta and I would be ready to see you again, here or in London, to have a debate about that in order to interpret the result.

The Chairman: That is a really helpful suggestion.

Danuta Hübner: Yes, whenever you want and if you want information, on the phone or—

The Chairman: In closing, I would like just to make a general point, which is that we have asked you some quite difficult questions, to which you have responded very fully, but you have also—

Danuta Hübner: You do not know what difficult questions really are.

The Chairman: You have thrown out some challenges to us as a national parliament about how we conduct ourselves. I know that you are doing this study, and we look forward to further dialogue on that, because we need to challenge each other to get the best result. We are very grateful, and we look forward to seeing you soon, perhaps, one could say, as members of the European Union. I will leave that neutrally beyond that point. Thank you.

Danuta Hübner: A reformed European Union will be a better Union.

The Chairman: Indeed. That is the end of the formal session. We are very grateful to you. You are always welcome in London.

CBI, TheCityUK and TUC—Oral Evidence (QQ 53-64)

Evidence Session No. 6

Heard in Public

Questions 53 - 64

Members present

Lord Boswell of Aynho (Chairman)
Baroness Armstrong of Hill Top
Lord Borwick
Lord Davies of Stamford
Baroness Falkner of Margravine
Lord Green of Hurstpierpoint
Lord Jay of Ewelme
Baroness Suttie
Lord Trees
Lord Tugendhat
Lord Whitty
Baroness Wilcox

Examination of Witnesses

Andy Bagnall, Director of Campaigns, CBI, **Chris Cummings**, Chief Executive, TheCityUK, **Frances O’Grady**, General Secretary, TUC, and **Owen Tudor**, Head of European Union and International Relations, TUC

Q53 The Chairman: Good afternoon, witnesses; you are very welcome. We appreciate you giving up your time to us and also the contributions you have already made, whether by written submission to this Committee and/or contribution to the public debate by publication. It is generally understood that the issues around the reform and renegotiation referendum agenda are still getting under way in terms of their public understanding here and we are most grateful to you for sharing your insights with us. It would be sensible at this stage if, perhaps, looking from my left to right but with no political connotation—because we are, I hope, fairly militant but not too political, although some others on the Committee will have political affiliations—we could start with Owen introducing himself and then go down the line.

Owen Tudor: I am Owen Tudor. I am head of the European Union and International Relations department at the TUC.

Frances O’Grady: I am Frances O’Grady. I am the General Secretary of the TUC.

Chris Cummings: I am Chris Cummings. I am chief executive of TheCityUK.

Andy Bagnall: I am Andy Bagnall, director of campaigns at the Confederation of British Industry.

The Chairman: Thank you. It has occurred to us that we do not normally, or not at all often in my experience, have direct dealings with the social partners, to use a European phrase. Perhaps you will tell me if that is now out of date or has been superseded. We are delighted you are here. It is in pursuit of what is a common objective, which is to shed light

on the process that I have already described—its boundaries. Our earlier report, which was published in July and was done quickly, was very much about the nuts and bolts and process of the Government's discussions and negotiations. We are now reinforcing that work and looking at some of the issues as to wider vision, as to whether there is a common objective or whether this is a private dialogue that may not be shared with other member states or other particular interests. That is what we would like you to talk about.

In general terms, all of you will be familiar with the general rules of engagement: i.e. this is a public evidence session; it will be webcast; you will be sent a transcript and, obviously, if there are errors of a factual nature to be corrected, please share them with us. Equally, if you have afterthoughts as to something you want to draw to our attention, please feel free to do so. If you will allow us, we will to some extent structure these questions to individuals, but I would not like to make this too stilted, and if people feel they want to join in we will try to accommodate that. That applies both to colleagues and yourselves, but we are very grateful.

We will start, straight off, with a question. I suppose this was the moment when things became slightly more immediate, when, on 10 November, just a month ago, the Prime Minister wrote to the President of the European Council, Donald Tusk, and set out the Government's negotiating requirements more clearly. Do you feel, as a result of that—and we now have the Tusk letter, as it were, coming back to the other members of the European Council—that you will have any clearer understanding as to the United Kingdom Government's vision for EU reform? Could I ask Frances O'Grady to start on that one?

Frances O'Grady: Thank you. Members may be aware that we have been very concerned to understand more clearly what the terms of any renegotiation that was being sought might be. We had gained information that issues of core concern to working people in Britain were the rights afforded under the working time directive and to agency workers, and the prospect of any new rights, given the very big changes that we have seen in the labour market, with the growing numbers of workers who suffer from a casualised employment status. We had been pressing for some time for much greater clarity on these issues—about whether the Prime Minister was seeking to water down or worsen workers' rights. We are pleased that in the letter or statement that the Prime Minister wrote there was no explicit reference to workers' rights, which, while we have been around long enough not to take as an iron-cast guarantee, gives us some assurance that we believe it would be much harder at this stage to surprise us with any new information on workers' rights.

Are we clear about the four headings and the content? I have to say it gives us some greater degree of understanding, but there is an awful lot of detail missing and some words like "competitiveness" that can be interpreted in a multitude of ways, and not all of them good from our perspective and in our experience. We have a degree of greater understanding and a degree of assurance that, after considerable campaigning on our part and that of our sister union centres in the EU, there was nothing specifically written about workers' rights per se, but a continuing sense that there are huge missing aspects to what we believe the UK Government should be seeking in terms of a social Europe fit for the 21st century that delivers real gains, good jobs, decent rights and strong protection for ordinary working people as well as a voice, which social partnership is premised upon.

The Chairman: Staying with this theme of vision, after what you have said, would it be your view and, indeed, the view of European trade unions—the people you deal with—that the objectives of what, for shorthand, we will call a social Europe and an economically competitive Europe are not mutually incompatible but should be seen as part of the same package?

Frances O’Grady: Absolutely. Nobody has a greater interest in a more successful, productive group of economies in Europe than trade unions. Because that term “competitiveness” can be used so loosely, we think it is important to say that we think some of the big challenges facing Europe, not least in the wake of the financial crash, are ones about how we create a finance sector that supports the real economy and the creation of good jobs. How do we deal with the fallout of the crash—the debt—in a way that is fair to everybody? How do we deal with depressed demand that has arisen through falling living standards and a falling share of wealth going to labour? How do we deal with some of the other big questions that we face, such as climate change and immigration? From our perspective, these are the big questions that make a real difference to working people’s lives.

The Chairman: Before I go on to Mr Bagnall, you will be aware that the Prime Minister talked about flexibility and diversity as being key themes. I suppose, in a sense, not putting words in your mouth, those are unexceptionable, but do you and your colleagues in Europe have parallel concerns about fairness and, arguably, discrimination in the workplace? I am thinking of whether, for example, if people are on different conditions according to their national origin or otherwise, it might cause industrial relations difficulties in the practical workplace. Do you want to say anything quickly about that? You were talking about the social Europe side and I just wondered, Owen, whether you would like to chip in on that.

Owen Tudor: Sure. Flexibility and diversity, in some ways, are exactly the same in terms of competitiveness; you can have good and bad, and it depends which way you interpret them. Certainly, in terms of fair treatment, we think that one of the problems the European Union faces at the moment, and we face it in the UK, is the differential treatment of people depending on their national origin, in particular for instance in Britain—

The Chairman: You mean even within the existing posted workers directive.

Owen Tudor: Indeed; absolutely. We do not, for instance, think that the posted workers directive is implemented effectively enough in its spirit. That has led to conflict in industrial situations where people certainly feel, and we think there is evidence, that people are being brought in from other countries, on lower terms and conditions, to undermine the existing terms and conditions of the workforce. We do not think that is a particularly sensible way to organise industrial relations and it simply stokes up social tensions as well as industrial tensions.

The Chairman: We will be revisiting this in relation to migration, I am sure, but Lord Davies has a point first.

Q54 Lord Davies of Stamford: Ms O’Grady, you said rightly that there is no apparent attack, so far as we can see, on workers’ rights in the letter the Prime Minister has sent to Donald Tusk. That, of course, is true for British workers, but there is a specific attack on the rights of workers from elsewhere in the EU within four years of their arrival, and some of those workers, I suppose, might well be members of a trade union that is affiliated to the TUC. Do you have views about that, and would the TUC or your existing members, your trade unions, be prepared to take up the cause of somebody who was told he could no longer qualify for the same in-work benefits that a British worker alongside was receiving?

Frances O’Grady: We are on public record as saying that, apart from the concern for those workers themselves, our concern is that such an attack could represent the thin end of the wedge. Our understanding is that there was very strong advice to the Prime Minister not to include that specific point within the statement, not least because he may find himself hitting a legal brick wall in respect of discrimination, human rights and freedom of movement

principles. What is also worrying about this is the risk of discrimination on the basis of national origin and, more generally, a world view that suggests that treating one group of workers worse than another group is somehow going to help us in the big challenges that we face. I have not seen the costings on this and I have not seen the evidence base for it, but our view was that in any case the UK Government would face significant challenges, as indeed Donald Tusk suggested—that this was not an area of consensus. So we are waiting to see on that one.

Andy Bagnall: On your initial question of whether the Government have been consistent in offering clarity around its reform agenda, we think, broadly speaking, they have. If one looks back to the Bloomberg speech in January 2013, where the Prime Minister set out the initial outlines of his agenda, many of the elements contained in that speech have survived, through various newspaper articles giving a bit more detail, into the letter to the Council President, Donald Tusk. So, from our point of view, we think there is broad clarity at least in the headings. Like Frances, we obviously await some of the detail; the devil is sometimes in the detail of these proposals, but the broad headings are clear.

The Chairman: Do you want to leave the other one until later, or do you want to comment on the sort of fairness and discrimination issues that have been raised?

Andy Bagnall: Specifically on in-work benefits, the CBI has not actively investigated that issue, simply on the basis that other elements of the Prime Minister's reform agenda are more directly business-facing. We have tended to focus on the reforms that we would like to see under the headings of economic governance and around that word "competitiveness".

The Chairman: Before I move on from my question, Chris Cummings.

Chris Cummings: Thank you, Lord Chairman. It is a pleasure to have been invited to testify to this Committee. Its work is particularly timely and important. In terms of understanding the Government's agenda, I would say we have a developing insight into it through the Bloomberg speech, as Andy mentioned, through to the Prime Minister's letter and, indeed, Donald Tusk's response. There are two big areas for my industry, of course. The first one is around the economic governance—the fairness agenda. The second one is around competitiveness.

The fairness agenda is particularly important to us because the City is not only the UK's financial centre but Europe's financial centre, supported by a network of other financial centres across all 28 EU member states. Our members tend to come to the UK being international firms, base themselves here in London, but then do business across all the 28 EU member states, although it is true that we have done very well in the UK attracting French banks, Italian insurers and asset managers, and German firms. When I look across the City, I see very much an international financial centre. It is hard to be the No. 1 global financial centre if we are only to serve the UK, so the fairness issue between the euro ins and euro outs is one that we feel particularly strongly about, maintaining that level playing field and full access to the single market.

The second major area for us is competitiveness, which we take to mean Europe's ability to compete at a global level. I look particularly there at the work being done on trade negotiations, not only with the US in TTIP but the evolving discussions in Japan, China and so on, because, as the European Union itself has recognised through research, 90% of the global growth will occur outside the European Union over the course of the next 10 to 15 years. If the European Union is going to be successful in creating much needed jobs and economic growth, it can only do that partly through better trading relationships and through trade deals. The issue of competitiveness is hugely important for us looking outwards.

Of course, the single market is a true asset for the whole of the European Union. It is the world's largest free trade zone—500 million people, with a very high level of GDP even today—and so growth-oriented policies, as set out by the Prime Minister, are also particularly important.

The final thing that I would comment on is the Prime Minister's comment about recognising where the European Union is today as a multicurrency, perhaps multidirectional Europe. My reading of Donald Tusk's letter in response to the Prime Minister seemed to move a long way in recognising that that is actually the case. So I would say our impression of the Prime Minister's agenda—the Government's agenda—is that it is one coming to fruition, where what started off as themes are now being solidified into specific proposals.

The Chairman: Thank you. We will move straight on to Baroness Suttie.

Q55 Baroness Suttie: Good afternoon. This is a question for all four of you but perhaps particularly the CBI. How would you respond to suggestions that the Government's reform proposals are disproportionately driven by a London and perhaps Westminster-centric agenda, at the expense of the interests of the nations, regions and interest groups elsewhere in the UK?

Andy Bagnall: In so far as the Government's reform agenda overlaps with the CBI's agenda, I do not think that is the case. We, as the CBI, have a network of offices in every region in England, and, of course, in the devolved nations as well, and have consulted all of them, through our regional council network and bespoke round tables, to arrive at our position. What we found, in so far as the business community is concerned at least, is that there is broad consistency in the business community across the UK for a more open, outward-looking and competitive Europe. The biggest area of overlap between the CBI reform agenda and the Prime Minister's agenda is very much, as we have said, in that competitiveness space, wanting to expand the boundaries of the single market, particularly services and digital; picking up some of the points that Chris mentioned, the trade agenda, really accelerating the negotiation of trade deals; and, also on that competitiveness point, focusing down on regulation, ensuring that it will not be overly burdensome for business, ensuring that regulation supports growth rather than detracts from it. For us, that is broadly consistent across the UK.

A trade deal with India, for example, would massively benefit the Scotch whisky industry. At the moment they are suffering about 150% tariffs on their product—it is considered an absolute luxury product in India—to protect the domestic market. That is just one example of a potential benefit to Scotland from that agenda. Similarly, in terms of the digital single market, a small tech company I was talking to the other day from Leicester will benefit from advancing the digital single market, just as much as a company in London or, indeed, anywhere else in the UK.

In terms of the point about it being London-centric—and Chris is probably better placed than I am to talk about this—the needs of the City are vitally important, and post the financial crisis there obviously has been a drive for regulation in the financial services space. Getting that balance right between those countries inside the eurozone and those countries outside it is another important part of the CBI agenda. I can see how that might lead some to think of that as London-centric, but the financial services industry again is not just the City of London; it is a UK-wide industry. Approximately half of FS, in terms of output, is in London, but the other half is spread around the UK. The success of the City of London helps support the industrial economy again right across the United Kingdom. While the City represents unique challenges in terms of the current reform agenda, clearly there is a knock-

on benefit for the wider UK. From a business community perspective, we do not think it is a London-centric agenda; we think it is an agenda that can benefit UK-wide businesses, and not just UK-wide but across the whole of the European Union as well.

The Chairman: We might go on to Chris Cummings now. One could argue, flippantly, that you might be disturbed if it was not London-centric, so perhaps fill us in.

Chris Cummings: As I mentioned a moment or two ago, the City is a European asset, and so protecting its position is not only good for the UK but good for the whole of Europe. If I could just add a note of colour or two on that, my industry employs 2.2 million people here in the UK and two-thirds of those are outside the M25. We talk about the City, and traditionally the City used to mean the Square Mile. We now go as far as Canary Wharf and Docklands, but, more seriously, the City creates jobs across the whole of the UK. Just last year, 34,000 more jobs were created in financial services, half of them in the north-west—the northern powerhouse to which the Chancellor often refers.

What we find is that major international organisations come from Europe to the UK, such as Deutsche Bank, which is now a major employer in Birmingham. They come from America; Citibank is a major, major employer in Belfast. JP Morgan is the largest private sector employer in Dorset. They would not be here in the UK if it was not for the City; they would not be here if it was not for access to the single market. But in framing these discussions it is very important that, when we talk about protecting the City or advancing the City's cause, what we mean by that is how we create high-value jobs across the whole of the UK. We are very fortunate in that financial services jobs are twice as economically productive as jobs in other industries. The average industry gross value add is around £50,000 a year. In financial services it is £85,000 a year, hence the appeal of jobs in financial services. Certainly, from my side, what I see is countries around the world competing to try to lure away jobs from the UK or people trying to establish their own international financial centres. We see an agenda from the Government that is understanding of the City's needs but not based or drawn exclusively from them.

Frances O'Grady: The trade union movement has an interest in a healthy and successful finance sector because we organise many of the workers who are employed in it, but we may have different views about the importance, for example, of regulation following the financial crash and the damage that that did to the whole economy, society and the people we represent. I would draw a distinction between the City of London and the rest of London; as I sometimes have to explain to my friends in Scotland, for example, they are not always the same thing. The interests of working people in London may not always coincide with those at the top of the towers in Canary Wharf.

It would be wonderful to see the same energy that goes into defending the finance sector, as we perceive it, going into defending areas of the real economy that we think are vital to our futures. For example, I was up at a rally to save our steel industry in Sheffield a couple of weeks ago. As unions we have been constantly told that EU rules prevent intervention in that industry to protect its future—an industry that is an industry of the future. It is a foundation industry for many of the industries, like electric cars, aerospace and wind turbines, that are vital for good jobs all around the UK. Whether or not I believe it is EU rules stopping the kind of interventions we want to see is another question, but if we are being told by the Government that that is what is preventing protection of the future of those companies and those jobs, then it would be great to see an equal amount of energy, if not more, going into lobbying Europe on that issue.

Q56 Lord Borwick: My question is to the TUC. Can you talk more about your statement about social Europe in the written submission, when you use the phrase “difficult to convince working people that the EU was worth voting to remain a part of”? Are you implying that working people would normally vote to be out of Europe if it was not for the social Europe? Secondly, you talk about the need “to avoid the creation of a two speed social Europe”, but we have a two-speed Europe in several other respects, not least the currency. Would you think that there should be more choice on the currency than there is on the social Europe side?

Frances O’Grady: When we first got wind of the concern that diluting workers’ rights might be part of the renegotiation package, we carried out some polling, the results of which have been confirmed by other polls subsequently, that showed very clearly that for those who want to win a referendum for the UK to stay in Europe worsening workers’ rights is absolutely the wrong way to go about it. Subsequent polls have shown very clearly that people can be convinced that staying in the EU is good for them if it is about good jobs and strong rights, if they feel protected, if we can address some of the concerns about migration and undercutting of wages, for example, by targeting not the migrant worker but those employers who exploit them and fail to respect union industry agreements that provide for equal pay regardless of the passport you hold. That was our interest and we would be very happy to share those polling results.

It was part of a broader argument on our part that for those who advocate the UK staying in the EU—and believe you me we also understand its importance for investment and jobs—there has to be a positive offer to ordinary working people; there has to be a strong story that spells out what is in it for them. It is not good enough simply to talk about the trickle-down benefits that will eventually reach people, maybe. People want to see a direct benefit. The social model has played a very important role for the trade union movement, convincing our leadership, our activists, our members, in the past that, yes, we can have a single market, but that must be balanced by strong protections and a voice for working people too. There has to be a bargain at the heart of this. It may be that that bargain needs updating—and, I would argue, strengthening, given the new challenges that we face in this century—but certainly that bargain needs to be in place. I do not know if you want to pick up on the second part of the question, Owen.

Owen Tudor: In terms of the two-speed Europe argument, we think that there is a common labour market across the European Union as the amount of migration for work suggests and that, therefore, it makes sense to have that labour market regulated in the same way across Europe. You can have amendments to that; we have a minimum wage, and until recently Germany did not, for instance. There is a common core of employment rights that apply across the European Union because that defends people who are quite likely to move from one country to another and ensures that the countries, if they are competing, are competing on a level playing field in terms of workers’ fundamental rights—health and safety, for instance. We often say this about international health and safety standards. People are not affected differently by chemicals in different countries, because they share the same physiology; therefore, you have the same standards in each of those circumstances. We are concerned that in those areas where it makes sense to have a common standard, as we maintain it does in many areas of employment rights, it does not make sense to have a two-speed Europe because that means you get unfair competition between countries on things that we do not think there should be competition over.

Lord Borwick: Do the CBI and TheCityUK have any comments on those points?

Andy Bagnall: We certainly would not disagree that one needs to get the balance right between creating an environment that is flexible for employers and allows business to flourish and prosper for the benefit of all and, on the other hand, has social protections. The CBI supports a basic floor of rights across the European Union. If nothing else, that is in the interests of many businesses, to prevent the unfair competition that Owen was talking about, being undercut by those with lower working standards. There is certainly not a queue of CBI members at the door of our offices calling for a reduction in things like maternity pay, paid holiday, equality legislation and discrimination legislation. It is not something in our reform agenda. While we think some aspects of it are better conducted at the national level under principles of subsidiarity, it is not something that we have called for in terms of wholesale repatriation. However, it is important to CBI members that we preserve existing flexibilities within that system. We would disagree with Owen that there is a single labour market across Europe. We think there are a number of distinct features of different labour markets—perhaps not a two-speed Europe, but we certainly think that there is a multisphere Europe in a number of different areas. We would want to see the UK, which within the construct of European legislation still has one of the most flexible labour markets in the world, retain that positive environment for business.

Chris Cummings: I think Frances and Andy have made some very good points. So, rather than me detain the Committee too much longer, I would say that the UK has benefited very well from a very flexible labour market.

Q57 Lord Jay of Ewelme: I wanted to ask a question about economic governance, which has already been referred to by all of you, and in particular the relationship between the eurozone and non-eurozone member states. The Government are seeking to secure “legally binding principles that safeguard the operation of the Union for all 28 Member States—and a safeguard mechanism to ensure these principles are respected and enforced”. I wondered how you thought such safeguards could be achieved, in particular perhaps in relation to the financial services industry, but not just that, because it seems to me that this is not an issue that refers just to the financial service industry but to industry as a whole.

The Chairman: We might ask you to take a lead on this, Chris, and others please feel free to comment.

Chris Cummings: I am very happy to. This is one of the areas of the Prime Minister’s letter that we have given most scrutiny to and are consulting with our members to hear from them what they would like to see as well. The basic principle that we wish to maintain and protect is one around the non-discrimination approach of access to the single market across all EU 28 member states. For us, that is the paramount undertaking. Looking at how that could be delivered—the practical application of that—we are staying close to Government, but also using the fact that TheCityUK has members in operations in every European member state, to hear from other European member states as well about how they are interpreting that request from Government and to hear from business in Europe as to the ideas that they may have to bring this about. The encouraging thing is that, in the conversations that I have had in other European member states, policymakers and business are very minded to explore with UK politicians what safeguards they are looking for to achieve the protections that the Prime Minister has asked for.

Lord Jay of Ewelme: You take that to be not just an idle question but a genuine concern about trying to find a solution.

Chris Cummings: Absolutely I do, yes. I am very struck by how other European member states also have their ideas for reforms and published some in discussion. When I talk to the

business community in other European member states, there is a very strong desire to keep the UK at the table—indeed, dare I say, for the UK to increase its leadership role, its vigour of engagement, in other European member states and in Brussels.

The Chairman: I will bring Baroness Falkner in now on this, but the others can contribute later on too.

Q58 Baroness Falkner of Margravine: Mr Cummings, it is very interesting to hear you say that, because my reading of President Tusk's letter is that it is a rather lukewarm response. It does not seem to chime with what you are telling me. If you do not mind, I will just quote briefly from it: "allowing Member States that are not in the euro the opportunity to raise concerns, and have them heard, if they feel that these principles are not being followed, without this turning into a veto right". It seems to me that that is a pretty tepid assurance, and I wonder what you find in terms of a concrete solution in the partners that you have just described to us that you are having these discussions with.

Chris Cummings: The best way that I could answer that is to say that the options are being explored. I have not yet found a concrete solution that I would be happy to present to you or this Committee. In the conversations that I have had in Brussels and in other European member states, there has been a willingness to engage with the discussion. When I read President Tusk's letter, the part you quoted also stood out to me as an obvious area where our Government may need to engage more to set out their agenda and describe exactly what they are looking for.

Owen Tudor: We talk a lot about these issues with our colleagues in the European Trade Union Confederation and sometimes also with our whatever the word is in the European business community. There is slightly more acceptance from other parts of Europe than President Tusk's letter suggests in that area. There is an understanding, certainly not a veto and not special protections for non-eurozone countries, but people do understand the principle of non-discrimination and are concerned to ensure it happens. Certainly, that is the view from the trade union movement.

It is worth noting that from the trade union movement's perspective the advantages do not flow all one way, whether you are inside the eurozone or outside the eurozone. For instance, a number of other fellow trade unionists would be quite happy not to be bound by quite the same rules over state budgets and austerity. There are two ways. I do not think it would be right to argue for special privileges, and I do not think it would be right to argue for vetoes in this circumstance, but some way of ensuring that there is non-discrimination and non-disadvantage in the way that operates.

In terms of practical steps, that is the sort of thing that we would be interested in discussing further with people. The idea of observer status automatically is certainly one that has some support from both sides of industry, in some cases even occasionally votes. The European Trade Union Confederation, for instance, operates on the basis that we have members outside the EU, such as in Norway and Turkey. They would be hugely impacted by decisions taken by the rest of the European trade union movement, so they are full voting members of our organisation, able to take a view on those matters and be not just heard but counted.

Andy Bagnall: From the CBI perspective, it is worth noting as a first point that we support the further integration of the eurozone in order to sustain the euro currency. It is in our interest, as a UK business community, to have a stable, prosperous eurozone; very crudely put, a more prosperous, larger export market for us is more sales and more jobs created here in the UK.

The integration of the eurozone throws up, as the other panellists have said, some legitimate questions about how we ensure the primacy of the single market of 28—that non-discrimination principle—not just for financial services, but some argue that further integration of the eurozone may lead to a spillover effect where issues beyond those pertaining directly to the single currency are caucused upon by eurozone members. It is worth saying that there is very little evidence of that happening. The eurozone itself is a very diverse place, but there is a question—

Baroness Falkner of Margravine: What about the Financial Transaction Tax?

Andy Bagnall: Under the enhanced co-operation procedure, but that is not completely synonymous with the eurozone; that is a smaller group. Clearly, it does throw up a legitimate question, and so we would support the idea of safeguards to protect those countries currently outside the eurozone, but particularly the United Kingdom and Denmark, which obviously have a permanent opt-out from the eurozone.

With regard to the question around some of the exact mechanisms, there are some examples that could be drawn upon: the banking union arrangements, which created a double majority, but, similarly, some of the legislative solutions themselves have clauses within them that assert that non-discrimination principle, MiFID and others. Rather like TheCityUK, we are non-discriminatory towards the right solution. We care most about getting the right outcome in terms of a mechanism that provides those safeguards.

The Chairman: We will go straight on to competitiveness and Lord Green.

Q59 Lord Green of Hurstpierpoint: The Prime Minister has argued that all the different promises, proposals, agreements on the single market, on trade, and on cutting regulation should be brought into what he describes as “one clear commitment that writes competitiveness into the DNA of the whole European Union”. The question is: what would such a commitment look like, and would it deliver a step change in competitiveness and in implementation of the single market?

Andy Bagnall: We support the thrust of that ambition. We think there is a question around competitiveness of the European Union for the UK and for the other member states in a changing global economy. Chris alluded earlier to OECD predictions about where global growth is going to be driven from in the next 10 to 20 years. It is very important that the EU has a mind to its position in an increasingly competitive global economy.

In the CBI report *Our Global Future*, in 2013, we proposed a symposium, but it could take other forms, trying to create the political will and impetus behind a dynamic that would hardwire competitiveness in. We are seeing quite a lot of progress on bringing together the different strands of a competitiveness agenda. We have seen proposals around a single market, capital markets union, the services emphasis in the recent single market strategy and the digital single market that I touched on earlier, but in that trade strategy setting out ambitious proposals for future trade deals and negotiating the TTIP at the moment.

Probably the one that is of most concern to the CBI is around the regulatory agenda. Again, we have seen some progress. There is the restructuring of the Commission and the introduction of the six Vice-Presidents to focus down on the big ticket items. We would like to see a way that that would be permanent and survive beyond the term of one Commission. We have also seen First Vice-President Timmermans take an approach that puts competitiveness at the heart of the legislative agenda, reducing from 314 new initiatives in 2010 to this year and next year just 23 new initiatives, really focusing down, as well as making a number of technical changes around the impact assessment process to ensure that

the real impact of a legislative proposal is properly assessed. We think that, taken together, those initiatives are driving competitiveness into the heart of the EU institutions, but, as always, there is a lot further to go. A lot of these proposals are proposals at the moment and we need to work through their implementation.

Chris Cummings: I agree with much of what Andy has said. I would say, for TheCityUK, that this really falls into three areas. The first one is around structural change in Brussels. President Juncker has introduced significant structural change, most of which is to be welcomed. If I think about the Financial Services Commissioner Lord Hill, he is introducing only 20% of the regulatory agenda that his predecessor followed. His predecessor was coping with the consequences of the financial crisis, out of which we saw over 40 new European regulatory initiatives and new directives, which the financial services industry stepped up to and is implementing. From a structural point of view, the new Commission, the new mandate, has started incredibly well and is doing just the right thing.

In terms of my other two points, the first is internal and the second one would be external. Internal is about the completion of the single market. Proper completion of the single market would add up to around £4,000 of benefit to every household in the UK—completion of the single market for financial services but looking at digital and, indeed, discussions around energy security and an energy single market. Those are substantial areas where work has happened but more could be done.

Externally, because competitiveness is a relative measure, we can seek to be competitive within ourselves within 28 European member states, but for me it is about global competitiveness—how Europe competes in a very changing global environment. There the work of Commissioner Malmström has struck just the right chord, but there are three specific things that we would recommend. The first one is increased resources for her team. Given the scale of free trade negotiations that Europe is doing at the moment, it would seem that more heft is required there. The second is looking at Europe's approach to the third country regime—how Europe assesses whether another country is suitable to trade with, to make sure the regulatory standards are, if not consistent, then coherent, within reasonable tolerances. The third is a new code of conduct for the Commission in trade negotiations. I would be happy to set those out more fully in writing if the Committee would find it useful.

The Chairman: That would be very helpful. Frances, do you want to say anything?

Frances O'Grady: Only very briefly. In terms of your specific question, a cynic might say it sounds more like a soundbite than a practical set of proposals. Competitiveness is one of those motherhood-and-apple-pie words, is it not? Who is against competitiveness? The question is how you deliver it and for whose interest, to whose benefit. Clearly, we are in favour of competitiveness that delivers rewards for working people too and that delivers success for the long run, not just short term. There are big, huge questions behind all that, which I would be happy to debate, but I suspect we do not have time for it.

The Chairman: Lord Green, do you want to come back? I know you have to leave at some stage.

Q60 Lord Green of Hurstpierpoint: This might be an unfair quotation, but this is to the TUC. There is a quotation that “competitiveness is not the main economic problem facing the EU”. I suspect I know why you said that and I suspect that, taken on its own, it is a bit misleading because, as you said, it is motherhood and apple pie; the devil is in the detail of this. What I hear the CBI, TheCityUK and you saying is that you need to understand in more detail what this really means—what does it really involve to broaden and deepen the single

market?—but I guess we would all share that this is an important overall objective. Am I interpreting you correctly?

Frances O’Grady: Absolutely. Is the route there? Certainly, we would not accept that deregulation for the sake of deregulation is the answer.

Owen Tudor: The stress, as I am sure you know, is the point. Our view is that it is not the main problem facing the European Union. We would have preferred to see something in there about what you do to stimulate internal demand in the European Union. The eurozone has a positive trade balance and that suggests that it is competitive. It could always be more competitive, but we think the main problem facing the European Union at the moment is a lack of internal demand, and competitiveness very often is not the way that you achieve that.

Lord Davies of Stamford: Would not the most dramatic and effective boost to competitiveness and productivity in the European Union come from a services directive, from the creation of a genuine single market in services, such as we have already had for some years in goods? Has the Prime Minister not missed a major potential trick in not asking for one?

Owen Tudor: We have a services directive and there is work to be done on deepening that, although, as people will remember, there was quite a lot of conflict over the original services directive in what precisely the detail was and what it covered. Again, we go back to saying that we think the main thing you could do to stimulate the European economy at the moment is stimulate demand inside the European economy. That is what is missing. While strengthening the internal market might contribute to increasing demand in some ways, there are simpler ways of doing it.

Chris Cummings: I would certainly echo your comments about the need for modernisation or a refresh of that thinking, because, given the scale of competitive advantage that the UK and, indeed, Europe has on services, the natural starting point would be to look at how, as we have a single market for goods, we could continue to develop the single market in services.

Andy Bagnall: May I just add one point? Credit should be given to the BIS department for driving forward that agenda around services. You can see that the UK non-paper on services traced through into the recent single market strategy. Of course, I would agree more can be done at—

Lord Davies of Stamford: Including the renegotiation agenda.

Andy Bagnall: Certainly, for us, it is a priority. I have talked about extending the single market in digital, but services, absolutely. A strong service-based economy like the UK would stand to gain enormously, exactly as you said, Lord Davies, on that point, and the 2006 services directive is largely unimplemented in many parts of the EU, so it is certainly a priority for our members in driving that forward. But I did just want to acknowledge the work of BIS in pushing that agenda, and long may it continue.

The Chairman: Baroness Falkner, do you want to come in on these issues?

Baroness Falkner of Margravine: Just very briefly, only to the TUC. I accept what you say about that quote being slightly taken out of context. I will just put a definition on the table, but if you accept that in this context competitiveness is good for structural reform, would you then agree that Europe does need more structural reform?

Owen Tudor: The problem would be what structural reform is code for. The problem, in our experience—

Baroness Falkner of Margravine: We were just talking about the services directive; we are talking about professional qualifications not being recognised across the EU. There is a host of very evident structural reforms that we know about that results in barriers to the different markets operating as they should.

Owen Tudor: I agree, but I am not entirely certain that this requires a renegotiation of the European Union structures. This can be done through the process of creating directives and making changes within the European Union. Our concern about competitiveness, structural reform and so on is that you can have good and bad in both areas. To take one example of what would assist in promoting competitiveness—for instance, a more trained workforce—you can get short-term competitive advantage by sending kids up chimneys. You gain long-term competitive advantage by making sure they have a decent education, are more skilled workers and able to be more productive in the workplace. It depends entirely which bits of it you want and what the best method of achieving that is. You can make a lot of these changes without a renegotiation process.

The Chairman: I have a feeling we have gone into some deep philosophical issues there. We will now bring it down to a rather tough issue currently, with Lord Blair.

Q61 Lord Blair of Boughton: I was just thinking, in terms of being taken out of context, of a quote from the TUC about sending children up chimneys as a competitive advantage. It was not in the letter, so that is okay. I am going to turn to immigration, if I can. As you know, that is one of the four key demands. Interestingly, when you look at President Tusk's letter, not unexpectedly, that is the one on which he starts to stick. Is immigration from the EU and its control a significant challenge for the European Union as a whole, or is it a uniquely British preoccupation? Could I ask the TUC to answer first, please?

Frances O'Grady: I would say that across the EU migration has become more of a discussion. Probably all of us are very conscious of the results from the regional elections in France. From our perspective, the extent to which migration has been framed, frankly, by the far right in some of these debates is extremely worrying. We believe, and the evidence supports this, that migration at a macro level is a positive thing. You can spell out the benefits to economies from migration, but our experience has been, although some quarters have denied this in the past, that we were certainly getting concerns raised with us from particular industries, from food to construction, that employers were using migrant workers, very often on agency contracts—the two often went together—to undercut the rate for the job and conditions at work. Our response to that has always been that this needs to be a debate about why a minority of employers can use one group of workers to undercut another. It is not exclusive to migration. Throughout our history, women have been used and exploited; young people have been exploited. We have had internal migrants exploited by those bad employers. The answer, from our perspective, is, for sure, minimum wages, and, in fact, we would argue that that should be part of the debate about a new settlement, a new social bargain for Europe. It is also about collective bargaining. If—as many of us agree—people should be treated fairly, and there is a problem with inequality not just in terms of fairness but in the impact that is having on demands and, therefore, our opportunities for economic recovery and growth, it seems to me that collective bargaining is one key solution. That is not just me saying it; there is plenty of academic evidence out there showing that that is the case. Our solutions are somewhat different and we would be keen to, and do, work closely with others who want to put this debate on a new footing. Putting it from my own soundbite, the problem is not migrant workers—the problem is exploitation.

Lord Blair of Boughton: I will have to ask Mr Bagnall to respond to that.

Andy Bagnall: From the point of view of most businesses, it is worth setting out that free movement of people has been a positive benefit for the business community. That is true talking to our sister federations around Europe. I will not repeat the points about the French elections—the 2014 European elections—that there is a public concern in other member states as well as the UK, but certainly from the point of view of the business community free movement is a net benefit. It obviously allows businesses—many CBI members—to fill skill shortages that they otherwise would not be able to fill from the domestic labour market. Some industries, particularly those reliant on seasonal workforces such as agriculture and hospitality, benefit enormously, but other sectors such as the health and social care sectors, again, are very reliant on labour from other EU member states.

The ability to travel visa-free helps a number of pan-European CBI members operate on a seamless European basis—a European-wide management chain in some cases. Also, for service providers, that free movement of people allows the provision of services that are often dependent on the individual workforce themselves being able to move to deliver the service. From a CBI perspective, free movement is a net benefit.

We would acknowledge, though, some of the local issues. Frances touched on those. There are in some cases real and in some cases perceived pressures on public services, and, to bring it back to your question, there is clearly a political question around perhaps some abuses of free movement related to the benefits system, which, as I said earlier, are not as directly business-facing, but we recognise the political imperative to address some of those. From a CBI perspective, free movement is a net positive.

Chris Cummings: I would make just two comments, if the Committee will allow me. First, my industry has always done terribly well from the free movement of people. We continue to see it as being a boon to the industry and something that adds great value to our ability to serve the wider UK economy. Last year, which was an average year for financial services, we contributed £66 billion in tax. We are a structural part of the real economy—our nation's leading taxpaying industry; so there is a benefit there. Secondly, our members are already reporting skills shortages. That is not the people at the top of the towers but people on every floor. My industry has taken a big step forward in recruiting people directly from school, CVs with no names and personal details on, in order to widen, to the ultimate extreme possible, the availability of jobs in financial and professional services across the whole of the UK. Migration is a way of helping us recruit the people that we need at every stage in their career.

The Chairman: Lord Trees, I think you had a comment on that and then Frances wants to come back.

Lord Trees: Thank you, Lord Chairman. We are a long way from motherhood and apple pie now. This is the nitty-gritty, really, is it not? I am very interested to look at the TUC's submission and your comments about this issue. Could I go further and pick out something you said? Could you elaborate on the concerns you express in your submission about the proposals for constraints on benefits? You suggested that these could represent the thin end of the wedge. Could you expand on that, please?

Frances O'Grady: Particularly on that point, there were suggestions that one way to get round some of the legal constraints on discrimination might be discriminating against local workers or workers based in Britain too—in particular, young workers. Of course, we have seen a series of attempts to reduce the in-work benefits. Most recently we have seen a shift on the working tax credits issue, but there have been consistent attempts, as we see it, to

reduce the entitlements of people at work. That is what I meant by the thin end of the wedge. If the way round is to hit everybody, it seems to me that that will increase our desire to oppose it.

Apologies, Chairman. I did mean to add a couple of points on the migration issue. There needs to be an acknowledgement of those workers and communities who have concerns and how they can be fuelled by, for example, the lack of availability of sufficient social housing and the pressures on other public services. These are not made-up issues; they are real issues to the people concerned. Again, the TUC has done a lot of work in this area because we are worried about those who will take advantage of those fears for their own purposes. What is very clear is that you can shift people's minds on the issue of migration if they believe and feel confident that their pay rates, their jobs and their communities will not suffer as a result. These are, of course, precisely very often the same people who are most sceptical about membership: blue-collar workers who are least likely to vote or least likely to vote yes in any forthcoming referendum. If people want to win them, they have to recognise that there have been real injuries. Yes, we have seen employers do very well out of it and, yes, it is great for the people who hire plumbers, but it may not be so great for the plumbers themselves. There are different experiences here and, from our perspective, the progressive way to tackle the source of these problems is by using some of the best and most flexible means we have, such as collective bargaining, living wages, decent strong rights and the protection of people.

There is one other point. Although I agree that there are other issues around skill shortages and so on, I would just put on record that the TUC welcomes the introduction of an apprenticeship levy, because we have had a long-running problem about employer investment in training, and that is one way forward. However, sadly, we regret the massive cuts we are seeing in support for adult learning and skills.

I promise not to go on, but there is just one final point, which I hope you will take in the spirit that it is given. As people will know, the TUC is opposing very strongly the Trade Union Bill that is currently going through Parliament. One of the key concerns is that it is proposed that the ban on the use of agency labour to substitute for striking workers, which has been in place for more than 40 years, should be lifted. I would just draw the Committee's attention to the fact that, where you have a coincidence of the use of agency labour, migrant labour, people being recruited, coming to a country perhaps not knowing the job they are being recruited to do or the situation they are being put in, that can lead to some very difficult situations outside real workplaces, making it much more difficult to do in the end what you always have to do at the end of a strike, which is do a deal. It will make it more difficult.

The Chairman: Thank you for the delicacy of those comments. We will pass on from them. I think Baroness Suttie had a point on migration that she wanted to add.

Baroness Suttie: It is really just a follow-up, if I may, to Mr Cummings on the skill shortages issue. Do you feel, in your industry, that full implementation of the benefits reform may cause further damage to your industry and may make the skill shortages situation worse?

Chris Cummings: It is an area on which we are in discussion with our members. In terms of pressing needs for skills, we have seen that our industry competes very hard to make sure that we can bring in good people at all levels across the industry, and this is not just a London story. One of the questions a little earlier was whether these proposals are being driven by what is going on here in London. Our members report that they are noticing skills

gaps across the whole of the UK, so we are very much in favour of helping to develop a stronger skills base across the whole of the country and continuing lifelong education as well, because that equips people to respond to the changing needs in the jobs market. It is an area of concern and something we are consulting members on.

Andy Bagnall: From the CBI's perspective, the important point is the preservation of the principle of free movement. We do think that is one of the four fundamental freedoms of the single market, but, like Chris, we would recognise and acknowledge the business role in upskilling an indigenous workforce. There does have to be a recognition of that responsibility as well as wishing to preserve free movement to ensure that the widest possible pool of talent is available for businesses to recruit from.

The Chairman: I think we might close that chapter of discussion by saying I suspect that some people on this side of the table would have a very strong commitment to your common interest in skills and upgrading the workforce, but we will leave that there for now. We have four other topics that we would like to tuck in, if we can. People, both in response and my colleagues, have been reasonably restrained; I think we are managing. I would like to ask Baroness Wilcox to ask her questions.

Q62 Baroness Wilcox: I shall be very restrained. It is two questions, so I do not care who goes first. How do you interpret the aspiration in the preamble to the EU treaties to the establishment of “an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen”? That is the first one. The second one is: how significant an impediment is this aspiration from the UK's perspective?

Owen Tudor: They are all looking at me. Do you ever get that feeling that everybody is turning your way? We do not really think that the issue is as important or as laden with meaning as the Government are saying at the moment. We think that the critical thing that people in Britain look to the European Union for is delivering on the objectives that they want to see delivered on. We think people feel that they have lost considerable control over their lives, whether they are at work or in their communities, over the last generation, and we recognise that that very often comes out in support for nationalism, not just in this country but across Europe. We think that the critical problems that have been caused to people have very often been the downsides of globalisation, and addressing that is the right way to deal with people's sense of lack of control over their lives and their communities. We would rather see a European Union that was demonstrating to people that it was addressing the concerns about how far globalisation has affected their lives, rather than any specific concern in terms of the treaty language about what it says about ever closer union.

Andy Bagnall: From our perspective, I certainly think ever closer union does not necessarily either drive or prevent different levels of integration that work for different countries, and Donald Tusk's letter, in some ways, sets that out. I said earlier that there is a multisphere Europe, almost, already in existence, and certainly heading more in that direction. The UK, for example, has a number of significant opt-outs already from the Schengen area, and, of course, from the euro itself. Other countries—Spain for example—do not join the single EU patent proposals. There are different levels of integration for different countries. From our perspective though, we would acknowledge—referring earlier to our discussion around eurozone integration—the symbolic nature of that phrase. If the Prime Minister is able to clarify the point that it will mean different things for different countries, we would not consider that unhelpful.

Chris Cummings: From our perspective, the words in the preamble have become quite totemic, so revisiting them at this moment in time makes a huge amount of sense because it

is a recognition of the multicurrency, multidirectional, multilevel Europe that we now see as the political reality across 28 European member states. It is a useful consideration to have at this moment, bearing in mind that Europe needs to clarify some of those outcomes that Owen mentioned. It also gives an opportunity for people to say what Europe does stand for, which for us is about the single market. As well as saying what the European Union is not heading towards, it is always useful to present a positive picture of where the EU 28 can be at their best, addressing some of the issues around the single market, the services directive or capital markets union. Things that are going to create jobs in Europe make the conversation much more practical, to encourage people to engage with it simply at a human level.

Q63 Lord Whitty: I am going to ask about democracy—both democracy of the European institutions and what someone once called the Big Society. The Government talk about the democratic deficits or democratic legitimacy, and they refer to the enhanced role for national parliaments, which is also very specifically underlined in TheCityUK's evidence. It is not just that the Prime Minister wants to get out of ever closer union: Ministers have frequently asserted that there is no European demos that could form the basis of genuinely democratic pan-European institutions. Could we have your view on that? Perhaps, as a rider, I would specifically ask the TUC what you mean in your written statement when you state that the role of civil society is a key element of its democratic accountability and legitimacy in this context.

Chris Cummings: As you rightly say, in our response we highlighted the role of national parliaments, because it seems to us and our members that, in addressing any perceived democratic deficit in Europe, the parliaments of European member states have a more leading role to play. I would like to pay testament to the work of the House of Lords and to this Committee and your colleagues for your engagement in the European project and reviews that you undertake. What we would like to see are more resources, more time and more scrutiny being given to proposals that come from Brussels. Sometimes they quite often emanate from the UK but go to Brussels, and then seem to come from Brussels. Having more engaged parliamentarians across Europe would help in the democratic issues that we have discussed. There are gatherings of parliaments. We would like to see those take place more often and be given more resources. The points I make are around not only proportionality of proposals that come from Brussels but subsidiarity, to make sure that Europe is big on the big things and small on the small things. The role of subsidiarity is of increasing importance, certainly to the business community and to my members, just to make sure that decision-making can be taken as close to individuals as possible. I might pause there.

Frances O'Grady: I suspect that Lord Whitty might be aware that, coming from the TUC, I sometimes feel sympathy for any organisation that always gets blamed for the bad stuff and never gets credit for the good stuff it does. Clearly, there is a European Parliament, which I do not think has been mentioned yet, and I think it is actually quite important.

Lord Whitty: And so do I.

Frances O'Grady: I would share some of those thoughts about our responsibility to ensure that those who represent us, whether through the Council, the Commission or the Parliament, are subject to scrutiny and accountability. There is a lot more that we could be doing without needing that to come from anywhere else—more that we could be doing, for example, for the House of Commons to take a more active role in keeping under the spotlight what our representatives do in Brussels and on what mandates.

In terms of the TUC's submission, we want to highlight the view, which I hope we would all share, that civic society, of which trade unions are a very important part, has a key role in guaranteeing democracy and freedom. This is not just a matter of parliaments; it is also about a lively and vibrant, sometimes awkward but absolutely essential, civic society. I would add that, in the current climate, maybe the role that the trade union movement plays and has always played, but sometimes quietly, might come to the fore. I think we have an incredibly important role in building bridges between communities, often between different national, racial, religious communities and faith communities, and across borders, through our institutions like the ETUC. That is an important part of the life of democracy that is not always in the spotlight but is absolutely essential to its health.

Andy Bagnall: In the interests of brevity I will not repeat some of the points made. Our position is very similar to the one Chris set out. There is a role for national parliaments. Perhaps just one particular angle is worth repeating: the support for this House and the other place in liaising with other national parliaments to make the current system of yellow card procedure work more effectively. The reason why national parliament engagement is so important is that the media tends to follow the national parliament agenda, particularly in the UK, perhaps more than it does the European Parliament agenda, and perhaps, as a way of making some of the debates and discussions at the European level more meaningful, greater engagement at the UK parliamentary level would drive that. Other than that, I would broadly agree with what Chris was saying.

The Chairman: We have two more questions.

Q64 Lord Tugendhat: We have reached a stage now, in the negotiations, where there is probably so much happening behind closed doors and beneath the surface that it is very difficult for outsiders to form a view, but you all have links to your opposite numbers in other member states. I was wondering what your sense is of how the equivalent organisations in Brussels and the other member states see the present situation.

Andy Bagnall: I am happy to go first on this one. Certainly, we are in regular communication, as you say, with the equivalent CBIs in other member states: BDI in Germany, Confindustria in Italy, and so forth. At least in regard to the overlap that I alluded to earlier between the CBI as the representative for the business community's reform agenda on economic governance and competitiveness—the part that is obviously echoed in the Prime Minister's letter—there is broad support among our sister federations for that drive towards competitiveness that we talked about earlier, and a recognition again, echoing some of the points made previously, that there is a legitimate question around the balance between those inside the eurozone and countries like the UK that are outside it. There is broad support for the bits of the Prime Minister's reform agenda that are most business-facing, from the visits we have done over a long period to other member state sister federations, and a broad recognition that some of that agenda is moving forward.

Lord Tugendhat: Do you think they think that we will be in or out?

Andy Bagnall: On the specific question, I would not want to guess at their views or predictions on it. I think that they would share the view that there is a space for solutions to the kind of the issues that the Prime Minister is raising, that the CBI would raise on behalf of the business community in driving greater competitiveness and getting that balance right in terms of the currency and those outside it.

Chris Cummings: We are in very regular contact with our colleagues in other European member states. There are 11 million people who work in financial services in other

European member states. The thing that strikes me time and again is how much attention they pay to the UK media. I was recently in Italy, speaking at a conference where an Italian think tank was presenting its view of Brexit issues. It was a very thoughtful paper; I would commend it. The clear message that came through there was that there were very good business economic reasons for the UK to stay as an active and engaged member of the European Union, but there is a world of difference in the sentiment occasionally driven by the media and a worry that a few days before the referendum issues may arise that provoke a false positive or false negative reading that influences the outcome of the referendum. When I am in other European member states, people regularly ask me, “How can we participate? Would it be right for us to participate? How can we show that it is in the interests of other European member states to keep the UK as a member? How could that conversation take place?”

Frances O’Grady: Clearly, we have contacts through the ETUC, with 60 million workers represented across the piece. Also, sometimes through our sister unions and sometimes directly, we have contact with Governments and with officials. There are concerns about the delicacy of the—

Lord Tugendhat: I am sorry?

Frances O’Grady: About this process. Maybe I meet more cynical people than others, but there has been a concern about the extent to which the renegotiation is about substantive issues versus the extent to which it is primarily driven by party management concerns. That is freely discussed in the circles in which I have contacts. There are concerns that, as a tactic, the renegotiation risks fuelling those who are Eurosceptic by playing to some of their issues. The risk is that, if you feed a monster, it is never satisfied. There are those sorts of views expressed. In general terms, there is a very strong sense that people want the UK to remain in Europe but not at any price, not if it means fundamentally destabilising the founding principles—the very foundations of the EU. I have not been asked to do this, but if I was asked to give the Prime Minister any advice it would be, “Be very, very careful about not overplaying your hand”.

Lord Tugendhat: Could I just press you on that? I am sure you are right about “not at any price”, but to what extent do you think they have given thought to the consequences for the EU of Britain voting to come out? What is happening now is manageable, but if we embark on a negotiation for withdrawal and the new relationship, and the impact that will have on the position of other member states—and, indeed, the potential for unravelling other things—to what extent do you think they have looked over that precipice?

Frances O’Grady: I think they have, and that is why we have heard comments and concerns expressed about the impact of continuing uncertainty on stability and so on; so that is there. There is also an awareness, which I very much hope is shared here, about the impact this could have on the fabric of the UK. There is a good deal of attention on Scotland, perhaps to a lesser degree on Wales. I personally believe there should be an awful lot more concentration on the impact on Northern Ireland, where I believe, without being dramatic about it, a Brexit could have a very detrimental impact on the peace process, in my personal view. There are big stakes all round, and, as to getting into games about who blinks first, I personally feel that the stakes are too high for too much game-playing.

As I say, everybody has to be careful not to overplay their hands, and when wise advice is given—for example, on the four-year qualification for benefits issue—that is the advice it would make sense to listen to very carefully before codifying that in a statement and then making it much harder to come back. Again, my sense is that people are looking for

solutions and looking to help, but quite rightly not at the price of those principles and not in a way that then encourages every other member of the club to seek to write their own rules, which we may not be that happy with. From a TUC perspective, with some experience of trying to develop consensus and resolve difficult issues, sometimes it is a good idea for everybody to step back gently a little.

The Chairman: If I might just say, this Committee is visiting the constituent parts of the UK, and we have recently had a very instructive set of sessions in Belfast.

Frances O’Grady: Good.

The Chairman: I was going to ask Lord Davies to ask the final question, but as we are running short of time, if he will forgive me, perhaps I can just add this to call for a brief comment from the three of you. You touched on this, I think, once, Frances; it is the question of the European Parliament. They have certain locus, not least in passing legislation if we achieve amendments, or, of course, if we were to leave, in negotiating the terms of our departure—our withdrawal. Do you have any sense in which the role of the European Parliament has been taken sufficiently into account?

Chris Cummings: I am quite happy to lead on this. Colleagues and I make frequent trips to Brussels to meet with Members of the European Parliament. I suppose this answer plays to the previous question, because it is often pointed out to me that the UK is not alone in seeking to reform the European Union. Obviously, the Dutch have long-established and very clear reform proposals, as do many German MEPs to whom I speak. There is also a sense in Germany, France, Italy and Spain of notions of how the European Union could work so much better. So I find the conversations I have with MEPs on European reform very instructive. What we often try to do is make sure that those policy ideas are being put through to our own Government, if only to make sure that they fully understand where potential allies can be found, because, as you rightly say, this is going to be a process where alliances need to be built in order that a solution good for Europe can be established.

Andy Bagnall: I have just two very quick points. Like TheCityUK, the CBI regularly engages with MEPs, both UK MEPs and any of the committee chairs and others from other member states. So, from our perspective, we recognise that they might play a very important part in the renegotiation process, depending on the exact nature of what comes out of that, but legislative solutions are almost certain to involve the Parliament. In the media debate that is playing out around the renegotiation, I would say that that probably is an underdeveloped aspect of comment, but those intimately involved are alive to the fact that the MEPs have an important role in the legislative process, which may be an important part of that renegotiation.

Owen Tudor: One of the problems with the British Government’s relationship with the European Union generally is that they see themselves too often as an outsider, rather than as one of the 28 member states that is engaging. That is true also of the European Parliament where, without wanting to intrude on private grief, there are problems with the governing party’s relationships with the rest of the bits of the European Parliament in terms of membership of the groups and so on. I am often asked by our colleagues in the European trade union movement, “Why do the British think they are exceptional?” The only way in which the British often think they are exceptional is in thinking that they are the only exceptional ones in this. It will be much better if they engage. It will be more efficient, apart from anything else, if they engaged more as part of a group rather than as a separate entity.

The Chairman: We will reflect on that piece of philosophy. In thanking the witnesses, can I remind them, first, that we will send you a transcript for any corrections? Secondly, one or

two—if not commitments—indications of further correspondence were mentioned. I notice from the TUC some attitudes to workers and what is fairness, and some work you have done on the assimilation of migration issues; from TheCityUK, a perspective on trade negotiations; and the CBI can join in on those or any other issues. Please feel that this is a living dialogue rather than one that is merely concluded tonight. I would also like to say that there were some brief references to the role of national parliaments, and it has been a continuing interest of this Committee to get upstream and to have the engagement at an earlier stage. That is why your presence tonight has been particularly valuable. I will close the session by saying that we are very grateful to you as a Committee and it seems to me that the fact that the tone was so constructive is matched only by the fact that the content was so informative, so we are very grateful. Thank you.

The Centre for Cross Border Studies—Written Evidence (VEU0008)

This document has been prepared by the Centre for Cross Border Studies as a contribution to the House of Lords European Union Select Committee’s call for evidence on the UK Government’s vision for the future of the EU.

About The Centre for Cross Border Studies

The Centre for Cross Border Studies (CCBS), based in Armagh, Northern Ireland, has a strong reputation as an authoritative advocate for cross-border cooperation and as a valued source of research, information and support for collaboration across borders on the island of Ireland, Europe and beyond.

The Centre empowers citizens and builds capacity and capability for cooperation across sectors and jurisdictional boundaries on the island of Ireland and further afield. This mission is achieved through research, expertise, partnership and experience in a wide range of cross-border practices and concerns.¹

The response that follows, therefore, is closely informed by the Centre’s particular concerns, organisational aims and experience. It is also informed by its position as a founding member of the Transfrontier Euro-Institut Network (TEIN), which brings together 14 partners from eight border regions in Europe dedicated to the practical business of cross-border cooperation.²

Executive Summary

The UK Government’s vision for the EU

1. The Centre for Cross Border Studies (CCBS) disagrees with the proposition that the EU’s overriding priority is “not to win peace, but to secure prosperity.” Peace has not yet been definitively secured – whether within the EU’s internal borders or at its external ones.
2. CCBS does not believe that the UK Government’s vision for the EU adequately takes account of the changing geo-political context. The UK’s vision for the EU must go beyond a myopic focus on competitiveness and economic growth and affirm its shared commitment to the principles of economic *and* social cohesion.
3. CCBS considers that the commitment to ever closer union is still relevant and achievable if it is interpreted as resulting from the goal of promoting economic, social and territorial cohesion, and solidarity.
4. CCBS is of the opinion that the priority for addressing the issue of democratic accountability lies in the relationship between national governments, their parliaments and citizens

Is there consensus on EU reform within the UK?

¹ For further information, please visit www.crossborder.ie

² For more details, please visit <http://www.transfrontier.eu/>

5. CCBS considers that the Government's renegotiation of the UK's vision for the EU raises doubts as to the probability of its desired reforms. In particular the achievement of the Government's proposal on **immigration is highly unlikely**.

6. CCBS believes that the UK Government has set out on a path of renegotiation and referendum without the explicit support of all the devolved administrations. CCBS also notes its serious concerns regarding the ability of the Northern Ireland Executive to formally express an agreed position on the UK Government's vision for the EU.

7. It is CCBS's view that the Government has failed to sufficiently consider the views of the devolved administrations. CCBS is extremely concerned that the UK Government has not actively sought the involvement in the process of renegotiation of actors with significant and longstanding experience of cross-border cooperation with Ireland.

Is the UK Government's vision shared by others in Europe?

8. CCBS regards that in the UK Government's proposed areas for reform of economic governance and competitiveness, the view will be that progress is already being made in these by the EU. In relation to the issues of sovereignty and immigration, however, CCBS considers that there is little prospect of support for the Government's position.

9. CCBS believes that the question of consensus on the long-term future of the EU must not be judged in terms of the degree to which the 27 other Member States move towards the UK's vision, but rather on how all 28 Member States can continue to work towards a Europe with increased economic, social and territorial cohesion.

10. CCBS considers that the future of the UK's place within the European Union cannot be guaranteed if it is dependent on all other Member States accepting proposals that are considered detrimental to the founding principles of the EU and dictated by a UK referendum timetable that is not compatible with the priorities of other Member States.

The UK Government's vision for the EU

1. CCBS fundamentally disagrees with the proposition set out by the UK Prime Minister in his Bloomberg speech that the EU's overriding priority is "not to win peace, but to secure prosperity." The two are interdependent and cannot risk being divorced from each other. Such a proposition also fails to give proper weight to the recognition in the same speech of the enduring nature of efforts to secure peace or what peace entails.

1.1 The UK Government's vision for the future of the European Union seeks to recast it in a past that denies its evolution since the creation of the European Coal and Steel Community. "Prosperity", within this vision, is guaranteed almost exclusively by an EU limited to being a single market and driving economic competitiveness. By declaring in his Bloomberg speech that "At the core of the European Union must be [...] the single market", and claiming that in the UK "many ask 'why can't we just have what we voted to join - a common market?'" , the Prime Minister simultaneously seeks to constrain the purpose of the EU and set its future direction as a return to the past.

1.2 CCBS believes that peace has not yet been definitively secured – whether within the EU’s internal borders or at its external ones. Moreover, the Prime Minister himself noted in his Bloomberg speech how peace “happened because of determined work over generations”, although with the underlying presumption that such work is no longer required. Whilst we have not witnessed armed conflict between member-states, such conflict has been seen at the EU’s external borders (as in the crisis in Ukraine), and is not a distant memory for some current member-states (such as Croatia and Cyprus). The absence of open warfare between states is also not a determinant of peace, and the current threat posed by extremist groups and terrorism within the EU’s borders should stand as a stark reminder that the European Union cannot afford to prioritise “prosperity” over securing peace.

1.3 Given CCBS’s primary function of promoting and supporting cross-border cooperation on the island of Ireland, we are constantly reminded of the fact that the European Union has been a central driver and funder of efforts to secure peace and reconciliation within a region of the United Kingdom. The EU also provided a space for the United Kingdom and Ireland to normalise relations to an extent that enabled them to work towards the 1998 Belfast/Good Friday Agreement, whilst the 2014-2020 PEACE IV programme represents an invaluable and continuing commitment to supporting reconciliation within Northern Ireland, and between Northern Ireland and Ireland.

1.4 CCBS considers that peace cannot be understood exclusively as the absence of violence or armed conflict, but rather as the existence of harmonious cohesion between the EU’s member states and its citizens. Similarly, prosperity must not be solely interpreted as a function of economic development, which appears to be the position adopted by the Prime Minister and the UK Government as it urges the EU to limit itself to acting as a Single Market. Accordingly, CCBS recognises the strategic value of the EU’s regional and cohesion policies which, “in order **to strengthen its economic, social and territorial cohesion**, [...] aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands”.³ As CCBS highlighted in its response to the UK Government’s Cohesion Policy Review as part of its wider review of the balance of competences between the UK and EU, Northern Ireland has been a particular beneficiary of the funds associated with the EU’s regional and cohesion policies.⁴ Crucially, these policies do not see prosperity as exclusively dependent on economic development, but also as a result of social and territorial development.⁵

1.5 In light of the above, **CCBS is opposed to a vision of the future of the EU that would assume peace is secured and would focus on an interpretation of prosperity based solely on the Single Market.** To do so would directly contribute to

³ Regulation (EU) No 1303/2013 of the European Parliament and of the Council; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303&from=EN> (emphasis added).

⁴ The full response can be accessed at <http://crossborder.ie/the-centre-for-cross-border-studies-informs-the-review-of-the-balance-of-competences-between-the-united-kingdom-and-the-european-union-on-cohesion-policy/>

⁵ This is similar to the approach taken by CCBS to its capacity-building measures for integrated cross-border cooperation, which sees it as resulting in social, environmental and cooperation benefits, as well as economic ones. For more, see the *Impact Assessment Toolkit for Cross-Border Cooperation*, available at <http://crossborder.ie/research-policy/research/toolkits/impact-assessment-toolkit/>

the undermining of peace by reversing the actions taken to reduce economic *and* social disparities between and within EU member states.

2. CCBS does not believe that the UK Government’s vision for the EU adequately takes account of the changing geo-political context. As noted above, the Prime Minister’s statement that “the main, over-riding purpose of the European Union” is no longer to win peace, but “to secure prosperity” seems dangerously complacent. It is disturbing and difficult to understand – in light of the urgent geo-political issues that are posing existential threats to the Union and its Member States – how the Prime Minister’s vision for the EU can be so narrowly focused on the internal economic and institutional relationships within the EU. The prosperity of the EU and its Member States is inextricably linked to securing peace and political stability; not only within the borders of the Union and on its external borders but beyond.

2.1 The Prime Minister’s vision appears to “take for granted” the permanency of peaceful relations between Member States. However, the potential fragility of those relationships has been demonstrated by Member States’ responses to the social and economic pressures resulting from the unprecedented migration crisis. This crisis will not be resolved by tighter controls at internal and external borders so long as the ‘push’ factors such as impacts of climate change and regional conflicts remain unresolved. Likewise, the security crisis now disrupting social and economic life in European cities and countries will not be resolved simply by intensifying military actions or tighter border controls. It requires a multi-faceted social and political response by the EU, both at international level and within the EU Member States.

2.2 CCBS considers that the UK’s vision for the EU must go beyond a myopic focus on competitiveness and economic growth and affirm its shared commitment to the principles of economic *and* social cohesion. It should acknowledge our responsibility to extend these principles beyond the EU’s borders and by doing so to copper-fasten peace *and* prosperity within the Union.

3. The Treaty on European Union states that its signatories “Resolved to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity”.⁶ **CCBS considers that such a commitment is still relevant and achievable if it is interpreted as resulting from the goal of promoting “economic, social and territorial cohesion, and solidarity among Member States”.**⁷ **CCBS views the Prime Minister’s desire “to end Britain’s obligation to work towards an ‘ever closer union’ as set out in the Treaty” as retrograde.**⁸

3.1 In his Bloomberg speech the UK Prime Minister stated that the commitment to ever closer union “has been consistently interpreted as applying not to the peoples but rather to the states and institutions compounded by a European Court of Justice that has consistently supported greater centralisation”. If this were indeed the case it would be in contravention of the principle of subsidiarity and of taking decisions as closely as possible to EU citizens

⁶ Article 1, Consolidated Version of the Treaty on European Union, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012M/TXT>

⁷ Article 3.3, Consolidated Version of the Treaty on European Union.

⁸ Letter to Donald Tusk, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475679/Donald_Tusk_letter.pdf

(most notably, but not exclusively, in national parliaments), as set out in Article I of the Treaty on European Union. Moreover, **CCBS stresses the need for clarity between centralisation and harmonisation in relation to the role of the European Court of Justice and other EU institutions** in working towards greater economic, social and territorial cohesion; harmonisation is not necessarily synonymous with centralisation.

3.2 To guarantee that “ever closer union” translates as greater economic, social and territorial cohesion through cooperation (including cross-border cooperation) between member states and their peoples, and that it does not result in a process exclusively reserved for states and EU institutions, CCBS recommends that the operation of the Partnership Principle is reviewed and expanded. Related to the use of European Structural and Investment Funds, the Partnership Principle “implies close cooperation between public authorities, economic and social partners and bodies representing civil society at national, regional and local levels”,⁹ and “must be seen in close connection with a multi-level governance approach and the subsidiarity and proportionality principles”.¹⁰ **Embedding the Partnership Principle into all aspects of the relations between EU, national, regional and local institutions, and economic and social partners and civil society would contribute to ensuring an ever closer union that is relevant and achievable, and which is not fossilized within institutions increasingly removed from the citizens they serve.**

3.3 Notwithstanding the above, and principally in relation to the Eurozone, the need for relevant policy coordination will require a proportionate degree of oversight by central EU institutions. Indeed, in his speech on Europe at Chatham House, the Prime Minister recognised that “it is in all our interests for the Eurozone to have the right governance and structures to secure a successful currency for the long-term”.¹¹ However, CCBS agrees with the Prime Minister’s concern that such structures respect “the legitimate interests of non-Euro members”,¹² although perhaps based on different principles. For CCBS, the underlying concern stems from the need to avoid derailing the objective of a closer union based on economic, social and territorial cohesion, whereas it would appear that the UK Government’s concern is focused on the integrity of the Single Market. In any case, developments within the Eurozone must not sacrifice the goal of overarching cohesion within the European Union in its entirety.

4. Over the last decade, democracies and parliaments around the world have experienced paradoxical developments. On the one hand the value of parliamentarianism has risen significantly, on the other, parliaments have come to symbolise the emergence of a ‘global recession of democracy’.¹³ Declining levels of interest in, and knowledge of, political structures, low levels of trust in elected representatives, and a growing cynicism of democratic institutions, has largely been reflected in the steady decline of EU turnout at European Parliamentary elections from 61.9 per cent in 1979 to 42.6 in 2014 (EuroParl). For these reasons and more, the European Union as a democratic institution has been called into

⁹ Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds, p.1, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0240&from=EN>

¹⁰ Commission Delegated Regulation on the European code of conduct on partnership in the framework of the European Structural and Investment Funds – Explanatory Memorandum, p.2.

¹¹ <https://www.gov.uk/government/speeches/prime-ministers-speech-on-europe>

¹² Letter to Donald Tusk.

¹³ Pippa Norris, *Democratic Deficit: Critical Citizens Revisited* (Cambridge: CUP, 2011), p.4.

question. Likewise, with the increasing pooling of sovereignty – albeit consented to by Member States in successive EU Treaties – which has removed the national veto and increased use of qualified majority voting, many have become sceptical about the EU’s democratic accountability and legitimacy.

4.1 However, **CCBS considers that the Treaties of the EU aspire to establish a democratic foundation for the Union.** Indeed, Article 10 TEU requires that “the functioning of the Union shall be founded on representative democracy.” Moreover, that “citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.” Likewise, it aspires that “every citizen shall have the right to participate in the democratic life of the Union” and that “decisions shall be taken as openly and as closely as possible to the citizen”. Finally it aspires that “political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.”

4.2 Indeed, successive Treaty amendments have greatly enhanced the influence of one of the primary sources of the European Union’s democratic accountability and legitimacy, that being the European Parliament, and provided further opportunities for citizen engagement, through consultations on significant policy developments. From 1986 onwards Member States have agreed, through Treaty changes, to afford more legislative power to the European Parliament. The European Parliament is composed of MEPs who are directly elected by EU citizens every five years since 1979. Given that citizens are able to directly elect their MEPs, this concurrently means that they are accountable to their electors, who can choose not to re-elect them if they are dissatisfied with their performance. National parliaments also possess the power to consider and challenge any EU legislation, which they feel should be made at a national rather than an EU level. This thereby enforces the principle of ‘subsidiarity’, which is fundamental to the functioning of the European Union’s decision-making process.

4.3 While the European Commission and the European Council have faced criticism for their lack of democratic accountability and legitimacy, reforms to these institutions over the past two decades have resulted in greater openness and transparency to the public. Today Council documents and sessions are more transparent and accessible and the Commission’s Presidential elections are now linked to the European Parliament elections in accordance with the Lisbon Treaty. Furthermore, the interests of citizens are advanced within the European Council and the Council of the European Union, given that both institutions are populated from the national governments of Member States. As national governments are elected by their citizens, they are indirectly representing their citizens at the EU level. Accordingly, when a citizen of a Member State votes to change their national government they are concurrently voting to change how their views are represented in the EU, thus these institutions are also indirectly accountable to European citizens. Moreover, through the ‘Citizens’ Initiative’ there are now more opportunities for citizens to participate directly by influencing the EU through a petition process. The Lisbon Treaty contained within it a section improving democracy in the EU, which led to the introduction of the ‘Citizens’ Initiative’, whereby EU citizens can invite the Commission to initiate legislation. **However, CCBS would welcome an evaluation of the relative success of the Citizens’ Initiative,** and the extent to which it has influenced the development of policy within the EU institutions.

4.4 Crucially, **CCBS considers that the priority for addressing the issue of democratic accountability lies in the relationship between national governments, their parliaments and citizens.** Whereas national parliaments have a role in scrutinising EU regulations and their implementation into national law, **the levels of parliamentary oversight of their governments’ negotiating positions in EU institutions is a source for concern.** CCBS therefore agrees with the President of the European Parliament, who stated that he is “in favour of giving national parliaments a greater role, but vis à vis national governments, because national governments are co-legislators with the European Parliament”.¹⁴

4.5 The issue of democratic accountability in terms of the relationship between national governments and their parliaments can be seen in the very process of renegotiation of the UK’s relationship with the EU. In this respect **CCBS shares the concerns expressed by the House Lords European Union Committee over the ability of parliament and the devolved institutions to scrutinise and inform the UK Government’s negotiations with the EU and its member states.** CCBS agrees that “presenting Parliament with a *fait accompli* is [...] undesirable, and could give rise to legitimate concerns about the accountability and transparency of both the process itself, and its outcome”.¹⁵ CCBS also shares the opinion that the “Government must ensure that the devolved administrations are not presented with a *fait accompli* at the end of the process, but rather are closely involved in negotiations so as to ensure that the specific interests of the nations of the UK are taken into account”.¹⁶

4.6 In order to address deficits in democratic accountability arising from problems in the relationship between national governments and their parliaments in terms of the EU, **CCBS recommends that member states, including the UK, adopt the negotiating mandate model employed by some Nordic countries such as Denmark.** This model places a duty on national governments to obtain a negotiating mandate from an appropriate parliamentary committee *before* the government enters into important negotiations or deliberations in the European Council or other important EU arenas. Is there consensus on EU reform within the UK?

5. Since its accession to the EEC in 1973, the UK has gradually become a force for reform across numerous European policy areas, in particular those that are a strategic priority for the UK, including the single market, transport, energy, food safety, and climate change. Likewise, in areas such as agriculture, fisheries and budget contributions, where, as a consequence of its delayed accession to the EEC in 1973, reform previously appeared doubtful, the UK has demonstrated the ability to gradually secure more favourable reform. Indeed, the criticism that is often made against the EU, that it is “unreformable”, has largely been proven to be overly simplistic and misleading.

¹⁴ Euractiv, “Schulz on collision course with Cameron over national parliaments’ role”, <http://www.euractiv.com/sections/uk-europe/schulz-collision-course-cameron-over-national-parliaments-role-319674>

¹⁵ House of Lords European Union Select Committee, “The referendum on UK membership of the EU: assessing the reform process”, pp.13-14,

<http://www.publications.parliament.uk/pa/ld201516/ldselect/ldeucom/30/30.pdf>

¹⁶ House of Lords European Union Select Committee, “The referendum on UK membership of the EU”, p.15.

5.1 CCBS considers that the Government’s renegotiation of the UK’s membership of the European Union and its vision for the EU raises doubts as to the probability of its desired reforms. While some of the UK Government’s proposals, in particular concerning competitiveness and regulatory reform, appear evidently achievable, others pose something of an existential crisis for the European integration process.

5.2 A significant barrier to the prospects of achieving such a vision is the development that has witnessed several EU Member States ruling out the potential of amending the Treaties in the short term. Therefore, the question is no longer whether or not the UK Government’s vision of Europe can be achieved, but rather whether or not such a vision is achievable without the need for Treaty change. Prime Minister David Cameron’s third proposal for EU reform on ‘Sovereignty’, as set out in his letter to the President of the European Council, Donald Tusk, called the EU to “end Britain’s obligation to work towards an ever closer union.” However, in order for this to be achieved, it would likely require a reopening of the treaty to amend wording. Nevertheless, this has not prevented the UK from securing a number of opt outs from EU integration to date.

5.3 While it is important to note that secondary legislation can be amended without requiring a Treaty amendment, secondary legislation is open to legislative amendments, which may lead to final legislation which is not as initially promised and remains open to being overturned in the future. Thus, it is only through a primary Treaty amendment that Prime Minister Cameron’s proposal to end the UK’s commitment to an “ever closer union” in a “formal, legally binding and irreversible way” could be achieved. In reality, for Treaty amendments to be made would require the unanimous support of all EU members. Undoubtedly, this would be virtually impossible to achieve before the deadline set by Prime Minister Cameron, of a referendum before the end of 2017.

5.4 CCBS sees the achievement of the UK Government’s reform proposal on immigration as highly doubtful. This proposal, which calls for restrictions on benefits for arrivals to the UK, has been labelled “highly problematic” by the European Commission Jean-Claude, as it would affect the “fundamental freedoms of our internal market” and amount to “direct discrimination between EU citizens”.¹⁷ Similarly, during the House of Lords EU Select Committee Inquiry on Visions of EU Reform, whilst the Polish Ambassador to the UK, HE Witold Sobków, expressed the Polish government’s shared desire to improve competitiveness and reduce red tape, he emphasised that the outcome of any negotiations must be “non-discriminatory”.

5.5 The UK Government’s vision for the EU translated into specific reform objectives is outlined in Prime Minister Cameron’s formal letter to the President of the European Council, which set out four reform objectives. The proposals for reform under the category of “Economic Governance”, which involves the protection of the single market for Britain and other non-Euro Member States is relatively unambiguous and establishes a clear indication of the UK Government’s vision for Europe. However, **CCBS notes that on the remaining three reform objectives, including ‘Competitiveness’, ‘Sovereignty’ and ‘Immigration’, it is notably less apparent what is to be achieved.** The call for a “target to cut the total burden on business” fails to specifically set out what this target

¹⁷ *Politics Home*, “EU chiefs give mixed verdict on Cameron reform proposals”, <https://www.politicshome.com/foreign-and-defence/articles/story/eu-chiefs-give-mixed-verdict-cameron-reform-proposals>

should be and what it ought to be set against. Likewise, the UK Government’s call for enhancing the role of national parliaments by enabling “groups of national parliaments, acting together” to stop unwanted legislative proposals, fails to specify how this ought to be achieved within the broader framework of the European Union.

6. EU reform negotiations are a matter for the UK Government, as the government of the EU Member State. However, **CCBS notes that the devolved administrations of the United Kingdom broadly speaking tend to be markedly less Eurosceptic than is the case in most of England.** According to a 2013 House of Commons study, 53 per cent of Scots stated they preferred to remain in the EU, compared with a third who would vote to leave, whereas in England 50 per cent said they would vote to leave the EU.¹⁸ More recently, a survey undertaken by Danske Bank in June 2015 found that in Northern Ireland 58% wished to remain in the EU, with 16% favouring to leave.¹⁹ The UK’s main Eurosceptic party, UKIP, gained the largest percentage of votes in the UK’s European Parliament election in May 2014 with 27.5 per cent over all, whereas in Scotland they achieved 10.46 per cent of the vote. Moreover, the EU’s Regional Development Funding has historically benefited Scotland, Wales and Northern Ireland, more so than it has England. Indeed, while the UK as a whole is a net-contributor to the EU budget, Northern Ireland and Wales are net recipients. As a result, both devolved administrations, particularly Northern Ireland, stand to lose out significantly if the UK withdraws from the EU and such funding avenues are not replaced by enhanced central government funding. Given the importance of the agricultural sector to Northern Ireland’s economy, the significance of EU Common Agricultural Policy cannot be overlooked. Indeed, according to Northern Ireland’s Minister for Agriculture and Rural Development, Michelle O’Neill MLA, in 2014 Northern Ireland farmers received around £295 million under CAP. Minister O’Neill recently noted that “farmers in the North would have been much worse off without this EU funding, which, of course, would disappear in a Brexit situation. Outside the EU, funding for agriculture would fall, unless the Treasury provided additional funds. We all know that the British Government have long wanted to reduce the funding going to farmers. This would be to the detriment of all our farmers”.²⁰

6.1 While each of the devolved administrations have expressed some opposition to the UK Government’s vision of Europe, the Scottish Government expressly set out (within its ‘Scotland’s Agenda for EU Reform’) its dissatisfaction with the proposed renegotiation of Britain’s EU membership, opposition to an EU membership referendum and belief that EU reform can be achieved without Treaty change. In contrast to the UK Government’s position on its renegotiation and proposed referendum, this document noted that “the Scottish Government greatly values Scotland’s position within the EU and is committed to exerting as much influence as possible over the future direction of the EU with the aim of reconnecting the EU with its citizens”.²¹ Moreover, it is demonstrated that “the vast majority of the electorate in Scotland – as evidenced by the results in Scotland for the elections to the European Parliament – do not support the Eurosceptic agenda championed by others in

¹⁸ House of Commons Library, “Leaving the EU”, Research Paper 13/42 (July 2013),

<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/RP13-42#fullreport>

¹⁹ <https://danskebank.co.uk/en-gb/About-the-bank/Bank-in-brief/Economic-Research/Pages/NI-EU-Opinion-Poll.aspx>

²⁰ Northern Ireland Assembly Hansard, Tuesday 24 November 2015,

<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2015/11/24&docID=250211>

²¹ The Scottish Government, “Scotland’s Agenda for EU Reform”, p.2,

<http://www.gov.scot/Resource/0045/00458063.pdf>

the UK and beyond”.²² Accordingly, **CCBS believes that the UK Government has largely set out on a path of renegotiation and referendum without the explicit support of all the devolved administrations.**

6.2 However, **CCBS notes its serious concerns regarding the ability of the Northern Ireland Executive to formally express an agreed position on the UK Government’s vision for the EU.** Given the consociational nature of the devolved administration in Northern Ireland, which means a power-sharing Executive composed of political parties with opposing views on several fundamental policy issues, it is likely that – unlike the other devolved administrations – a common position on EU reform will not be forthcoming, and instead the positions of individual political parties represented in the Northern Ireland Assembly and its relevant Committees will have to be garnered.²³ In this regard CCBS welcomes the efforts of the House of Lords EU Select Committee and its Chairman in canvassing views from the Committee for the Office of the First Minister and Deputy First Minister and other political representatives, and hopes that those views will be considered by the UK Government.

6.3 Given what it considers to be a lack of general engagement in Northern Ireland with the UK Government’s vision for reform and membership of the EU, CCBS has been fostering the debate with political representatives, as well as with other organisations and citizens. In terms of political engagement to date and views on the UK Government’s proposed reforms, there is an understandable lack of clarity since – as political representatives here have noted – there is an equal lack of detail provided by the UK Government in relation to what those reforms will consist of.²⁴ However, although the political parties in Northern Ireland have been somewhat slow in entering the debate, some general positions have been taken recently. Representatives of the Democratic Unionist Party, such as its MEP, Diane Dodds, have pointed to the party’s tradition as Eurosceptic, and have described the Prime Minister’s proposals for reform of the EU as lacking ambition. The leader of the Ulster Unionist Party, meanwhile, has similarly suggested that the proposed reforms are unambitious, but also that he could not foresee any circumstances where his party would be advocating for the UK to leave the EU.²⁵ The Alliance Party, Social Democratic and Labour Party, and Sinn Fein, have all to differing degrees stated their opposition to a Brexit, with Sinn Fein also positioning itself in opposition to the general tenor of the UK’s vision for the EU in terms of limiting its focus to the operation of the Single Market to the perceived detriment of social protections.

6.4 Other stakeholder groups in Northern Ireland, such as the business and agricultural sectors, have voiced their concerns over a possible UK exit from the EU, suggesting that the UK Government should not insist on its proposed reforms at the cost of membership. However, the CBI (Northern Ireland) sees the need for reform of the EU, stating that it

²² “Scotland’s Agenda for EU Reform”, p.2.

²³ The Northern Ireland Executive has an agreed vision for Europe, as set out in its “European Priorities 2014-15”, which predates the UK Government’s moves for reform of the EU. That vision is to “Participate in Europe in a positive, outward and forward looking manner and to become a preferred region of choice for partnership working and within which to live, work, study and invest” (p.3), <http://www.ofmdfmi.gov.uk/european-priorities-2014-2015.pdf>

²⁴ We are not referring here to either the Traditional Unionist Voice or UKIP-NI, whose stated position is for immediate withdrawal from the EU.

²⁵ These statements were made at an event co-hosted by the Northern Ireland Assembly and Business Trust and Queen’s University Belfast in the Northern Ireland Assembly on 16 November 2015, “Brexit, how could it affect Trade, Agriculture and Investment?”

wants the Northern Ireland Executive to “Speak with one voice in arguing that Northern Ireland’s economic future is best served by continuing to be a member of a reformed European Union”.²⁶ For the CBI, such reforms would mean an EU “focussing on facilitating growth and jobs rather than lifestyle regulation or employment law”,²⁷ which is largely in tune with the UK Government’s proposals for measures to increase EU competitiveness and reducing the regulatory burden on businesses. Meanwhile, whilst Wesley Aston, Chief Executive of the Ulster Farmers Union, has stated that there is insufficient clarity on the progress of the UK Government’s negotiations with the EU, its sectoral representation in Brussels has voiced its priorities for EU reform and some of its concerns. For the agricultural sector, therefore, there is a recognised need for the EU to “seek better approaches to regulation” and to “only regulate as a measure of last resort”, but it “would be deeply concerned if the agriculture sector’s ability to recruit non-UK born workers was compromised as a result of any changes to the free movement of labour in place across the EU”.²⁸

7. It is the view of the Centre for Cross Border Studies that the UK Government has, to date, failed to sufficiently consider the views of the devolved administrations, who occupy the role of key stakeholders in the UK’s future relationship with Europe. Indeed, any renegotiation of the UK’s place in or out of the EU will undoubtedly have a significant impact on all parts of the United Kingdom. Moreover, renegotiation is likely to have a major impact upon Northern Ireland, largely due to the sharing of a land border with another EU Member State and the current freedom of movement between jurisdictions, which enables cross-border trade and social development.

7.1 The report by House of Lords European Union Select Committee assessing the reform process contained a recommendation that the Government fully engage with the devolved institutions, to ensure that they are closely involved in negotiations so that the specific interests of the nations of the UK are taken into account. In response the UK Government noted that, in addition to Ministerial engagements on this issue, EU reform would “now be a standing item for discussion at the meetings of the Joint Ministerial Committee”.²⁹ However, given that after Prime Minister Cameron’s letter to President of the European Council launched the UK Government’s formal renegotiation process, there now exists a greater immediacy to ensure that views of the devolved administrations are fully considered and represented in this process. At a public seminar at Queen’s University Belfast on 26 November 2015, in response to a question from Chairman of the House of Lords European Union Select Committee, Lord Boswell, on the representation of Northern Ireland’s interests in the renegotiation process, Northern Ireland’s Finance Minister, Arlene Foster MLA, noted her hope that the Minister for Europe [David Liddington MP] “would engage more fully with Northern Ireland Ministers so that he has a full understanding of the implications here”.

²⁶ CBI, “Punching above our weight: 12 steps to create a more prosperous Northern Ireland”, p.4, http://img.en25.com/Web/CBIOracleEloquaDatabase/%7Bc56a0113-04cb-477f-b225-1b60a0873572%7D_CBI_Northern_Ireland_Manifesto_-_Autumn_2015.pdf

²⁷ “Punching above our weight”, p.6.

²⁸ NFU, “EU Referendum: UK farming’s relationship with the EU”, p.20, <http://www.nfonline.com/assets/52824>

²⁹ Her Majesty’s Government, “House of Lords European Union Committee: The referendum on UK membership of the EU: assessing the reform process: Government Response”, <http://www.parliament.uk/documents/lords-committees/eu-select/EU%20Referendum/HMG-response-to-HoL.pdf>

7.2 The UK Government has to date made insufficient effort to fully engage with the views of the devolved administrations and stakeholders in the devolved nations on the issue of EU renegotiation. Perhaps nowhere has this been more in evidence than with the exercise of the ‘Review of the Balance of Competences’. On 12 July 2012 the UK’s Coalition Government committed itself to audit the balance of the EU’s competences in order to assess how these affect national interests. This commitment led to an unprecedented exercise which today offers the most comprehensive assessment to date of the EU, known as the ‘Balance of Competences Review’. In short, the Review, which comprises 32 volumes and 3,000 pages of evidence, submitted by over 1,500 sources, including the devolved administrations and other key stakeholders, queries whether or not the present competences of the EU are excessive. According to the Command Paper the Review was intended to inform policy and public debate concerning the UK’s place in Europe. However, Prime Minister Cameron’s speeches in Bloomberg in January 2013, and Staffordshire in November 2014, had already set the tone for Government policy on EU reform before the Review had published all of its reports.

7.3 Given that Northern Ireland is the only region in the United Kingdom that shares a land border with another EU member state, **CCBS is extremely concerned that the UK Government has not actively sought the involvement in the process of intended renegotiation of EU membership of actors with significant and longstanding experience of cross-border cooperation with Ireland.** CCBS, along with bodies such as the three cross-border local authority networks,³⁰ have intimate knowledge of the extent to which UK membership of the European Union has – through cross-border cooperation – enabled socio-economic development in Northern Ireland and Ireland, as well as the obstacles that remain to exploit the benefits of cross-border trade and other activity. Moreover, such organisations will also have informed views of how the proposed reforms would affect cross-border cooperation and economic flows. Therefore, it is incumbent upon the UK Government that it actively seeks the involvement in the process of other actors beyond the political representatives in the devolved institutions and academics.

7.4 In sum, given the profound implications for the nations of the UK of a referendum on membership of the EU, **it is vital that the Government engage further with the devolved institutions during the negotiation process.** Failing this, **it is difficult to see how the legitimacy of devolved governance can be sustained if vitally important decisions on EU membership are taken without formal consultation and consensus between the UK government and the devolved administrations.** Is the UK Government’s vision shared by others in Europe?

8. In light of its own interactions with EU institutions and of publicly expressed opinions by representatives of those institutions, **it is the view of CCBS that in the UK Government’s proposed areas for reform of economic governance and competitiveness, the view will be that progress is already being made in these by the EU.** In relation to the issues of sovereignty and immigration, however, **CCBS considers that there is little prospect of the EU institutions supporting the UK Government’s position, particularly as regards to immigration.** But the overriding sense to date is one of frustration at the lack of detail provided by the UK Government on

³⁰ The three local authority cross-border networks are: the East Border Region (<http://www.eastborderregion.com/>), the Irish Central Area Border Network (<http://www.icban.com/Home>), and the North West Cross Border Region Group (<http://www.nwrcbg.org/>).

its proposals, which means that European institutions and other EU Member States cannot themselves provide similarly detailed reactions to the UK's proposed reforms.

8.1 The UK Prime Minister has repeatedly recognised that a successful Eurozone will benefit both Euro and non-Eurozone members, and that the UK Government will not stand in the way of the developments that are already underway in relation to economic governance of the Eurozone. However, whilst progress in this area may eventually require Treaty change, it is highly unlikely that EU institutions and Eurozone Member States will work towards this in time to meet the UK Prime Minister's requirement for "legally binding principles that safeguard the operation of the Union for all 28 Member States".³¹ Although steps towards deeper integration of the Economic and Monetary Union and the development of accompanying governance structures have been proposed, there is still a lack of consensus among the Member States involved and the European institutions on the speed with which these will be put in place. Therefore, given the absence of an agreed definitive timetable for the implementation of proposed developments in the governance structures of the Eurozone, **it will be extremely difficult for the UK to achieve any legally binding principles in this area that would require Treaty change**, although it will be more realistic to obtain reassurances that non-Eurozone Member States will not be prejudiced by any such developments.

8.2 CCBS considers that there is general consensus among EU institutions and Member States in relation to the UK Government's vision for the EU relating to competitiveness, especially since this is a priority area for the Commission.

Indeed, in his letter to the President of the European Council, the UK Prime Minister recognises that progress is being made on this issue, stating that "the United Kingdom welcomes the current European Commission's focus on supporting economic growth and scaling back unnecessary legislation", and that it "also welcomes the new trade strategy". In the absence of any further detailed proposals from the UK Government, therefore, it is highly likely that there will be agreement on what would be a restatement of "a clear long-term commitment to boost the competitiveness and productivity of the European Union and to drive growth and jobs for all".³²

8.3 It is the view of CCBS that of the three proposals regarding the question of sovereignty as outlined in the UK Prime Minister's letter to the President of the European Council, success is only likely in relation to the implementation of the commitment to subsidiarity. Currently, and in the absence of further details provided by the UK Government, there is little prospect of agreement on the part of the EU institutions and Member States over the other two proposals – a legally-binding and irreversible "opt-out" for the UK on working towards an ever closer union, and the introduction of a legislative blocking mechanism for national parliaments. In terms of the former, the likelihood is that the UK Government will be reminded of the June 2014 conclusions of the European Council, which stated that "the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not want to deepen any further".³³ As to the latter, whilst there

³¹ Letter to Donald Tusk.

³² Letter to Donald Tusk.

³³ General Secretariat of the Council, "European Council 26/27 June 2014 Conclusions", https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/143478.pdf

may be a degree of sympathy among Member States in relation to the power of national parliaments and the perception of the European Parliament's lack of legitimacy, this will not translate in the form of revision to existing Treaties. Instead, what may be attainable is the reinvigoration of existing mechanisms, whereby the European Commission would automatically drop legislative initiatives upon receipt of a "yellow" or "orange" card, as well as supporting measures for increased inter-parliamentary cooperation.

8.4 CCBS considers that there is no prospect that the UK Government will be afforded any reforms on EU immigration that would in any way undermine the fundamental principle of free movement. Both EU institutions and Member States have voiced strong opposition to any UK measures that would effectively discriminate between UK citizens and citizens of other EU Member States. While there may be some sympathy to reinforce measures to tackle illegitimate abuse of free movement, the UK Prime Minister's proposal to impose on non-UK EU citizens a four-year residency qualification for in-work benefits and social housing is viewed as fundamentally undermining the principle of free movement and as a form of unfair discrimination. There is a view that underlying the UK Government's proposals on EU immigration is its vision of the European Union as simply a Single Market for the free movement of goods, capital and services, but not for the free movement of people. This is seen in the UK Government's support for the continued enlargement of the EU, but only insofar as it would create a larger market for UK goods and not a larger pool of possible EU migrants to the UK.

9. CCBS believes that the question of consensus on the long-term future of the EU must not be judged in terms of the degree to which the 27 other Member States move towards the UK's vision, but rather on how all 28 Member States can continue to work towards a Europe with increased economic, social and territorial cohesion, and that this can be done in different ways according to the specific context of each Member State or region. The fact that the European Union is already made up of Eurozone members and non-Eurozone members does not necessarily signify a two-speed Europe, but rather that the non-Eurozone members have legitimately opted for working towards the goal of a more prosperous Europe in a manner best-suited to them. **Where a Europe of different approaches becomes unfeasible is where one or more Member States begin to "cherry-pick" from the EU's agreed overall objectives.** These are the conditions that would foster mistrust between Member States and undermine the ability to engage in mutually beneficial cooperation.

10. CCBS considers that the future of the UK's place within the European Union cannot be guaranteed if it is dependent on all other Member States accepting proposals that are considered detrimental to the founding principles of the EU and dictated by a UK referendum timetable that is not compatible with the priorities of other Member States. However, the UK can secure and reinvigorate that place if it is prepared to recognise and assist in taking forward developments already underway within the EU that are in line with and owe much to the UK's vision for reform. These include initiatives in the areas of economic governance of the Eurozone and the competitiveness agenda. In other areas, such as the role of national parliaments and the ability to block European legislative initiatives, the UK Government will have to help in strengthening existing mechanisms that will avoid the need for Treaty change. Finally, its future place within the EU will depend on its drawing back from moves that would represent an unacceptable challenge to the principle of free movement.

30 November 2015

Centre for European Policy Studies, Bertelsmann Stiftung and European Policy Centre—Oral Evidence (QQ 133-138)

Centre for European Policy Studies, Bertelsmann Stiftung and European Policy Centre—Oral Evidence (QQ 133-138)

[Transcript to be found under Bertelsmann Stiftung](#)

Convention of Scottish Local Authorities—Written Evidence (VEU0006)

1. The **Convention of Scottish Local Authorities (COSLA)** is the national and international voice of Scottish local government.
2. COSLA welcomes the opportunity to make a submission to this Parliamentary inquiry. EU reform, good governance and subsidiarity have all been the subject of a good degree of consensus among Scottish Councils for decades. This is the latest of a series of submissions to the Scottish Parliament over recent years.
3. COSLA as a cross-party organisation does not take a view on the issue of the in and out referendum. However, just as we did with our submission to the Smith Commission we do have specific views on the issues of EU Reform that we would like to see addressed during the negotiations that may see a new settlement for the UK and most likely to the EU as a whole.
4. COSLA already has a detailed and agreed position on EU reform from the full Convention of June 2014³⁴. This submission takes the our agreed 12 key position and uses them to address the more recent key developments on EU reform and related Scottish/UK developments and likely direction of travel on this issue.

Key recommendations:

General

5. *COSLA believes that EU involvement should take place only when it has clear EU Treaty competence (the principle of conferral), and where its' actions can provide real EU added value;*
6. *COSLA strongly defends the **subsidiarity principle** whereby “the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level” as well as the principle of Proportionality;*
7. *COSLA is a keen advocate of the position that European Union legislation should fully respect the local competences and Autonomy of Councils in organising and providing local services*

Comment:

8. The current Treaties hold an internal contradiction regarding subsidiarity: on the one hand the Preamble mentions the commonly understood notion of Subsidiarity that ‘decisions should be taken at the lowest possible level’. However the actual article 5.3 of the Treaty, which is the actual provision that is enforced, says something rather different, which is that decisions should be taken where it is more efficient,

³⁴ <http://www.cosla.gov.uk/system/files/private/c140627item10.pdf>

fundamentally saying that if an *“action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the **scale** or **effects** of the proposed action, be better achieved at Union level.”*

9. This often is taken to mean that whenever the EU and national and/or subnational level share competencies (and this is often the case in the vast majority of issues) the action should be taken at the EU level. This view is often led by the Commission. An example is the recently launched *Better Regulation package*, which in many ways is the first set of proposals put forward by the Commission to address the concerns of the functioning of the EU raised by the UK (and many others) does not fundamentally change that view, nor does the way the Commission justify its actions.
10. Thus a clear avenue for EU reform would be to either reinterpret the Treaties or indeed reword their subsidiarity provisions to ensure subsidiarity in practice actually means that *“decisions should be taken at the lowest possible level”*.
11. Coupled with that Protocol 26 on Services of General Interest, which establishes that the EU shall *“respect the essential role and the wide discretion of national, regional, and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users”*. This was greatly welcomed by COSLA and our local government peers across the EU. However as this Protocol contradicts Article 14 of the Treaties which gives leeway to the Commission to regulate the EU single Market including how public services are to be defined and provided, the Commission has been able to exploit this contradiction and not fully apply Protocol 26. This has resulted in issues, for example, around TTIP that could have been resolved earlier on and upfront by simply evoking Protocol 26 in the negotiations with the US. Instead there has been a great deal of political controversy that could have otherwise been avoided.
12. It would be useful to eliminate the contradiction between Article 14 and the Protocol 26 so as to ensure and ensure that the EU respects local service provision, particularly when this does not have any impact in the EU-wide internal market.

Detail

Scottish Government

A. Scottish Local Authorities should be considered equal partners in developing EU policies and legislation in areas that fall within their competence and affect the services they deliver.

Comment

13. Local Governments are not „stakeholders“ but public democratic institutions in just the same way as the Scottish and UK Parliaments and Governments are. It is regrettable that the UK and Scotland are among the few democratic countries in the world that do not have constitutional protection for local government. But it is however unquestionable that locally elected members form a tier of accountable

government and that many of its powers are shared with the Scottish, UK and EU spheres, in what it is effectively a complex Multi-Level Governance system.

14. For this to work whenever the Scottish Government formulates a “Scottish position” it must do so in conjunction with Local Government particularly when the powers being exercised at an EU level affect local government. This is starting to work. Over the last year and a half there have been detailed discussions between COSLA and Scottish civil servants as well as a range of statements both from COSLA and at Ministerial Level that go in that direction.

15. However to date this is far less a developed arrangement when compared with the robust systems that our EU peers from Scandinavia and the Netherlands have.

B. Scottish Local Authorities, through COSLA and other representative bodies, should work closely with the Scottish Government in developing a systematic mechanism to assess the impact of EU legislative proposals and legislation on local competences across policy areas.

Comment:

16. Following on from the above examples in the Netherlands there is a detailed *Code of Inter-institutional Relations*³⁵ that define an effective partnership approach between the Dutch national association for municipalities and the Dutch government involving Joint EU dossier Teams for all major issues where local and national powers are concerned.

C. Scottish Local Government needs to be involved on a regular basis in joint policy formulation and development with the Scottish Government. COSLA is aiming to become an equal partner in issue-based working groups with Scottish Government, similar to that already institutionalised in other European countries such as Netherlands, Denmark and Finland.

Comment

17. This is essentially our argument against the position that institutionalising such an arrangement cannot be done in Scotland due to the sui generis constitutional nature in the UK. We believe that such arrangements exist not only in Scandinavia and the Netherlands but also in many other rather diverse Member States such as Austria, Sweden, Spain and Italy. These need to be formalised here if there is to be meaningful localism.

D. The Scottish Government needs to engage in joint forward planning and work with Scottish Local Government on the Scottish Government’s EU strategy - the Action Plan on European Engagement - in order to adequately cover areas concerning us.

Comment

³⁵ <http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2009/07/28/code-of-interadministrative-relations/07br2008g111.pdf>

18. While the recent EU Action Plan was subject to some general discussion between the COSLA and Scottish officials before its approval and that local government is broadly mentioned it is none the less not neither a core element of the strategy or policy making arrangements. This needs to be revised in line with the above statements.
19. As regards to the wider issue of EU Reform we note that since last year the Scottish Government developed a paper on this issue, one that was subsequently reshaped for its submission to the Smith Commission. While there are a lot of points that we can agree on the way this was developed constitutes a missed opportunity for both local and national government to come together and develop a shared understanding on how the EU should made work for Scotland. It could have followed the same way that COSLA and the then Scottish Executive did in the previous EU renegotiation back in 2001. We would be keen to carry out a similar same exercise this time round as negotiations for EU reform take place.

E. Scottish local authorities need to be closely involved in formulating Scottish positions on implementing key EU policies and specific parts of EU legislation.

Comment:

20. Inclusive EU policy formulation (as mentioned above) is important. It is also equally important that joint arrangements are needed to ensure that legislation is transposed without gold plating and in a way that maximises discretion over how the outcomes can be realised locally. The “Guide to Handling EU Obligations” only generally mentions Local Government as a stakeholder and not clearly as a tier of elected representation on a par with the others. We are often the sphere that actually has the competence, experience and knowledge to act and deliver new EU legislation and frameworks. We have urged the Scottish Government to fundamentally revise the way EU obligations are handled so that whenever a local government power is involved the first point of call is COSLA or the local authorities themselves, as appropriate.

UK Government

F. COSLA urges the UK Government to put into practice the principles of involving Local Government in Scotland in developing the UK negotiating position on EU legislative proposals reserved to the UK level and covered by the Localism Act 2011.

Comment

21. Compared to Scottish legislation, UK legislation (and the **EU Policy Statement of the Localism Act 2011**³⁶) has a much clearer and explicit recognition of the role of Scottish local government and specifically COSLA in its EU policy formulation at UK level. COSLA and our English peers helped develop this approach. While it is intended avoid, and failing that respond to, infraction proceedings COSLA it has already proven a constructive mechanism to ensure that Scottish Local Government views are taken on board on UK negotiating positions to the EU, or on the implementation of EU policies.

³⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6070/2180375.pdf

22. While there are areas where the UK Localism provisions could be improved and more consistently applied across Parliaments we would be keen that the Scottish Government develops an equivalent mechanism in Scotland.

Scottish Parliament

G. Considering the role of state and devolved parliaments in monitoring subsidiarity, there should be a right for Scottish Local Government (and Scottish Committee of the Regions members) to formally request the Scottish Parliament to launch a subsidiarity check on EU draft legislation directly affecting Scottish councils.

Comment

23. COSLA asked the Smith Commission to recommend specific provisions over the issue of UK and Scottish Parliament cooperation in Subsidiarity Scrutiny. In the Balance of Competence Review on subsidiarity the UK Devolved Parliaments were not even mentioned, only Westminster. At the moment, unlike other Member States with Federal and devolved structures there is little by way of UK inter-parliamentary arrangements ensuring that the Scottish Parliament is associated with the Subsidiarity Early Warning arrangements as intended by the Lisbon Treaty Subsidiarity Protocol.
24. A clear avenue for improvement is for the Treaties to more explicitly recognise the involvement of Devolved legislatures in the Early Warning System. Equally we welcome the efforts led by a range of national parliaments, including the UK House of Lords, in putting forward a “Green Card” system. This is presently being trialled as a procedure which both allows Member State parliaments to react to legislation and also to put forward new proposals.
25. COSLA is in favour of more robust new provisions on subsidiarity, ones that would allow national parliaments to block EU proposals when a majority are clearly against them. Equally there is a need for changes so that the parliamentary contribution is not always reactive and contrarian but proactive. The Scottish Parliament (and other devolved parliaments) should be treated like a national parliament within this system (as is already the case for the Belgian regional parliaments), including being represented in the official inter-parliamentary cooperation body COSAC.
26. Having said this, there is a scope for the Scottish Parliament to work within the current Treaty rules – in particular as many MSPs are involved in the streamlined approach to handling EU dossiers which builds on the existing Scottish Parliamentary system of EU reporters. As mentioned in previous submissions COSLA is able to provide, very early on, and occasionally years in advance its views on the impact on local government of draft EU legislation. This could be better used by the Scottish Parliament to inform its own positions and scrutiny work.
27. We regret that the recent review of the Scottish Parliament Standing Orders did not accept our request that COSLA should be recognised as acting on behalf of Local

Authorities (or Local Authorities themselves) as part of Rule 10.A.2 alongside the Scottish Government, the UK Government and UK Parliament. All should have an equal status in bringing to the attention to the Scottish Parliament matters concerning compliance with the principle of subsidiarity of EU legislative proposals. We hope that the Scottish Parliament will soon reconsider this. It would bring the Scottish Parliament closer to the high standards of the Danish and Finnish Parliament's EU Affairs Committee arrangements which deliver probably the most robust scrutiny of EU legislation.

H. Existing arrangements between Scottish MSPs and councilors in the EU Committee of the Regions should be deepened to strengthen a joint Scottish approach.

Comment

28. The Committee of the Regions is an advisory body of the EU institutions which is to date the only official channel that local authorities and devolved institutions have to participate in EU decision making. Since the Lisbon Treaty it has also the power to go to the European Court of Justice to enforce the Principle of Subsidiarity.
29. Currently COSLA nominates and supports four Members. The Scottish Parliament nominates another four. They are all unpaid members but with an official status that results in them attending around 10 meetings a year.
30. It is widely believed that CoR has failed to develop its full potential. Partly the problem arises from its original design. It mixes a large diversity of sub-Member state representatives. Also members do hold a representative mandate - once accredited they are not bound to represent or be accountable to the local or devolved institutions that nominated them. So, rather than being a legislative chamber actually representing federal and devolved or local governments such as the German or Austrian Bundesrat, it is a deliberative assembly such as the French or Spanish Senate (both made in part by subnational members)
31. COSLA welcomes the recent proposals by the Committee of the Regions to address their structural weaknesses of the CoR³⁷. COSLA and the Scottish CoR members contributed to the review.
32. COSLA is in favour of a more coordinated approach among Scottish CoR members acting as a national section within CoR. Considering that at best only 4 Scottish Members can attend a given CoR meeting (that is, less than half of other countries of a similar size) it is essential that on matters of national interest there is a coordinated, cross-party approach at CoR and beyond.

European Commission

³⁷ Committee of the Regions (2015) "Resolution on Improving the functioning of the European Union: Lisbon Treaty and beyond" RESOL VI-005, <https://webapi.cor.europa.eu/documentsanonymous/cor-2015-03307-00-00-res-tra-en.docx>

I. Having the main legislative initiative, the European Commission needs to fulfil its EU Treaty obligations. It needs to recognise in a robust way local and regional competences in its pre-legislative consultation procedures, ensuring that these specifically address local impacts.

Comment:

33. As mentioned in the first section, the Commission nearly always adopts the view that subsidiarity should be interpreted as meaning economies of scale and that where there are shared competences decisions should be taken at EU an level, where the Commission has an effective monopoly of legislative initiative.
34. There is no reason why 60 years on the Commission should continue to have such a monopoly. It could perhaps be helpful to improve the democratic legitimacy of the EU that the European Parliament, National Parliaments and the Council shared this power.
35. The Commission is increasingly aware that the way it acts causes resentment and alienation. For this reason we welcomed the recent Better Regulation Package that aims to consult more and to have greater reassurances that new legislation is really relevant and necessary before it is tabled. Unfortunately when trying to assess the impact of future EU legislation at a local level, or simply its subsidiarity implications, the Better Regulation package provides very limited improvements. There is scope for more robust provisions as indicated in the first section.

J. The European Commission must ensure that, in the evaluation of the effectiveness of legislation, local governance is actively considered.

Comment

36. The Commission continues to have undertake only limited assessments of the impact of EU legislation locally even when in areas such as waste or energy efficiency where it is the municipalities that implement most of the EU legislation. The engagement with local government representatives such as COSLA is patchy and very much depends on the specific department, policy and lead civil servants. To be heard often requires the initiative of local authority associations such as COSLA.
37. Most of our sister associations take great exception to the recent agreement between the European Parliament and the Commission to classify local government members and officials as lobbyists requiring them to register alongside private individuals and companies if they want to engage in any way with the EU institutions.
38. This is entirely inappropriate and contrary to the Treaties themselves (article 4 TEU obliges the EU institutions to respect local government). It is even more pointed an attack on the democratic mandate of locally elected members given Devolved institutions and Member State correctly are not required to register. This is why COSLA and our peers are campaigning for this mistake to be rectified.

European Parliament

K. COSLA seeks to increase the interaction between Scottish Members of the European Parliament (MEPs) and senior councilors.

Comment:

39. We respect the separate electoral mandate of MEPs as well as their different workload, timescales and availability. However there is a need to work collectively across the different spheres of elected representation. There is merit in exploring a system such as in the Danish Parliament where MEPs have a structured relationship with MPs in the scrutiny of draft EU legislation and the formulation of national negotiating positions. Our sister organisation Local Government Denmark is part of that scrutiny system.

Local Government

L. Scottish Local Government's collective & concerted action in Europe will be strengthened through regular exchanges between councilors with an active role in EU affairs, through the Scottish Local European Elected Representative group (SLEER)."

Comment:

40. Scottish Local Government EU engagement is vast and diverse. It is probably more comprehensive than that carried out by the municipalities in other EU countries of a similar size. This sort of engagement goes beyond COSLA's own European priorities which have been determined by our own governing body. Because of this there is merit in ensuring a better understanding of these diverse sets of engagements to identify where there are areas we could work together for the overall benefit of the Scottish people. SLEER has been used to help co-ordinate our positions in the past.

November 2015

Professor Laura Cram and Professor Andrew Scott—Oral Evidence (QQ 98-105)

Evidence Session No. 9

Heard in Public

Questions 92 - 105

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Lord Jay of Ewelme

Lord Trees

Lord Tugendhat

Lord Whitty

Baroness Wilcox

Examination of Witnesses

Professor Andrew Scott, Professor of European Studies, University of Edinburgh, and
Professor Laura Cram, Professor of European Politics, University of Edinburgh

Q92 The Chairman: Andrew Scott and Laura Cram, you are hugely welcome here. We very much appreciate your time. These studies are partly continuing studies on the process of this renegotiation-reform-referendum issue, but also trying to look for an element of common vision as to what is behind all this, both in this country and abroad, and the extent to which they coincide. It has been very useful along the way to tap the mind of academic experts and to have as much cut and thrust as we can. Given your CVs, we are very lucky to have secured you both, so thank you. We could pursue some of the excitement about game theory and Euro politics, on which I am not really an expert. The Lords claims to be an expert on most things, but I do not think that is one that we have represented, though that should not be taken as predictive.

Professor Cram: We should always look for volunteers.

The Chairman: It is great fun and, if you wish to introduce it in your remarks, that is fine. You are very welcome. We have a good representative team of colleagues, which I am delighted to bring here, one of whom will join us in a moment, but we might kick straight off, if you are happy with that. The first question, I do not think you will be surprised, is: following the publication of the Prime Minister's letter to President Tusk, and I suppose it would be fair to add or gloss his response to the members of Council, do you feel you have now a clearer understanding of what Whitehall is seeking to achieve in its discussions on EU reform ahead of the referendum? In the light of Mr Tusk's reply, do you sense that those objectives are achievable?

Professor Scott: The Prime Minister's letter certainly took us to a much clearer place than we had been in before. His earlier speeches had indicated the grounds on which the debate would take place, but the letter identified quite clearly four particular segments and that was very helpful. What he is trying to do is now clear. What the Government are trying to do is now clear. How he is going to achieve that is still very unclear and the response from

Donald Tusk reflected the lack of a common vision about, first, whether it is achievable in the first place and, secondly, how those parts that are achievable, either politically or by treaty change, might be engaged and engineered. There is clarity in what he wants and what the Government are after, but there is still a big lack of clarity in how that may be achieved and to what extent he will get consensus around some of the more difficult parts of his agenda.

The Chairman: I will bring Laura in in a minute, but can I just follow up by asking you whether you have any sense in which this is a two-tier kind of debate, one tier being at Heads of Government or European Council level and the other being, if you like, for shorthand, at Sherpa level, where people are worried about how you create legal texts that are sustainable and how you do not conflict with issues that might be third-rail issues for other member states?

Professor Scott: That is absolutely right. The idea that, once you get political accord at the European Council, that is it solved is a great simplification of reality. The European Council may agree a number of political objectives and, indeed, ways of achieving them. If the treaty is not revised, these commitments or these agreements are still subject to judicial review. It is fine for the Heads of State to agree to observe certain conventions or agree to certain changes in secondary legislation even, but of course these are still subject to the rule of law and, in the past, the Court has struck down European Community texts or European Union law on the basis that it is not compliant with the treaty.

Therefore, that the Sherpas' job has been somewhat denigrated in public places is unfortunate, because they are very clear in their own minds that this has to be legally watertight, and unless and until the treaty has been revised, even an intergovernmental agreement or even an intergovernmental treaty that is lodged at the UN, outside the EU treaties, would have to be ratified by the member states through their parliamentary procedures at some future date. No matter what is agreed, until and unless the treaty is revised there will always be questions about its deliverability, particularly where it seeks to either change secondary law or introduce conventions that then become subject to judicial review.

Lord Jay of Ewelme: If it was just, as with the Danish, a derogation for a particular country from the body of European law, that, presumably, would be okay, would it? Would that precedent, in theory, have been justiciable?

Professor Scott: Any derogation would have to be in the treaty.

Lord Jay of Ewelme: Yes, but, as you suggested then, when all Heads of Government agreed it formally and then it was deposited with the United Nations and so on, would that have been justiciable?

Professor Scott: No. They can make the agreement among themselves, but Denmark and Ireland are useful examples rather for what they do not explain. There are two issues. The Irish protocol was simply explaining in very straightforward language what was not in the treaty of Lisbon. Denmark was an exemption of course from monetary union and from the citizenship recitals. None of that was law until the treaty had been ratified anyway, so Denmark's and Britain's opt-outs and protocols were part of the treaty that was then ratified by all member states. It was not sequential; it happened at the same time. The Irish one was slightly different, because it was not ratified until the Croatian accession, but the point about both those protocols is they did not impose any cost on any other member. If you look at some of the provisions that are being proposed by the Prime Minister, these would have real costs, both political and financial, potentially, for other member states.

Lord Jay of Ewelme: There is no precedent for this then.

Professor Scott: There is no precedent for this particular exercise that I am aware of.

Q93 The Chairman: I have two points on it. First, in your experience, if there is high-level political agreement notwithstanding the treaty provisions, does that at least influence the way in which the treaties tend to be interpreted? Secondly, would it not also be likely that not only what you might call the barrack-room lawyers, who have an interest in this, but also the electors in the United Kingdom will take a certain interest in saying, “Do these provisions really stand up and do they amount to the paper they are written on”?

Professor Scott: In answer to that, I do not think the court would pay that much attention to the seniority of the signatories of an agreement if the subsequent action violated European law. I think it would say, “I am sorry; this is incompatible with European law”.

The Chairman: I am leading you, but I think you will understand the context—this could be on discrimination law, for example.

Professor Scott: Absolutely. I would fully expect that, if the Heads of State come to an agreement to ratify a protocol in a future ratification round, it would be honoured. I do not think that is really the problem. My problem with that scenario, which is emerging as the most likely but, in my view, ill advised, is that the treaty revision, of which the protocol would be part, may involve very controversial proposals that may be rejected on their own merit by other countries. In that case, the British protocol would fall not because anybody opposed the British protocol, but because it was bundled up in a ratification process that was controversial for quite different reasons. Croatian enlargement, where the Irish protocol was bundled, was not controversial. No Parliament was going to reject that, but if the British protocol was ratified in the context of a revision to the recitals about fiscal union, you could imagine in a referendum in France that it is not beyond the pale that the French people would say, “We do not want this”, despite what the French Government have signed up to. They have done it in the past and that, to me, is the high risk of saying, “We will ratify the protocol in the future”, if the future involves a broader treaty revision that introduces quite unrelated controversies, which may play badly in some member states.

The Chairman: You said that this is high risk and you would not have approached it that way. Do you offer an alternative scene that might be rather more legally or otherwise watertight?

Professor Scott: My approach would be to use Article 48, argue that this protocol is not of sufficient importance to warrant the convening of a full convention and ask the European Parliament for permission—which you have to do; you have to get the Parliament’s consent—not to convene a convention on the grounds that the changes being proposed are not sufficiently important. Take the protocol through an Article 48.3 procedure, which does not involve a convention, but it is not the simplified process that can only affect the TFEU. This would be a change in the TEU pending a protocol. Take that on its merit and accept that that will take a couple of years to get done, but with a very high probability of success. Delaying it until a further treaty round, I think, is very high risk, frankly.

Lord Jay of Ewelme: Politically that would be tricky, would it not? If the Prime Minister says he can get something through because the Parliament has said it is not particularly important, it is not something that is going to help his referendum campaign back home or whatever.

Professor Scott: That is the politics of it, frankly.

The Chairman: If you are offering us a two-year timescale for that 48.3 procedure, by definition that takes you outside the Government's undertakings on a referendum.

Professor Scott: I think anything does there, frankly. I do not think it is possible to have a legally binding protocol, assuming that is how one would package the British exceptionalism, which I guess is the way. You could have a political declaration appended to the treaty that does not require that, but the political declaration is not legally binding.

The Chairman: Thank you. Laura, you have been majestically silent in this. What is your take on this?

Professor Cram: As I am not a lawyer, the politics are what I would probably dwell on. I think the substance of the four baskets is reasonably clear. Where the interplay, in terms of the public relations and relations with other EU member states, comes in is in the form and the frame of the way those substantive issues are being presented. That comes to the question of whether these are seen as significant or not, because if you have to sell a story that says these are not very significant responses in order to get the legal and technical parts through, then you have an issue in terms of public relations, and public relations with the other member states.

For example, recently the YouGov experimental survey looked at what would be the likely effects if a minor change was agreed at the EU level or if a major change was agreed at the EU level. We know that with the public it is only the major change that appears to swing the voters towards the remain campaign. More than that, if this looks like an indulgence, something that was not very significant that was more to do with managing internal party politics, it is very difficult to manage that externally as well. You already have very fatigued member states, which have had now not just the long historical tradition of UK awkward membership but a series of recent blows, as they see it, to that relationship, which has always been a carefully balanced relationship. The feeling that it has become a bit beleaguered is really significant and the notion that that would be done for something that was not seen to be terribly significant has real issues.

To that extent, we have had lots of conversations about whether this is a symbolic debate, but in the tradition of political science symbolism is not seen as nothing. Symbols are seen as having a huge effect on mobilisation of publics and acquiescence of publics, so how that symbol is played and how this debate is framed is something that has to be taken into huge consideration in the presentation of these reforms.

As to the technical issues and how they play out, the lawyers, traditionally at EU level, have also been pretty creative in finding solutions where they can be found. Although I agree with very much of what Drew says, in that the likely interpretation if there is a clash with EU law would be difficult, there has been a tradition of finding creative solutions, but finding a creative solution in the absence of political will is a particular problem.

Q94 The Chairman: Just simply in terms of scorecard, are the Prime Minister's problems more intense in relation to his 27 colleagues at Council this week or in relation to an electorate that want material change? If you want to go on to say that, what would be the way in which he might be able to persuade an electorate that that was worthwhile, given that there are other problems in Europe, whether it is the eurozone or migration, for example?

Professor Cram: That is the major issue. We can see from the Tusk letter there is a willingness to try to keep the UK in, but increasingly that story is not at any cost. There is also an increasing sense that some of the member states that saw the UK as a partner or as

a coalition partner are tired and are seeing the limits to where they are willing to stretch. If the ante is upped to present these as major reforms, then inevitably that is where you have problems with the 27 member states. If the ante is reduced to make it seem like a more minor reform that could be more easily accepted at the EU level, it is going to be much harder to play at home that it was worth having the referendum. A ComRes poll out this week shows that the issues that the Government have put on the agenda—the in-work benefits for migrants and issues about the eurozone negotiations—are now part of the internal debate, which they never particularly were before. In some ways, it is also about being careful what you wished for. Once you have created a scenario, you are also creating an electorate that is responding to that scenario.

The Chairman: I must let colleagues come in, in a moment, but, given at least the formal terms of the referendum question are “remain or leave” and without reference to any preceding negotiations or reform proposals of any kind, do you think the debate will morph into its more existential elements? Will it tend to centre on some of these particular issues that have been thrown up in the Prime Minister’s negotiation or will they have an afterlife and continue to go through into the referendum campaign itself, in the way you rather suggest about migration?

Professor Cram: I think they will. They have now been put on the agenda, so you will have the broader debate. There will simply be the anti-EUs and the pro-EUs, but there are appearing to emerge a series of debates around the specific issues that have been put on the agenda and linked with the EU. For example, we are doing some analysis of Twitter conversations as this debate is going on and one of the things we are seeing is linkage with the refugee issue, with the migrant issue. As these issues that are put on and related to the conversation on the EU increasingly, then you expect them also to play out as substantive in the debate. Following on from that is what Drew was saying about this not going away. It is rather like a genie out of the bottle, the notion of this debate and of this referendum. It is extremely hard to shut down these issues. We have seen that in Scotland following the referendum. There is no end to a debate like that. Having now put these issues on to the agenda related to that referendum shapes the future nature of debates on the UK and we should also predict that that will continue and not disappear.

The Chairman: Just a comment: if you look at 2012 when the balance of competences, for example, was launched, slightly up to and including the Bloomberg speech, there was quite a strong emphasis on the working time directive, which appears to be virtually silent now, Drew.

Professor Scott: I was just about to use the words “balance of competences”. One of the great disappointments to me is that we have two debates running. One is whether we should be in or out. A lot of the information in the balance of competences is incredibly important for that debate and it is a great disappointment to me that that material, voluminous as it was—it is a big file—has suddenly ceased to exist for the purposes of this debate. That is a huge opportunity missed, because it is probably the most comprehensive, well-informed cost-benefit exercise on European membership that has ever been undertaken by any member state. I do not say that because it has come out with results that I do or do not support. As a matter of fact, having been involved in these cost-benefit analyses across the EU in the past, I think that this is an extraordinarily rich piece of work and it is a great shame. That has now become conflated with the terms of membership argument, and if we could separate these out a bit it would be very helpful. Plus, it ignores the 2011 legislation that says there would be a referendum in the event of treaty change anyway. These three separate issues have been completely conflated and the electorate could be forgiven for

being thoroughly confused about what the Government wants. Until and unless the Government can settle on what it wants, it is going to be quite difficult for the public to have some idea of where the polar points in this debate are. That is perhaps a political opinion.

The Chairman: No, it is very helpful. You will know that our Committee came to a rather similar view on the balance of competences review. I am just going to put a flyer in and then shut up and let my colleagues speak. This obviously relates, in a sense, to issues about devolution as well in Scotland, but would you say that the balance of competences review would have been better appreciated across the United Kingdom if it had been, as it were, in a formal federal country where people were used to ordering, overlaying and, to some extent, qualifying competences, such as the Federal Republic of Germany? Is that a reasonable comment?

Professor Scott: Yes, it probably is. There is still this conception of sovereignty in Britain that fails to distinguish between what I would call constitutional sovereignty and effective sovereignty. The hunt is on for constitutional sovereignty, ironically, potentially at the loss of effective sovereignty. If you end up outside the European Union, you may have constitutional sovereignty but, if you want access to the internal market, you have lost effective sovereignty because you can no longer contribute towards the legislations that will affect your economic actors. This puzzle has to be unravelled, but I am not convinced it will be over the next 18 months or so.

Lord Davies of Stamford: A brilliant point.

Q95 Lord Tugendhat: Can I take up two separate points that have emerged? I agree certainly with Professor Cram that people say they want Britain to stay in but not at any price. But, when one is trying to analyse what that means, one thing is the idea of Britain leaving and then the negotiation that would take place over Britain's future relationship. The issues that that would give rise to within the Union are so dreadful that when people say "not at any price" it is important to bear in mind that they very much want to avoid that scenario. It would be bad for us, but it would be very bad for the Union. The second point where I would nuance what you were saying relates to what you said about a whole lot of other issues entering into the debate. Well, yes, I agree with that up to a point, but surely the feature of this referendum, unlike the Scottish one, is that in the Scottish one a great many people really, really cared about the outcome, on both sides. They really, really cared. There are people who really, really care about the outcome of this referendum, but they are a minority. Indeed, a very large number of people do not care much at all and it is of very low salience in terms of what they care about. Therefore, it is not so much, I would suggest to you, the significance of the other issues that are entering into the debate that will matter; it is whether Cameron is able to come back and look as if he has had a success. It may be a coup de théâtre and it may not be very substantial, but does it look as if he has had a success? Is it something that he can sell confidently? Will people whose credibility matters—John Major had something to say only this morning—rally to what he says? That is more important for most people than the issues you were talking about.

Professor Cram: Absolutely. That would be the point that I made, in that this is about the framing of this debate rather than necessarily the substance. But even if you can manage it for the current time, if you have placed issues into the frame as public issues related to the EU in the debate, I suspect that the ongoing negotiations post-referendum will always link those issues with the EU. That means that, if this debate will not go away, it is worth being careful how you frame it for the future, because the referendum itself really will not close the issue about UK and EU relationships, but anything that gets put into it now will become

part of the narrative of EU-UK relationships. I think you are absolutely right that it is very much about how it is framed in the current debate. I know we are going to come to migrant benefits later on, but whether they can be reframed as protecting our current welfare state as opposed to restricting free movement is absolutely crucial in terms of how people are able to respond to that from other member states.

On salience, you are absolutely right. One of my favourite quotes to our students is from the fabulous focus groups that people like Sophie Duschesne did, where they asked groups of people what issues mattered to them, and they never spontaneously came up with the EU. Until they were asked about the EU, they did not come up with it. We will come on to it later, but that salience issue is slightly different in Scotland and that will relate to the difference in the debates, where it played an enormous part in the discussion on the independence referendum. In fact, I think that, if you were to go around the public houses of Edinburgh, you would find a consciousness and an awareness of that place in the debate that would be different.

The Chairman: Drew, do you want to comment on Lord Tugendhat's first point about how "not at any price" is seen and the implication of that? I do not know if this comes in now, but there may even be a sort of covert wish, either in the UK or maybe in other member states, to tear up Article 50, although that is the formal provision, and start looking for some sort of way out if the worst happens.

Professor Scott: Article 50 in itself was a response. Nobody really thought Article 50 would be exercised. It is only recently that lawyers have thought about how Article 50 would work. It is almost the same as the Scottish question, in so far as the decision to become independent, had it been that decision, would then be followed by a set of negotiations the terms of which may not have pleased the people who had voted for independence. If I could generalise, and I defer to my political science colleagues on this, there was an assumption implicit when the debate in Scotland began that it would be a soft exit, that somehow this would not be disruptive, because both parties would act as grown-ups, to use wildly generalistic language, and that they would find a deal that suited everybody, for the best interests of everybody. It became clear in the latter stages that it would be a hard exit. This was not going to be a soft exit. There is a presumption among those who advocate leaving the European Union that it would be a soft exit and that they would find it in their hearts to be generous to the UK.

The Chairman: Just like they were with Norway. They did not join, but they were not penalised for voting against it.

Professor Scott: It is a small country, yes. The dynamics of moral hazard, as we have seen, if you want to use that in the generic sense as opposed to the financial services market sense, given the domestic politics of many member states, raise the question: why would you give Britain a soft exit if that would then run the risk of inspiring renegotiations in other member states who thought, "Well, these guys got a good deal and so could we"?

The Chairman: The worse you behave, the better a deal you get.

Professor Scott: Absolutely. There is now something else on offer. We do not have to be totally immersed in the swimming pool; we can sit on the sides and put our feet in.

Lord Tugendhat: On the other hand, the Greek experience would tend the other way. I hesitate to compare the UK with Greece to any great extent, but it became clear at one point that, when people had to choose whether they would prefer to have them screwing things up inside or letting them go, having them screwing things up inside was a lesser price

than having them go. The implications of having them go were sufficiently awful that they were willing to put up with a great deal having them stay. It is not a direct comparison. Britain is a very large country and a very important market, and, although there would be a lot of hard feelings, when you look at the totality of British relationships with France, Germany and other countries, Norway and Switzerland are not in quite the same league.

Professor Scott: I quite agree. I think Greece was told this would be a hard exit.

Lord Davies of Stamford: I do not think that is a good analogy, because what happened was the Greeks took the decision that, however hard staying in would be, getting out would be even worse. I think it works the opposite way from the one that Lord Tugendhat suggests.

Q96 The Chairman: Can I chip in with a couple of questions? One arises from these exchanges and one is, as it were, the next stage. The short question is: in this referendum campaign compared with, say, a Scottish independence referendum campaign, the very complexity of the issues—the words I use for shorthand are “protocol” and “derogation”, but you will know—is greater. We all talk Euro-speak and have some idea of what it means; the person on the street, even if they are sophisticated and interested or wanting to be interested, is in quite another kind of country. To what extent do you think that will colour the campaign? There may, indeed, be a push back from people who say, “If all you can talk to me about is these words, I am just not with it”. Laura, do you have a view on that one?

Professor Cram: I think that one is real. That distance and the lack of salience are relevant, but it also has consequences and it seems like people are taking much more of a party cue in terms of their voting patterns. Again, it is something we are going on to, but the difference in the Scottish dimension is partially explained by that, because there are not as huge differences between individuals in Scotland in their opinions on individual issues, but the overwhelming propensity to vote for staying in the EU is much more indicated by the government position. There seems to be some evidence that that is much more likely to affect people, because, once you start getting down to technical details that people are not interested in, either they will turn off and not vote at all, which has its own consequences in terms of the meaningfulness of a referendum and closure, or they will take certain cues from their party leaders and head that way. Again, then you need a very clear message on what your party wants you to do. That is currently clear, for example, in Scotland. It is clearer in Wales, but in England that remains an issue.

The Chairman: I suppose it would not be unreasonable to say arguably the two largest political parties in England are both conflicted on some of these issues.

Professor Cram: Yes.

Q97 The Chairman: My other question, in a way, comes back to the Scottish scene in relation to the nuts and bolts of this process. How much has the UK Government taken the views of the Scottish Government and the Scottish Parliament, making that distinction, which is not always made, and other key stakeholders—social partners, regional interests and local authorities, for example—sufficiently into account in defining its reform objectives? Is this a dialogue that has taken place in London and Whitehall or has there been a real attempt to engage other parts of the United Kingdom and Scotland, in particular?

Professor Scott: I should perhaps declare an interest, because I spent two years on secondment working with the Scottish Government on European issues ahead of the referendum, as a Civil Service adviser rather than as a political adviser. I just wanted to put that on the record. I have also studied, some time ago, the intergovernmental relationships.

Formally, there is no obligation on the UK Government to consult on this issue. The memorandum of understanding and the concordats place not a legal obligation but certainly an obligation for good governance on co-operation and discussion on common measures where devolved issues are in play. On constitutional issues it is quite clear.

However, I think most sensible observers would say that on an issue of this significance it would perhaps be wise to ensure you are not going to get a fragmented national position, because it makes negotiations tougher if you have clear fragmentation. On this issue, there is clear fragmentation not only between the UK and Scottish Governments; that is clear because the Scottish Government's position has always been, yes, we need reforms, but they can be handled within the context of the treaties as they exist. Indeed, some of the reforms being proposed, not the least of which is the free movement of labour, would impinge adversely on Scotland, which is a country with a perhaps more acute demographic problem over the next 40 years than is true in other parts of the UK.

That is an instance where although the issue of constitutional negotiations of the treaties lies with the UK, there is a very direct issue in play in Scotland. Presumably, one of the reasons that led the Scottish Government to its position, which post-dates my time there, is that this would damage Scotland's interests; this referendum is not necessary because there is no indication that what we are trying to seek could not be achieved with the treaties.

Although the JMC system would facilitate that, as far as I am aware there has been no formal invoking of the JMC to discuss the territory of the reforms being sought by the Prime Minister. That may be simply because when you are in negotiations you cannot have open dialogue with anybody; it has, almost by its nature, to be a relatively small group of people. How far that should extend is a normative proposition that I am not really qualified to answer, but my understanding is that there has been no formal engagement with any of the devolved Administrations on the question of the proposals that the Prime Minister has put forward.

Professor Cram: We talked about the balance of competences review, where there was formal involvement.

The Chairman: And Scottish Government input.

Professor Cram: Yes, so it is quite interesting that that has not formed part of the renegotiations, as far as it appears. On JMC, now there is a standing item on renegotiations, but again, once you get into after-the-fact information, it is not really feeding in to the conversation. On the Parliament part of the conversation, again going back some time to when we were looking at the treaty of Lisbon inquiry, we had Chris Bryant, who was then the Minister for Europe, up and one of the discussions was about the nature of what happens when there is a conflict between the Scottish Government position and UK Government position. His statement to that inquiry was really clear: at that point the UK Government position wins, because this is a reserved matter. I think that really has been the story. There is probably a political element to it as well in that, in as much as these renegotiations are fairly symbolic and the substance of most of them is not huge, there is not an enormous incentive to have anybody involved, whether it was devolved Administrations or all the stakeholders with a very strong claim to what they wanted to achieve, because then you would have to go and achieve that at the EU level. There is probably an element of that, in the sense that this is more about closing down a debate, and that has its own consequences for renegotiation.

The Chairman: Just for the record, there will be cases—I am thinking obviously of the separate Scottish legal system as being perhaps the most easily definable, but also in terms of

the delivery of services or whatever, such as in the benefits system—where there may be local/national implications in terms of delivery and those are, of course, devolved matters or may be devolved matters. Is there a debate about that, in terms of people in Scotland saying, “How can you expect us to do this, because we would have to implement it but we are not being consulted about how to implement it”?

Professor Scott: There is a debate running. One of my colleagues has taken this debate forward about whether the renegotiation decision should have been subject to a Legislative Consent Motion in the Scottish Parliament. He is a constitutional lawyer and I would not pretend to go down that road with you, so I shall not, but it is an interesting argument precisely because many of the changes implicit in this approach would affect Scottish competences or at least the implementation. Of course, as we find welfare more devolved, it would impact on a number of traditionally reserved policies that are now being devolved, so I think you are absolutely right.

To turn the situation around, if the UK Government had said, as the Dutch Government said, “We think there are some flaws in the way that European policy is being managed”, you would expect the UK Government to consult with the devolved Administrations to say, “We are going to put together a reform request basket, not treaty reform, but changes to the subsidiarity, perhaps changes to the working time directive. We want to see legislative changes in secondary European law rather than the treaties”. In a country with devolved Administrations, which the UK Government would obviously lead, as the member state, one would expect they would be inviting a very high degree of input from the devolved Administrations given that they would be implicated in the outcome. It is rather surprising, I think. If you just reversed the argument and if you did it in a less politically charged environment, you would expect to see a high level of engagement by the devolved Administrations.

The Chairman: Presumably, at a very simple level, if only to achieve political buy-in. You have the constituent parts singing to the same hymn sheet and saying, “We have had one negotiation and this is what we have”.

Professor Scott: Yes, so if it is about subsidiarity, for example, how could we change the way the Scottish Parliament inputs to the subsidiarity discussion at Westminster? Does that need to be looked at if we extend subsidiarity or move to a more pronounced subsidiarity check? That would be a normal bottom-up way of doing it. This has been very much politically driven top-down.

Q98 Lord Jay of Ewelme: There has been a lot of speculation about what might happen to the integrity of the United Kingdom if the United Kingdom voted to leave and Scotland voted to stay. Nicola Sturgeon has warned that, if Scotland voted to stay in but the UK withdrew, there would be an unstoppable demand for another referendum here. I just wondered what you thought the implications would be if that happened. In particular, would that be affected by, for example, a referendum that was, say, 52-48 in favour of leaving, but 60-40 in favour of staying in Scotland? Would it be affected if there were also votes in Wales and perhaps Northern Ireland in favour of staying, but the whole thing was effectively determined by votes in England?

Professor Cram: Or the other way around as well. To the question of whether it would automatically trigger a referendum, that may or may not happen, but regardless the public will be watching very carefully what the outcome is of the referendum. If you see that kind of imbalance in the vote share, then there is going to be a continued sense of that divergence between the different parts of the UK. Whether or not they have a referendum is uncertain

and I am sure would be chosen according to political conditions, but the sense of divergence would be fed by that. If there was the other scenario and it was Scotland that kept the UK in, or Scotland and a combination of Wales and Northern Ireland, there would be very interesting discussions going on elsewhere.

Lord Jay of Ewelme: If it was the first scenario, where the UK voted to leave but Scotland voted to stay, would that, in a sense, provide the Government here and Nicola Sturgeon with almost the authority, even if she decided not to exercise it, to say, “Okay, there has been a sufficient material change in the relationship for us now to feel free to go for a referendum when we judge it right”? Is that how she would see it?

Professor Cram: It would be a very easy narrative to play in that kind of scenario.

Professor Scott: Again, it is the narrative that David Cameron has played. The Tory majority in May gave him the political leverage to go looking for renegotiation. He knew that he was going to push a rock up a hill, at least in some of these things, but he had political legitimacy and that is what he has claimed he has. The voice of the British people has spoken and they have endorsed his approach for renegotiation. That allows him to have political leverage.

I would just reinforce the point that Laura raised earlier, which was not to underestimate the importance of the EU question in the Scottish debate. In other words, Scottish views, I think, are more pro-EU in the polls for a few reasons, but one of them is that we have had this debate. I remember talking to politicians before the referendum, maybe two years out, who said, “The EU will not play in this referendum”. The EU became the second most important issue after the currency in the Scottish referendum. People have very firm views. They do not not think about the EU. They think the EU is a good thing.

The Chairman: I am not sure that is understood in England as well as it should be. Can you just articulate that a bit more in terms of the different sides? It could appear on both sides of the argument, but what were they saying about British membership of the EU? Were they saying, “If there is independence, then reapply; if Scotland remains in the UK, that is the only way of remaining in the EU”? Was that the nature of that debate?

Professor Scott: There are two things I would say. Politicians disagreed extremely on the whys and wherefores of independence, but not one political leader in Scotland voiced the view that if Scotland became independent it should leave the EU. The EU membership question emerged as a single large question: how do we get into the European Union? There was a minority who said, “Oh great, we can dump the EU as well”, but by far the majority view was: if Scotland becomes independent, we must be within the European Union.

The Chairman: And we will find a way to be within it.

Professor Scott: We will find a way, whether it is by political agreement so there is no interruption in our effective membership. However it will be done, we will get into the European Union. The view was very strongly, the day after the vote, that if the vote had been yes, the realpolitik would have ensured that there was a continuity, at least in effect rather than necessarily in constitutional law.

Baroness Wilcox: If they felt that strongly, how come they did not vote?

Professor Scott: If you recall, there was a very clear view from the European Commission, and I do not want to go into that, because I disagreed very much with it.

Baroness Wilcox: That they could not just stay in.

Professor Scott: That they would be thrown out. For example, if you look at the Polish community in Scotland, which is large, I spoke to the Polish consul general and his view was that the Polish people would vote to—

Baroness Wilcox: If they felt that strongly that it really could happen—that, by hook or by crook, no matter what was being said at the moment, the day when they had got away from England and had got themselves standing at the door of the European Union, as you are saying, they would get in somehow—how come, therefore, they did not vote for it?

Professor Scott: No. I am being slightly misunderstood. There was a large part who believed that getting in would be really problematic, and we may have to leave and then we might get back in. The point I was making was that no politician, no civic leader, no leaders of any of the campaigns were saying—

Baroness Wilcox: They would have liked to do it, but they did not think it would be able to be done; is that it?

Professor Scott: No, the opposite. Everybody thought we would eventually get into the European Union. It may be disruptive, it may be costly and it may be problematic, but we all wanted to be there. The point I am making is that no politician in Scotland said, “If Scotland becomes independent, we should also leave the European Union”. The point I am trying to make, and I do not want to overstate this, is that the Scottish pro-EU disposition was reinforced by the referendum campaign almost by all sides.

Baroness Wilcox: But not enough for them to take the chance.

Lord Trees: The irony, surely, was that the fear that Scotland would not be in the EU caused quite a number to stick with the UK. That is ironic, given where we are now.

Professor Scott: That is exactly right and, in a sense, the irony is the base of this question about public opinion in Scotland.

Lord Jay of Ewelme: What is interesting in what you are saying is not only is public opinion in Scotland more in favour, but the salience of the EU in the political debate more broadly in Scotland is much larger than it is in England. That is quite a major difference between the two.

The Chairman: Also, the logic of what you are saying, and I am putting this in simplistic terms for the purposes of the argument, is that if the United Kingdom “let us down” by voting to leave, at that point we would have to look at the alternative approach, which is to apply for membership or use an accelerated or political procedure.

Baroness Wilcox: Yes. We know that.

The Chairman: Can I ask a very small point on this? You talked about the Polish community and there is an issue, which I have noticed is in a briefing paper to the Scottish Parliament EU Committee, which I do not think has surfaced very much in the UK generally in the argument, about acquired rights. Do you see that as being a serious issue with people, in terms of their legitimate expectations to work here or, if they are Brits, in other parts of the UK? It seems to me that is a pretty legally fraught issue.

Professor Scott: I am not a lawyer; I should make that clear. I am an economist. The paper that the adviser to the Scottish Parliament Committee produced a few days ago was very compelling on the complexity. This was an issue that also came up in the Scottish debate, and some very learned colleagues in European law argued that Scottish people had acquired rights under EU citizen law that simply could not be ignored and the EU was under an

obligation to recognise those rights in the debate about Scotland's putative membership as an independent country.

The Chairman: I think that David Edward was arguing that point.

Professor Scott: Indeed, he was one of those, and few people are wiser on the intricacies of European law than David. It is a very interesting point, but I am not competent to comment on that.

Q99 Lord Whitty: One of the big issues, as far as the UK is concerned, is migration. A lot of different aspects of migration tend to get bundled up, but the Prime Minister has made it clear that, in relation to intra-EU migration, he wants an outcome that controls migration into the UK. The politicians we saw earlier today said that Scottish public opinion in general does not want to see discrimination against other EU citizens in the way that certainly the original formulation on work and benefits and so forth would have led to some discrimination. Is it your view that that is where general Scottish opinion is? If so, why is it so dramatically different from English opinion, from the media approach to these things and from general political discourse down south, which sees migration as the big issue and, in a sense, if David Cameron does not come out with a solution on migration then he will have failed?

Professor Cram: Migration is quite a diverse issue even in England, to be honest. It has great popular appeal, but it is more located in certain pockets, particular communities that are under threat, if you like, from the UKIP vote, rather than being general. In many ways, a lot of the debate in Scottish public opinion is not that different from, say, London, where you have a much more multicultural and much more open attitude to migration.

There are some interesting statistics on that, though. Some of our colleagues—Ailsa Henderson, Charlie Jeffery and James Mitchell—did a study and some of the details, when you burrowed down into how people feel about migration and such like, were not as hugely different across England and Scotland as one might have expected for the attitude towards the EU. But the way it has been linked with the EU is very different and, even if an individual might not be as pro-migration as they appear, they are also not as strongly anti-migration. It does not mobilise them in the same way and it has not been linked with EU membership in the same way. Disentangling it a little bit is worth while. The other aspect is the conversation about how Scotland sees itself, how that narration has played, which is, in part, to do with the demographic situation, but also, in part, to do with a governmental position that is speaking to a public. There is a formal position that Scotland welcomes refugees and that is important. The relationship between that public face and things like the Scottish Refugee Council have had an input into that kind of conversation and is relevant to that distinction.

Lord Whitty: Is that a quasi-ethical position or is it demographic: that migration puts great pressure on public services and, in any case, you need the skills?

Professor Scott: It is interesting to reverse the question and ask why this is such an issue elsewhere and we may be normal. To me, there are three things that perhaps inform this. One is Euroscepticism, this political movement. We did, of course, have one MEP returned from UKIP, but Euroscepticism has been a non-starter in the body politic of Scotland. Laura is much more au fait with this than I, but across the political parties and the trade union movement since the late 1980s there has been no prominent anti-European political voice in Scotland. We had people like Teddy Taylor, of course, who was very prominent, but that voice left and since then there has been no leadership of the Eurosceptic type in Scotland.

That is one issue. The second issue is the abuse of the system. I sometimes wonder to what extent migration and the abuse of the welfare system are put into the same bracket. The fact is, of course, we know that migrant workers are not able to abuse the system. Anybody can abuse the system illegally, but the system is not perennially abused. But people believe the system is being abused. People believe there are welfare tourists.

Lord Jay of Ewelme: Do they believe that in Scotland?

Professor Scott: I do not think there is any evidence they have this view that the system is vulnerable to abuse. Some of the press in England, which does not play so strongly in Scotland because of the political dispositions, present migration and abuse of the system almost as conjoined issues. I do not think linkage of the abuse of the welfare system to migrant workers is at all in play in Scotland. That is the second issue. Many countries are concerned about the potential abuse of welfare systems, not only by migrant workers but by anybody, by indigenous people. The Dutch are on record as saying, “We must look at posted workers directives and so on to make sure this does not happen”. The third thing is the demographic and labour market issue. In Scotland, we are a small country and the whole question about demography and migration has become quite a prominent part of the economic discussion. Colleagues in Glasgow have done a lot of work on the demographic time bomb that Scotland is facing.

The Chairman: This is things like the skills shortage, for example.

Professor Scott: The skills shortage, but also young people entering the labour market who can pay for us older people when we move on to retirement. There is very acute awareness, because the Scottish Government, the trade unions and academics speak about this potential time bomb. Particularly as taxes are devolved and the tax base in Scotland becomes a much stronger driver of future entitlement, this issue about whether the labour force is sufficiently agile, young, robust and trained to service this ageing population is a very big question in Scotland. It is quite a prominent one, and most interlocutors argue that inward migration is necessary and desirable in Scotland. I do not think we have the same characteristics, so we have to try to disaggregate this question of what causes the migrant worker backlash, if you can put it in such simple terms. I am not sure we have disaggregated that enough to understand why it is so prominent in parts of Britain but less prominent in others, so we may be more rational about it, if I might suggest.

Lord Whitty: It might be the very fact that the demography is a bit different. It is not hugely different in terms of age, but it is a bit different in terms of the skills base and where the work is going.

The Chairman: Generally, you are not getting day-to-day problems in, for example, shortage of school places or reasonable housing or whatever.

Professor Scott: Not to the extent that one reads about. It comes to Laura’s point about the conversation we have had with ourselves over two years: who are we? We are a small, open society and the Scottish Government, to their credit—and this is not a political comment, because I think all political parties in Scotland have sung the same song—have said that we welcome diversity. They add richness to our society. They are not to be seen as outsiders. Even over the Syrian refugee question, our former First Minister and our current First Minister are certainly on record saying, “We want to see more being done to address this crisis of refugees”. “Scotland welcomes refugees” is the kind of thing that is running in local newspapers in communities where refugees from Syria are being housed.

The Chairman: That does not generate a backlash, then, with people saying, “How dare you say that?”

Professor Scott: Not in so far as I can detect.

The Chairman: I am pleased to hear it.

Q100 Baroness Wilcox: The Prime Minister argues that all the different proposals, promises and agreements on the single market, on trade and on cutting regulation should be brought into one clear commitment that writes competitiveness into the DNA of the whole European Union. Are such priorities shared in Scotland?

Professor Cram: Yes.

Professor Scott: Yes. One of the ironies of devolution is that, for almost everything, Scotland and rUK are singing the same song over environment and agriculture. There are differences, of course, but it is difficult to find something on which we are implacably different. On competitiveness, the only qualification I would make is that the Scottish Government—and, indeed, Scottish trade unions and other social and civic actors—have made a greater play of the social side of the European Union. It is not competitiveness at all costs, but competitiveness within the context of a social contract. I think that reflects the political disposition of Scotland, which is different in the body politic than perhaps it is in England, so I think competitiveness, yes, but not at any price. I am now saying this as my casual criticism: there would be a clear qualification to that that says that it must be within the context of a social charter or a social contract to ensure that it does not mean driving down standards or wages. There still has to be a fairly socially inclusive approach to competitiveness, if that is not a contradiction in terms.

Baroness Wilcox: I thought that would be your answer, and I am pleased to hear that it is, but there is a problem with language. Some people really find words like that difficult to take. They do not even like them. They can hear what it means but they like to hear it in different words. Some of the words we heard this morning include “solidarity” and “mutual support”, which I am much more likely to hear here than I am where I live. The use of the words is really one of the problems for us going into this next stage.

The Chairman: On the converse, we heard some pretty critical comments about TTIP this morning. I do not want to caricature it as the work of the devil, but there was a real worry about this being some sort of secret sense of subverting the social order.

Professor Scott: That is an entirely different subject.

The Chairman: Indeed, and I should not lead you.

Professor Scott: I would love to respond to that, but I shall not at this moment.

The Chairman: I am grateful for your self-restraint.

Lord Whitty: This is part of the same point, really. It is difficult to argue with greater competitiveness and better regulation, but it seems that, among the politicians we saw, there was a suspicion about precisely what you say: that this was a bit of a cover for reducing social protection and areas like that. That reflects the cultural difference that you are talking about, but it does not seem that what is likely to be agreed on the competitiveness agenda will either change things very much or fulfil the suspicion that they are going to take out significant parts of social protection. We do not know yet but, at the moment, there is a difference of perception on words. Words can mean different things to different people.

Professor Scott: There is a bit of a straw man going on here, I feel. To be fair to the European Commission, as one tries to be, they have, for many years now, had a Better Regulation stream, which owes much to the Better Regulation segment of the Cabinet Office that began many years ago. In doing that, they have tried to address—perhaps not successfully or as quickly as some would like—this issue about burdensome red tape coming out of Brussels. That is a longstanding complaint, particularly among small and medium-size firms.

I feel that that is a legitimate area of discussion but it does not necessarily involve changing the balance between social standards and perhaps profit-seeking, if that can be stylised without being offensive: profit-seeking at one end and social protection at the other. The burdensome-red-tape argument is being addressed quite aggressively now within the Commission. The REFIT programme is a very ambitious and aggressive piece of work that is now headed by its own Commissioner now, Mr Timmermans, who is trying to improve this. One of the answers to improving competitiveness is to try to be leaner and fitter, be more relevant and get rid of stuff that no longer needs to be on the statute, without changing the scope of the law.

The other question is deregulation. I would draw a distinction between better regulation and deregulation. The trouble with the word “competitiveness” is that it is never clear which one you are talking about. It could be either or it could be both. My personal view—and it is probably political—is that the legitimate arguments about improving the quality of regulation to enhance competitiveness is a very worthy cause, and it is one we should pursue aggressively. I think the Commission, to be fair, is, and few Governments would find that at all problematic.

The second argument—that better regulation means less regulation—will come unstuck, because, of course, the idea that market-making is better than market-correcting, which is the traditional British philosophy, really ran into a rather large storm called the financial crisis. Deregulation can lead to regulatory failure. We need to separate the argument for better, more efficient, more effective and less burdensome regulation on the one hand from deregulation on the other, which is a much more sensitive question, and rightly so, in my view.

The Chairman: That slides us nicely into Lord Davies’s question about the eurozone.

Q101 Lord Davies of Stamford: Can I just state, first of all, how much I have benefited personally from this afternoon? In terms of original, new insight per hour, you score very highly indeed. Thank you very much.

The Chairman: I think it is the view of most of us, if I may say.

Lord Davies of Stamford: I was speaking personally but I thought it would be the view of most of us. The Prime Minister has made much of the danger, as he sees it, of us being disadvantaged in the single market, given that an increasing number of initiatives are going to be taken by the eurozone for the eurozone. How seriously do you take that threat to our economy and that of the other non-eurozone members of the EU? Secondly, what mechanism do you think would be most effective in addressing such threats, as they exist, of that kind? Thirdly—and this relates to something said earlier this afternoon—how would you square this demand, if you were advising the Prime Minister, with his requirement that all provisions emerging from this negotiation are legally binding?

Professor Scott: Your last point is really the €50,000 question. “Legally binding” is a very high-risk statement. The first thing to say, of course, is that, in terms of the single financial

market, the Commission is legally obliged to observe the integrity of the single financial market, so that has to be put on the record. Part of the Commission's job is to make sure that there is no discrimination within the single market. The problem arises, as you rightly point out, through qualified majority voting. If we are developing new directives concerning the conduct, performance or accessibility of financial services firms to the single financial area, will there be higher standards or different standards imposed by the eurozone countries that the UK will be obliged to follow, simply because of QMV? That is a possible risk. I think it is fair to address that as a risk. There is no evidence of it thus far, but it has to be accepted.

Lord Davies of Stamford: There were two occasions: one was the financing of the ESM and the other was the threat by the ECB to deny any liquidity support in euros to clearing houses that were not located within the eurozone, but they backed off from that within about 48 hours.

Professor Scott: On the latter one, the UK need not worry too much about that because it has its own central bank and it can provide the liquidity.

Lord Davies of Stamford: No, this was euro liquidity in a crisis. These clearers would need euro liquidity if there was a crisis in the financial markets, when an awful lot of these instruments are denominated in euros. That can be provided only by a central bank that produces euros, which is the ECB.

Professor Scott: I accept that there are risks; I agree there are risks. The more interesting question, in a sense, or the more difficult question, is how you address those risks. At the moment, you will remember the UK Government got an agreement when it came to the European banking union. The European banking union is a regulator, not a legislator, but it is a regulator that has become quasi-legislative. The agreement was that a double majority would prevail in terms of this regulatory instrument, so there would have been a majority of the eurozone countries but there would also have to be a majority of the non-eurozone countries when it came to the decisions made by the European banking union.

Lord Davies of Stamford: As long as there were more than four.

Professor Scott: Yes. That, in a sense, is the model that seems to be being used as a potential model for broader questions. That raises issues about how the European Union legislates. Can that be done in a legally binding way? If it were to be done in a legally binding way, what you are implying, I suspect, is that the treaty would have to be amended *per se* formally. You would have to then determine which legal base would be subject to this particular rule, and it is a legal base concerning the operation of the single financial area. This legal basis would now require a double majority, if it was to be legally binding. I would find that virtually inconceivable to be agreed by the other member states, because you are saying that, for something that is a core proposition—the single market—albeit only one element, based on the articles you were making subject to this agreement, a small number of countries have a veto. I do not think that that is possible. You can have conventions. There is a whole range of potential agreements by the European Council to say that, in the event that two or three countries outside the eurozone take issue with this, we will have an emergency break that will be used to find a consensus.

Lord Jay of Ewelme: A sort of Luxembourg compromise for three or four, rather than one.

Professor Scott: It was actually the loannina compromise which is the model for this, when the blocking minority was reduced. The agreement was that, if the blocking minority under the old system was not met but it was met under the laws, then they would have a break.

The Chairman: It is fair to say that the Luxembourg compromise was never a veto.

Professor Scott: It was never a veto.

The Chairman: It was, “Let the discussion continue until agreement is reached”.

Lord Tugendhat: It could be said, however, that the Luxembourg compromise is now a dead letter.

Lord Jay of Ewelme: That is why you would need something else.

Professor Scott: Yes. QMV has killed the Luxembourg compromise.

The Chairman: In a sense, you are hinting after a kind of political arrangement: what I have loosely called a non-aggression pact, where you say, “We do not stop you integrating but you do not mess us about in relation to the single market”.

Professor Scott: To be fair, if the European Union wants to continue to command legitimacy, in my view the biggest crisis with the Union just now is that it is losing the trust of its citizens, not only in the UK, and potentially quite a significant number. That is a crisis for the Union, not a crisis for Britain. The Union must respond to this type of difficulty, which is a legitimate question. I do not doubt the legitimacy of the argument that says that non-eurozone countries may have to have a louder voice in decisions that impact on them. If they are always going to be in the minority and cannot block the legislation, it would be appropriate to say, “We will devise a political solution to this”. I am doubtful whether you can go as far as to say, “Let us revise the treaty”, because I think you would then be reversing, in a sense—

Lord Davies of Stamford: Vetoes are out and changes in the treaty are out.

Professor Scott: I think vetoes are out.

Lord Davies of Stamford: What might be in as a delaying mechanism?

Professor Scott: A political agreement at the level of the European Council, which would then be observed in the Council if there was a majority of non-eurozone countries. A possibility would be to have, effectively, a double-majority system, but very informally: if the majority of the eurozone but a minority of the non-eurozone agreed with it, you would hold. You would then say, “We need to take cognisance of the non-eurozone majority view and we need to reflect that”.

Lord Jay of Ewelme: Just going back to something you mentioned at the beginning, you said that one of the Commission’s jobs is preserving the unity of the financial markets of the 28.

Professor Scott: Yes, the integrity of the single market.

Lord Jay of Ewelme: Is that in the treaty somewhere? Could one build on that to say, “In pursuance of that, then something else would follow”?

The Chairman: “Should be interpreted as”.

Professor Scott: The difficulty is if the legislative process says that, notwithstanding that, this will be done by a qualified majority, which all single market issues are. This could raise a question about the integrity of the single market. The one problem with all this is the

Parliament. We must not forget the European Parliament. It is a co-legislator. If the European Parliament says, “You can do what you want in the Council. We still have to agree or, if we do not agree with legislation, we can block it”. The difficulty or the interesting proposition is that most European legislation now is passed at first reading, so a trilogue goes on before the legislation is even introduced. You are creating a complex system, which, presumably, would not be invoked that often, one would possibly expect, and it may also create a self-denying ordinance: “Let us not bring forward legislative proposals that are clearly going to fall foul”. It is a complex political dance.

The Chairman: I think we might give notice to revert to that question about crisis of democratic legitimacy as our wind-up question, so I will just mention that.

Professor Scott: Yes, sure.

Q102 The Chairman: Can I go on to ask a bit about national Parliaments? The Government’s formal position or wish is to introduce a new arrangement where groups of national Parliaments acting together can stop unwanted legislative proposals. To relate this to the democratic deficit that you have just touched on but which we will come back to at the end, do you feel that this stated approach to democratic legitimacy adequately captures, first of all, the role of national Parliaments at the top level, at the level of the member state, and, secondly, the role of the devolved legislatures and, more widely, regional or local government structures or anyone including civil society?

Professor Cram: This one is quite difficult. The House of Lords has done lots of really good work on trying to extend the whole red card procedure, and there is fairly widespread support around Parliaments generally for working on that.

The Chairman: To make a simplistic point and then leave it, I think our view would be, collectively, if you are going to have a power to withhold consent, you also need a power to promote ideas, because that is the way a Parliament works.

Professor Cram: Without an ability to be a legislator in that formal and proactive sense, it is difficult. You also have some really practical difficulties if you think of this as building on the original subsidiarity protocol and the roles for the national Parliaments—issues such as, where appropriate, the consultation of regional and local bodies. That was one of the issues that came up. Immediately, we would ask, “What is the scope of this? What would count as a national Parliament? Who gets to decide, for example, if we start to talk about the devolved Parliaments, and when and where they would be involved in that?” There were differences between what the Commission thought was appropriate and what the different Governments in different countries thought was appropriate. In terms of that, there would be a lot of issues involved.

There is also the question of whether or not that addresses democracy at all in the European Union. There is a fair consensus among a lot of the academics who look at it that that is going down a track that is a bit of a red herring. In practice, increasing the role of national Parliaments does not really touch very much on the democracy of the European Union without that proactive role to formally propose the legislation, and it would involve a lot of resource. For anybody who has been involved in the explanatory memoranda or dealing with the subsidiarity scrutiny, it is a really resource-intensive process and has not resulted in an awful lot. A real question around this is not that you will not get support—that was one of the relatively easy ones in the letter—but whether or not, having got that support, some of the parliamentary bodies will be coming back with, “This has been an

absolutely enormous resource-intensive job for us to take on, but we have not really got that much in terms of increasing democracy out of it”.

Professor Scott: I agree with everything Laura said. I think the red card possibility is difficult, because then you are changing the EU legislative system. That would have to be a treaty revision, because, if you had a red card, you are saying, “We now have three players in town: the Council, the Parliament and national Parliaments”.

The Chairman: In fairness, just to record, there is a red card procedure under the treaty about egregious breaches of subsidiarity, and the only national Chamber that has even threatened to invoke it, to my knowledge, is the House of Lords, because we got very angry indeed about occupational pensions. I penned a letter saying, “If you persist in this course of action, we would be minded to see you at the ECJ”. I would not say that we have heard nothing since, but it has rather taken the wind out of their sails, I think.

Professor Scott: The other thing is whether the scope of this national Parliament would only be for those issues that presently trigger subsidiarity or whether this would be for everything, which would be a multiple problem. I can never have this discussion and resist the temptation—I am not going to resist the temptation here either—to say that nothing prevents national Parliaments from doing scrutiny and holding their own Governments to account anyway. There is something called the scrutiny reserve that people have conveniently forgotten about.

Lord Jay of Ewelme: Except for the Danes.

Professor Scott: Absolutely, and the Danes are very diligent about ensuring that their Government, when they represent the Danish position, represent the Danish Parliament position. I am not sure why a national Parliament system of this would work any better than a scrutiny reserve system, which should ensure that, when the UK Government—or any Government—go and represent the national position, they have the permission and the agreement of the Parliament; therefore, they have a democratic legitimacy. I am not clear in my mind why this system would ultimately be any more or less successful than the decaying—if you do not mind me using that language—system of scrutiny that is common, with the exception of Denmark, across most EU countries.

The Chairman: Without suggesting that we are the only players in town, I think I ought to record a moment of some irritation with a government department which, in delicacy, ought to remain nameless. I was heard to march around the office muttering, “If they go on like this, they will find all their documents are held under reserve and they will get nothing through”, which might have been the nuclear deterrent but it made me feel much better. Just glossing on that personal comment, you have huge differences in propensity, appetite and capacity for doing the scrutiny work. In addition, of course, you are negotiating with 41 national Parliaments. I do not think anyone would wish to claim—you know we have written on this and so forth—that it would be the end of these issues, but it is an interesting perspective. Please, carry on.

Professor Scott: Could I just add a quick note to that?

The Chairman: We are all right for time if you are. We are finding this fascinating.

Professor Scott: No, I could talk about this all day.

The Chairman: That is all right.

Professor Scott: This is fun. The difficulty, if you want to put it in an ever broader context, is that, if you think about the EU as a regulator, most of the business it does is really

regulation, not big politics. The risk I see with giving more power to national Parliaments is that you will then be engaging what are quite technical regulatory questions with broader political dynamics, and I am not sure that that is in the service of a single market. Without proselytising for the single market but assuming we all agree that the single market is good in terms of free trade and improving growth and opportunities, my worry about giving national Parliaments too much power is that these important regulatory questions of directives, for example, on clean water or whatever it may be will suddenly become enmeshed in a broader debate about whether we like the European Union. You may stop and somehow halt good progress being made, which leads to good outcomes, on the basis of political spin or political positions.

Lord Davies of Stamford: The British invented QMV in order to create a single market.

Professor Scott: Yes, absolutely. This is the irony to most commentators I speak to: “You invented the single market; why do you want to leave it? It is in your own image”.

The Chairman: It is also fair to make the point that you have the dynamics of the relationship with the European Parliament, to which we are sensitive, if I may put it that way, and I think there would be, should I say, a certain lack of appetite even among these excellent colleagues for having to embark on trilogues. We are not going to pack our bags and go to Brussels every week. I am just trying to distil this: you have a limited role but not, as it were, taking the democratic train by enhancing the role of national Parliaments.

Professor Cram: The converse of Drew’s point is true as well: that it is not just what effect it might have on the negotiations or regulations at EU level, but if a huge amount of national Parliaments’ time is tied up in scrutinising every technical regulation that comes out of the EU, it also has democratic implications at home, because that is where your scrutiny time is tied up.

The Chairman: Yes. We begin to work towards a close,

Q103 Lord Trees: The fourth issue in the Prime Minister’s letter to Donald Tusk was sovereignty, which we have not touched on much. It has been mentioned, and I suppose the nub of that were these words—and we have asked all the people we have been meeting over these weeks about these words—“ever closer union”. What is your interpretation of them and do you think those words are a problem for the Scottish people?

Professor Cram: I do not think “ever closer union” is of any salience to the public anywhere at all. It is one of the issues that those of us who are involved in it know about, but most people would not—

The Chairman: It is a beltway issue.

Professor Cram: Precisely.

The Chairman: Do you take that view too, Drew?

Professor Scott: Yes, but I do not think it is about salience. I would like to come back on that, if I may.

Professor Cram: The issue with ever closer union was fascinating, because, first of all, it is a preamble aspect, so it affects the spirit of the interpretation of the law but not necessarily the practice of the interpretation. Opting out, even in a protocol, will not change that affecting the spirit of the laws, but the law will be affected by the preamble to the treaty, so that, symbolically, would be less effective than one might think. The other aspect is that the provision on ever closer union embodies a commitment to differentiated integration and a

recognition that we could all progress at different stages. It is one of the two formal statements that say, “We know that the UK does not want to have ever closer union and, therefore, you can progress at the rate you like”. It is mostly used for openness and transparency requests now, so that is one to be a little careful with, in terms of making sure that you do not throw out the baby with the bathwater.

Lord Trees: A very good point.

Professor Scott: David Edward would be very annoyed if I did not say this: as he always says, it is an ever closer union among the peoples of Europe, not among the states of Europe.

The Chairman: We always say that.

Professor Scott: He is very determined and insistent, and he has done a lot of work recently on the genesis of this argument. You can do a lot worse than invite David to contribute to this discussion, because he has done a lot of work on this question: where did it come from and what does it mean? As a former member of the Court, he would know the extent to which it was reflected in Court discussions. One thing, of course, is that it would require treaty revision. Again, is it worth the candle as far as that goes? Ultimately, one of the big questions in all this debate is how much it requires treaty revision and how significant it is going to be. I think the difficulty for some countries might be that they see this as almost the same as the idea that there should be more than one currency for the European Union. They may see this as an attempt to create the principle of a constitutional, fragmented Europe. The ever closer union among the peoples of Europe implies that it is unidirectional and not reversible. That is perhaps a common-sense interpretation of it.

The Chairman: This is one reason, to be honest, why the Eurosceptics claim not to like it.

Professor Scott: No, absolutely.

Lord Jay of Ewelme: Is Europe the EU at that stage, or is Europe in that preamble more general?

Professor Scott: I cannot answer. That is an interesting question.

Lord Jay of Ewelme: It is more general, of course. It is a very noble thought.

Lord Tugendhat: Can I take up your point about being unidirectional? You said earlier—and I completely agree with you—that this Commission is doing very good work in undoing a lot of regulations that have passed their sell-by date and, indeed, implementing the view of the Dutch, like Mr Timmermans, that what should be done nationally should be done nationally, and what should be done centrally should be done centrally. I do not know what is in the Prime Minister’s mind but I think that, by focusing on this phrase, he is trying to demonstrate to the British people that not everything has to flow one way, but that things can flow both ways. In securing that point, I think he makes a very powerful point in terms of the British electorate. He is able to show that we are members of the European Union but we will not, in future, have to do anything that we do not choose to do. In the real world, that may not be an enormous change but, in terms of the psychology, I think it is a very important change, which is why I think he is going for it in such a big way.

Professor Scott: I was wrong. You are right. You are absolutely right. I was misleading you. The treaty now says powers can flow back. The treaty itself will require to be changed for that to happen, as well as secondary legislation. You are absolutely right on that. You are right too on the psychology point. The question is: what is the psychology point from the other side of the argument? What does it mean psychologically for our partners? I would try

to make a reasonable case to say that, if Britain gets an exemption from that—and I agree with Laura that this is not the stuff of high politics—

Lord Tugendhat: It is not an exemption; it is just saying that people interpret it in different ways.

Professor Scott: I think that is already clear.

Lord Tugendhat: That is clear. He has got that point.

Professor Scott: Yes. If he formally wishes Britain to be exempt from that recital—my understanding is he wants a formal exemption for Britain from those places in the treaty where that phrase is used—that will require a treaty revision, because it would be part of the protocol that would be bundling up these exceptions. From the perspective of the Union, however, I wonder how that would be read. The Union has always said, “We are going in the same direction at different speeds and, through enhanced co-operation, some countries can go further, if they have a minority who wish to do that”, so that is all provided for in the treaty. “We are all going to the same place” is what is implicit in that. This is purely speculation on my part, so I am not holding this as a strong intellectual argument, but I just wonder, if you are sitting on the other side of the channel, if we have countries exempt from this foundational principle, does that mean that we are into a variable geometry Europe almost as a constitutional reality, and that countries can now use that recital to exempt themselves from certain bits of the puzzle?

Lord Tugendhat: When you say that people say, “We are all going to the same place at different speeds”, I would slightly query that. Putting it in rather absolute terms, Monnet was going to one place and de Gaulle was going to another place. One of the things the European Union has very wisely done is not to define the finalité. Therefore, there is a danger in this discussion of angels dancing on a pinhead. Everybody recognises that a Union of 28 is different from a Union of six or nine and that, therefore, Bulgaria and Belgium are not going to end up in the same place. Everybody recognises that.

Professor Scott: I rather think my point was: if it comes to a treaty revision and there is going to be a treaty revision at some point, could Britain invoke this exemption to say, “Well, guys, we do not have to seek a derogation but we are going to invoke our exemption from the ever closer union and we are simply declaring, without negotiation, that we will not sign that part of the treaty, because we now are exempted from this”? My question is: is it just as irrelevant as people imagine, or could it be used in a more purposeful way subsequently? I am not saying that that is good, bad or indifferent; it is just a question in my mind. I do not think anything is just trivial.

Lord Tugendhat: This is not trivial.

Professor Scott: No, I was not implying you said it was trivial; it was more the public’s view.

The Chairman: Is it not also possible to interpret your remarks as saying that you are moving from a Europe from where exceptions work by exception to a situation where exceptions are as a rule or may be adopted by individual member states as a rule?

Professor Scott: You are putting it much better than I ever could. That is exactly what I was trying to convey.

Professor Cram: The “dancing on a pinhead” is really important in terms of this being a pressure valve for the EU. The great trick of European integration has surely always been to not define where it is going and to make differentiated integration and variable geometry

part of what has allowed it to continue and flow. As soon as you squeeze it into something that is very tightly interpretable, that is when you can see the implosions taking place.

Q104 Lord Trees: I love this term “differentiated integration”. Andrew, you say that everybody is moving to the same place. I think the British people would like to know what that place is. Can you tell us?

Professor Scott: It is the dynamics of that that really have set in motion this whole question: where are we going in this European Union and is it now, through this kind of spillover logic, becoming something that is completely unrecognisable to what we signed up for? That, essentially, is the foundational question about which this referendum is being held, because that is the argument. Has this now moved from being a simple common market, although common markets are never simple, into something which is much grander, more ambitious and more inclusive of areas of political sensitivity—home affairs, foreign policy or migration—that we never bought into? We do not have a common place we are going to, but the knock-on effects of where we have been are sending us to other places. The Schengen agreement is now part of the propagation of the crisis through the refugee system, which was a totally unexpected, unforeseeable and unpredictable result. I think that raises questions in the mind of many publics, not just the British public, because this system has now gone to a place where nobody really expected it to go. How do we stop this automaticity and this direction of travel?

Lord Jay of Ewelme: That is true of the EU, of Great Britain and of almost any political entity: you do not know what the future is.

Professor Scott: I am not trying to make an issue out of that so much. It was more whether the exemption from an ever closer union matters. It matters rather more than simply being symbolic. It could have substance as we proceed.

Lord Tugendhat: Coming back to my Monnet/de Gaulle thing—and you may think that what I am now going to say is far-fetched—there was a time when there was only one form of Christianity in western Europe, and that was Catholicism. We then moved to a time when there were different forms of Christianity in Europe. I am not suggesting that Protestantism is a less valid form of Christianity than Catholicism, or vice versa—although lots of people did—or that Calvinism is inferior to anything. We are now in a situation in Europe where, by virtue of the scale of the operation, it is clear that the European faith has many mansions in this church—or whatever the hymn says—and that to try to define Europe as meaning one thing is out of date and now extremely unhelpful.

Professor Cram: I do not think you ever could. That is exactly the story from the beginning, from the fact that it was sold as this technical, functional co-operation, but Monnet had a vision behind it. Again, that great trick of European integration is that every single one of the member states has been able to frame it and narrate it to their publics at different stages and in different ways, and trying to tie that down is where you get into trouble.

The Chairman: I am going to work this towards a close.

Q105 Baroness Wilcox: Following the statement you just made, this may not ring so well, but it has concerned me, in the years that I have worked and lived within the European Union—I lived in France—to try to understand, from my common law, what law it is that we are working with in the European Community. It tended to be a common law for us, for the people down there to start bringing something up. We will all agree it and then we will particularise it. When we have particularised it, we will enforce it on our people. When I lived in France—and particularly in regional France—I lived in three completely different

regions of France, always by the water, because of the fishing industry, and it used to fascinate me that a law would come through and they would all agree it, but nobody would do it. It was aspirational, like the Ten Commandments: “I know I should not have slept with my neighbour’s wife, but I did, and I shall try ever so hard not to do it again”.

Lord Tugendhat: Or the neighbour’s husband.

Baroness Wilcox: These are modern times. I wondered how often that makes it difficult for us. We tend to take these laws as they come to us from the European Community, and treat them as our common law, and we work so hard at trying to impose each one of them and particularise each one of them. For us to bring a law through or an agreement through, say, “Let us all have a chat about it”, and then do it our own way is not our way. It is not our way to do that. It is our difficulty in Britain to have this common law when we joined an organisation that was not based on it, and it still holds for us a great deal of difficulty.

Lord Whitty: I would just underline that. Let us focus on transposition and the way that English government lawyers transpose. Some call it gold-plating, but it is particularising, to use your term. I always remember, after foot and mouth disease, we had a movements directive, which was about 12 pages long. The lawyers, in their first draft, brought out a 78-page document, but I managed to get them to go away and get it down to about 20 pages, which I thought was pretty good. Then I found that the Irish Government had got it down to seven, probably in two languages.

Professor Scott: We are in the area now of more general discussion, but I would say two things. One is the gold plate, and that is where I was going with it as well. There is an accusation or an assertion that the difficulty with Britain is that they make it difficult for themselves.

The Chairman: Do other people say this about their own laws as well?

Professor Scott: Yes. This is perhaps an urban myth or perhaps not, but there is this view that the regulations that come out of Brussels are then gold-plated, because Britain is diligent and compliant. The statistics do not demonstrate that we are top of the compliance league, but we do well. This really is because we over-implement and we over-transpose. There is a much bigger question that almost goes back to your comments about constitutional tolerance. The EU has been characterised by a high level of constitutional tolerance over the years. Different constitutions can coalesce within the framework of the EU. This is purely speculative, but I wonder if that is a condition that can continue. Of the multiple crises that affected the Union, the eurozone crisis is perhaps the most legally important, because it will spawn the most legally complex, sophisticated and comprehensive response, and it has done already. But the refugee crisis could possibly spawn an immigration discussion, because we do not have a common immigration policy as it exists in the EU, and of course foreign policy, given what is happening in other parts of the world.

I just wonder—and I cannot back this up in an academic sense—sometimes whether the constitutional tolerance that you spoke about, which allows a thousand flowers to flourish within this forest, is something that can last. The European Court of Justice always has been, from the 1960s, a constitutional-type court. On the question of Britain’s renegotiation of membership, we have to have a very keen eye on how these discussions, decisions and outcomes will play within this legal framework, because the European Court of Justice is answerable to no politician. It has made that clear time and again. In a sense, that takes us the full way round to the question of how Britain can reconcile its constitutional integrity, which, it seems to me, is the very foundation of this discussion, co-existing within a system that has always been constitutionally tolerant but which, perhaps, is reaching—

Lord Tugendhat: If you look at the United States Supreme Court—and I am not a lawyer, I hasten to add—it moves with the times, not in step with the times. The judgments it makes about same-sex relationships or colour and equality, for instance, it would not have made in the 1940s or the 1930s. Indeed, it takes decisions now—and it always has—that, in effect, reverse decisions it took earlier, because public opinion and social mores have changed et cetera.

Professor Scott: There is at least one Supreme Court Justice who does not agree with that and who goes back to foundationalism and says that the Constitution is the document and nothing should change. You are right: the Court of Justice has recently made decisions about “welfare tourism”, to use that unpleasant but none the less quite descriptive term, which have changed, and certainly they have been received very well in London because they imply that there are limits to which citizenship does not bestow advantages of that nature, but there is a difference between citizens and workers, of course.

The Chairman: Thank you. I would like to draw the formal session to a close. Witnesses have been intensely helpful, as Lord Davies said and I think we would all feel. I am conscious that we left an end exposed, which you might like to reflect on. It may be published material or it may be that you would like to write us a letter. That is the question about what you said was the existential issue for the Union, which is its disconnect with its citizens, because I think that is interesting. Although it is not strictly relevant to this immediate inquiry, it would be very useful to add anything you wanted to provide on that. We can perhaps take it off balance sheet now and revert to a little conversation, if you want to have one informally, before people go. We must let you go and we will need to go in due course.

We want to record our thanks. This has been immensely helpful, as I hoped it would be, in sparking some of these ideas and giving some light and shade, and some very serious longitudinal perspectives on what is an immediate and may become a febrile debate.

Alun Davies AM, Suzy Davies AM, Rt Hon Lord Elis-Thomas AM David Melding AM, and William Powell AM—Oral Evidence (QQ 22-27)

Evidence Session No. 3

Heard in Public

Questions 22 - 27

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Baroness Falkner of Margravine

Baroness Prashar

Baroness Wilcox

Examination of Witnesses

David Melding AM, Alun Davies AM, Suzy Davies AM, Rt Hon Lord Elis-Thomas AM, and William Powell AM, Members of the Welsh Assembly Constitutional and Legislative Affairs Committee

Q22 The Chairman: Good afternoon, colleagues. Perhaps we may start our formal session. Let me say that the Chair of your Committee, David Melding, is no stranger to our Committee, because we collaborate very fruitfully on the so-called EC-UK mechanism, and I suspect that will feature quite a lot in what we want to talk about, which is to get a better handle on understanding how the devolved Administrations can get their voice and their interests across, and whether anybody at Westminster or in Whitehall is listening to them. That really is central to our Committee's concerns. Beyond that, we have moved from a first-grain approach looking at the Government's reform, renegotiation, referendum process, to a further one, which is now called "Visions of EU Reform". That is really to try to pick up whether there is any common set of themes or agreed areas into which we might be going.

For the record, I know it is true on our side but I also know it is true on yours: it is a highly representative gathering and certainly, while I do not mean people do not have their political views or are in any way frightened or inhibited about declaring them, generally speaking, our Committee operates pretty much in the spirit of multi-partisanship. We are not particularly committed to any one political viewpoint. We are, I hope, between us collectively, objective searchers after truth. We know you are doing an inquiry, and we are doing one, too.

There is one thing I would like to say and put on the record before we start, and that is huge appreciation to you as the Deputy Presiding Officer, David, and your staff for the arrangements made for us to be accommodated here. I think we have worked out that this is the first time a Westminster Parliamentary Committee has ever broadcast its proceedings directly from another legislature, and that is a first for us both. I hope that will characterise the spirit we are in. We have about an hour, if that is alright for you. Unless you want to take time on introductions, I think we probably know who we all are.

David Melding: Could I just return those thanks and say how delighted I am, Lord Boswell, that your Committee is here this afternoon. I have to say, I was at a meeting in Portcullis

House this morning, and I have hot-footed it back here, which does demonstrate how interrelated we all are at the moment, so that is something we should note.

Q23 The Chairman: Fine. If we may kick off, we will try to make this as much of an informal conversation as we can. We know you are doing your inquiry into EU reform, and, clearly, it would be improper and we would not wish to prejudge the outcome of your inquiry, but does your Committee feel it has a clear understanding—I suppose the demotic word is a “handle”—on what the United Kingdom Government are seeking to achieve in the discussions on EU reform ahead of the referendum—and are these objectives in any sense achievable?

David Melding: We have recently returned from Brussels; we were out there last week. We had extensive briefings and we have been following the latest in terms of the media. The *Guardian* had an authoritative report, it seems, and the *Economist* had a long article this weekend. With all that about the four pillars or the four baskets—whichever phrase you want to use—it seems that the core of the UK Government’s negotiating position is known, but it remains a very large, impressionistic one, it is fair to say. One thing we have found—at least it is my view from the evidence I have seen—is that the review of competences, which originally was, perhaps, thought likely to be the basis of more thoroughgoing and slightly more technical negotiation, does not seem to get referred to very often. There are those who surmise that the review of competences has more or less demonstrated that the balance of competences is broadly right.

I have to say, we have found that slightly strange, because the silence around the status of the review of competences has dislocated our own participation to some extent, because we did give evidence, and I think the Welsh Government were involved as well, and that did seem quite a good way of perhaps bringing in the devolved Administrations. Now we have ended up with a more guarded approach by the UK Government, though they are revealing a little more leg now, if I can use that description. There is some frustration that, while they are not having negotiations in secret necessarily, there has been a lot of privacy in their approach.

The Chairman: Responding to that, first of all on the specific issue about the balance of competences, which, of course, we reported on and indeed have debated, I share your overall analysis, and the Committee would. It is interesting that the Minister of State for Europe, David Lidington, has referred, in evidence to us a few days ago, to the fact that the Government may wish to draw on some of the conclusions on the balance of competences, both on technical issues and specifically on issues that affect the devolved Administrations. That may be worth our both, and in parallel, tracking.

It would be quite interesting if I could just ask one question and then leave it to colleagues to come in after that—for a bit, anyway. Do you have a sense in which there is a proper information net to you, as elected Members of a devolved Administration, about what is going on? If there is not now, for reasons that may be about negotiating integrity or otherwise, do you feel that you will be told in enough time to do your democratic job?

David Melding: This is something we are reflecting on. We did do a report a couple of years ago on Wales’s voice in the EU.

The Chairman: A very good report it was.

David Melding: We found that the system was fairly robust but informal. The JMC Europe was working well, broadly. There was a lot of behind the scenes co-operation in preparing the speaking note and the contact between civil servants, but I am not sure on something as

big as this. At the end of all this, it is not whether we think the Government have negotiated a good or bad package; it will be: do the British people, of which the Welsh people are obviously a fundamental part, want to remain in the European Union or not? That is actually what all this is about.

The Chairman: It is the question.

David Melding: That is where the weakness comes in. The old informal systems are getting stretched by the enormity of that particular question. I think a lot of people fear that there is a chance we will find out quite late in the day and then that that level of scrutiny will not really be a part of the process.

The Chairman: Would it be fair to say, across-party, that when the day arrives that the Government come back, presumably with some message of success, possibly of failure but I think more likely the former, and say, “This is what we have negotiated”, will you feel it is a function for the Assembly, its Members individually and their political groups to disseminate that kind of information among the people of Wales so that there can be a grown-up dialogue about it?

David Melding: It is important that we reflect on some of these themes if the Government do come back and say that they have negotiated some fundamental changes, because they are likely to affect devolved competences. In any event, we may touch on this separately, but the whole constitutional fabric of the United Kingdom, it seems to me, will be affected by the decision that is made in the EU referendum. These things are very much bound together now. It has a huge potential impact on what will happen to Welsh governance, so, yes, it is very important that we are fully involved, as the citizens will be, in the actual decision. We are an important part of that. You cannot divorce this or regard it as somehow a competence based so much on Westminster that the whole referendum then will emanate from Westminster politics. You will find that a lot of what happens, the dynamic, will be generated in Edinburgh and Cardiff as well.

Baroness Prashar: Can I ask a follow-on question to that? You make a very interesting point about whether we want to remain in Europe and the scrutiny process, but, even if the Prime Minister comes back with a package of things we have negotiated, the technicalities of that will not really interest your citizens. On a broader view, do you think there is work to be done in terms of developing a narrative as to what those negotiations will mean in practice and what the shape of Europe will be as a result of those negotiations?

David Melding: My colleagues may have views here. If the review of competences was to set out this profound imbalance that had to be corrected, then you could measure the actual outcome of this negotiation that way. That is clearly not going to be the case now. It seems that we will really be asking a very existential, broad question. I suppose those that have come from a somewhat Eurosceptic direction but ultimately want to remain in the EU have to find big-picture narratives. Otherwise, you are going to end up saying, “I know I have said all these things for 20 years, bad-mouthing Europe, but by the way, three weeks next Thursday, vote to remain in”. It is not going to be very coherent, potentially—but Members may have different views to me.

Alun Davies: Can I just say, I do broadly agree with David’s perspective? Looking at this from the point of view of this place here, the UK Government have always taken the view, “The relationship with the European Union is a matter reserved to Westminster, and therefore we take precedence”, and the rest of it. That rather brutal constitutionalism has always been delivered in a very soft and gentle way, in my experience. I joined the UK ministerial team, as a Minister from this place, as part of CAP negotiations as Agriculture

Minister. We attended Council and the rest of it and we worked as a team—clearly not a team of equals, and we accept and understand that, but we worked together as a team, and, as David explained, we had conversations about the lines that we would take. The approach we took was one voice but with different accents, if you like. It was a very easy way of working.

With these negotiations, of course, we are outside of that process. As Agriculture Minister, you would speak to your colleagues in London, Belfast and Edinburgh on a regular basis, so there were no surprises, and we had evolving policy positions that we took. With this renegotiation, it is outside all of that, and so you would not necessarily have that existing relationship upon which you would build. My understanding is that the United Kingdom Government take decisions through the Cabinet's Europe Committee on many of their European positions. Well, this is probably outside of that as well.

The UK Government find themselves arguing on issues of sovereignty, for example, and the role of national Parliaments. What does that actually mean? What is the role? I presume, by national Parliament, they mean the United Kingdom Parliament in Westminster. What does that mean for agriculture, where the UK Parliament had virtually no competence outside England anyway? Are they negotiating for us here to have that veto or to have that role, or are they negotiating, as English Ministers, for an English Parliament to have that role, whether we are involved or not? I have no idea; I have absolutely no idea on that.

This is a real issue for the UK. We talk about devolution and the powers here and there, but we do not talk about the United Kingdom Parliament, the United Kingdom Government and what the point of it is in future. As such, I would be interested to understand how a UK Minister would go to Brussels or wherever and negotiate a position over which they themselves as a UK Minister have little competence because it has been devolved either here or elsewhere. Therefore, are they representing us or are they representing an England perspective? That is something that is quite difficult for us. I am not entirely sure—I will let the Welsh Government speak for themselves—that there has been that informal, if not formal, debate and discussion about the evolving UK position which enables a UK Minister to be able to speak with certainty on behalf of the UK as a whole.

The Chairman: May I perhaps respond? I probably ought to declare an interest, not only as a farmer but also as a former Agriculture Minister, albeit in pre-devolution days. I can report that, as an English or British Minister—according to taste—even in those circumstances, we were very sensitive to the colleagues in the Welsh Office agriculture department, as it then was. I think we did our best to be sensitive to that.

Having declared that interest, the point that I would just like to explore is that your comments are not merely tied to the referendum and renegotiation campaign now, but they are talking about a systemic problem for the United Kingdom in any subsequent arrangements, because you might be seen to have English Ministers going to do business in Europe, or indeed externally, that might have little relevance to the devolved territories and devolved Administrations, just to be clear on that.

Alun Davies: The memorandum of understanding on these matters was rewritten by William Hague about two or three years ago, and improved as a consequence—significantly improved. In my experience over the last few years, we have not come to a situation whereby the UK Minister has said to their colleagues in Wales, Scotland and Northern Ireland, who might have a united view—it might have come to this on GM actually, but it did not—“I understand the views of your Governments; however, I am the UK Minister and I am going to ignore them”. It never came to that, but it is a reasonable question to ask about

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who sits in that seat. Is it a UK Minister or an English Minister? If it is a UK Minister, what is the UK position? It has to be more than an English position.

Q24 Baroness Falkner of Margravine: Wearing a hat from my previous Select Committee, we did a report on the relationship between the devolved Administrations and Westminster only last year. We took quite a lot of evidence on this particular issue about whether the UK Minister representing the EU part in European institutions worked or not, and the extent to which it worked. We came to the conclusion, if I remember correctly, that what we heard back from the devolved Administrations was that that was one part that was working in the Joint Ministerial Committee Europe. Also, we came to the view that, therefore, we recommended that the position of Secretary of State should be retained for the devolved Administrations, in order to make sure that, at Cabinet level, there was input from the devolved Administrations, at a very high level. It seems to me that it is clearer than you are presenting it to be.

Alun Davies: It works because of good will. It works because of good will and because you spend a lot of time with people in these meetings and you have the opportunity to sit and to talk things through. I would say that, as devolved Governments, we should represent ourselves rather than have a Secretary of State doing it for us in a different way. It would be difficult, with the best will in the world.

Baroness Falkner of Margravine: That view was not uniformly held across the devolved Administrations.

Alun Davies: I am speaking from my perspective. I think the world of Stephen Crabb, but it would be very difficult for him to represent the views of a Welsh Labour Government.

The Chairman: I think I am right in saying that Wales is more populous than six member states of the European Union, and not insignificantly so. Can I, if I may, just comment on one point? This issue of accountability cuts both ways. It is not only a matter of who is taking decisions at a ministerial level, but to whom they are accountable. If you are an AM and you think there has been a rotten deal on agriculture, the only forum in which you can raise that, other than by correspondence, is through the Assembly. Conversely, if it is a UK triumph and you were a Member of Parliament in Westminster, you would have a different take.

I am sensing, and I do not know, to save time, whether colleagues from your Committee would assent, that there is a constitutional discomfort about that. I do not want to gloss or take you to conclusions. You have said it works because there has been general good will and decency, but clearly it is under some strain when you have UK Ministers, whatever their party, negotiating on a specific, high-level, sensitive international issue such as the renegotiations, where they certainly do not share it with us, and it appears to be clear that they do not share it with you either. Is that pretty reasonable?

Lord Elis-Thomas: I should comment on my period as Chairman of the Environment Committee here. We did a lot of European work; it was the time of the renegotiation of both the common agricultural policy and the common fisheries policy. Of course, we have other routes that we take. In practice, we speak to the Irish; we speak to the MEPs; we speak to the officials that we know in the Commission. The thing about the whole European debate is that it is not configured in the old nation-state model. Whatever formally exists for the UK, it also exists very powerfully north and south in Ireland, because they obviously have that common interest; and Scotland, of course, we tend to disagree with on fisheries

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and on other matters. But, generally speaking, we have those relationships, which are part of our global, general involvement with the EU.

The other point I would want to make is that there is a long-running narrative about European regions, of which many of us feel ourselves a part—those of us who have had a cultural involvement, especially with languages and cultural policy. I have benefited from the hospitality of the Catalans and the Basques more than I would ever confess to in public, or in private. But this whole European Union, for us, is also part of our Welshness, in a sense, because we see ourselves as a bilingual European nation.

The Chairman: And one, if I may pick up some phrases you used in the debate on the Referendum Bill in Westminster the other day, where you have a sense of multiple identity as Welsh, British and European.

Lord Elis-Thomas: Yes, I think we all share that.

Suzy Davies: One thing occurred to me with your original question, which was how we have been involved in knowledge of the four baskets. There is a question there about whether—I do not know if “appropriate” is the right word—every devolved Administration should be involved in every single aspect of these four baskets. I am glancing down here at “fairness between eurozone and non-eurozone countries”. That may not be something that you would expect the UK Government to even speak to the Welsh Government about. Whether you think that is right or wrong is another question, but perhaps it is not the first port of call, or even for the two Parliaments to talk about that specifically.

Competitiveness is one of these four baskets, and it would be a surprise to me if the UK Government had not been speaking to, say, the Welsh Government about that, and, certainly in terms of welfare benefits, if they had not been speaking to Scotland, in view of what is happening. I do not think there is, to drag out that dreaded phrase, a one-size-fits-all approach to this, but I think we would all agree to the point that was made in David Lidington’s evidence to you that an awful lot of this is being kept private, and none of us really knows what these four baskets mean.

The Chairman: We are all seekers after truth, and it will no doubt be revealed to us when the Government feel comfortable with it. Perhaps that is what we are all saying.

William Powell: Chair, I follow your lead in declaring interests in two different respects, firstly as a partner in a family farm that is in receipt of EU support via the common agricultural policy, and also because my wife is a German national who has been working as a theatre nurse in the UK for in excess of 20 years, a situation which would potentially be put into some question because of the issues around mutual recognition of qualifications, and she is not alone.

One of the aspects that I became most aware of in the context of our recent visit to Brussels was the fact that the reform agenda we are discussing and that is under discussion at the moment, and the so-called four baskets, is being taken forward as an exercise, admittedly one that is taking place largely in the dark at the moment as far as we are concerned, but in the wider context of a meaningful reform agenda that is already well under way as part of the Juncker plan and had its origins under Barroso. Barroso appointed Edmund Stoiber, the former Minister President of Bavaria, to take forward issues of meaningful reform. That reform is taking place in a step-by-step way, and I know the Agricultural Commissioner, Phil Hogan, is very much committed to this agenda on the agricultural perspective. None of these areas seems to form part of this exercise, whatever

its legitimacy might be. That is a matter of some frustration for myself and certainly some of the people in various levels that we saw last week in Brussels.

Q25 Lord Davies of Stamford: I think the answer to your question is that this is a very artificial exercise, is it not? It springs entirely from party-political impetus within the Tory party, and the Prime Minister has to satisfy the Eurosceptics. It is not as if there was any national urgency or national interest in having a renegotiation. Indeed, the balance of competences review, which was very thoroughly conducted, made it quite clear that there was no such requirement. The requirement is that, like any institution, it can always be improved, and there are things you can do better. There is a very good agenda, as you say, already afoot in terms of deregulation, greater competitiveness, efficiency, promoting investment, employment, all those things, and producing, improving and completing the single market, particularly in areas like energy, services and digital.

All these are vital things, but they do not help Mr Cameron, because, if he goes back to the Eurosceptics and says, “I have done all these sensible things and improved the single market”, the response would be, “Well, that was happening anyway; you cannot get any credit for it, and it does not do anything for our sovereignty hang-up”. It does not really help him, so he has to find some entirely bogus way, because that is all it can be if we are going to stay in the European Union at all, of satisfying these people. It is a party-political issue for him and we cannot get away from it.

My question is this. I cannot speak for colleagues because we have not had a chance to debate this internally, but my own impression from our discussions this morning was that there was quite an extraordinary loss of opportunity here by the UK national Government, even just for cosmetic reasons, to conduct something like a genuine consultation exercise with devolved Administrations and Parliaments before drafting a brief for this negotiation.

It seems to me that that would be an automatically sensible way to conduct affairs. You cannot lose; you might get some good ideas; and you might, above all, get some political support if you try and take people on board. Instead of which, you do not seem to know any more about this than the general public do. Our impression is that neither the Assembly nor the Welsh Government have been formally consulted at all. My impression is also that this is in contrast to the behaviour of other national Governments in the European Union where their states have a devolved regional administration. I am thinking particularly of Germany and Spain, but I suspect it is true of other countries as well. They do go out of their way on these occasions, certainly when there is any suggestion of any kind of treaty change, to formally discuss the matter with their regional administrations to see what ideas and perspectives they have and what interests might be at stake for that part of their country in the agenda that is coming forward.

If that impression is correct, I would be interested in your confirmation. If it is not, I would be interested in you saying that that is not the correct impression. If I am correct, I would like to know what you are doing about it, so this neglect of the need to consult does not become a bad habit in our country, and is corrected.

David Melding: I think it was clear from our visit to Brussels that there was probably more engagement than we were expecting. The reform agenda is taken very seriously.

Lord Davies of Stamford: Engagement by Brussels?

David Melding: And acceptance that the British Government have legitimate aims that are far beyond just the self-interest of Britain. Any reconstruction through treaty change, clearly, is not a runner now and there is little appetite for that. There may be a way around this in terms of protocols; whenever the next treaty is negotiated, some of these things may then be fundamentally embedded. But we found that, on competitiveness, there was a lot of support for the British position. On sovereignty, we ought to loosen up a bit: “ever closer union among the peoples of Europe” does not mean you are going to have a single Government.

Lord Davies of Stamford: That is a treaty change, if you want to change that.

David Melding: We were hearing that the British objection to ever closer union was less of an objection when you read the full phrase, “ever closer union among the peoples”. There was, then, this issue about what they call national Parliaments. That language causes us slight problems, because we regard ourselves as a national Parliament.

Lord Elis-Thomas: We are the National Assembly, end of story.

David Melding: But the Parliaments of the member states—we would regard our devolved architecture as part of that, and Lord Boswell referred to the EU liaison committees that we have between the legislatures of the UK—are the fundamental source of democratic legitimacy. Perhaps, in Europe, that has not been stressed enough. They then come back with the criticism that probably the greatest advance in the Treaty of Lisbon is the parliamentarianism it engendered in terms of the European Parliament. We tend to be a bit spiky about that. Perhaps we need to loosen up and see the virtues there.

Although Suzy Davies says this is not quite in our competence, I think for the broad question it is, but perhaps this is one where the UK Government would feel most empowered to take the lead. This issue of the eurozone potentially, through a caucus system, almost overwhelming EU institutions is regarded as a very legitimate concern. Everyone took that seriously. In terms of sustaining and improving the architecture of the EU, that is probably where the biggest piece of work needs to be done.

Lord Davies of Stamford: What is the solution?

David Melding: As far as the competence review is not really the anchor in all of this, I agree with you.

Q26 Baroness Falkner of Margravine: Can I come in on the balance of competences review? I am a fan of the exercise, but, in financial services, the area of work that I and my Committee, of which Lord Davies is a member, are very engaged with, there are precisely these questions about the eurozone. A balance of competences review written in 2012, in the first iteration of the Greek crisis, does not represent at all where we are today, with the five Presidents’ report and moving forward to economic and monetary union, or indeed any of the institutional structures that the eurozone has put into place since then. While it is a nice exercise to be romantic about, because European integration is a moving feast, any exercise conducted at any given point in time can never reflect accurately the picture at another point in time.

Alun Davies: I was involved in the balance of competences process, and, when William Hague announced that at a JMC, I took the same view as you: terrible misgivings about the purpose of the process. I remember saying to officials, “Is this going to be fixed? What is going to happen here?”. I was unsure, coming back to Cardiff on the train, about whether we should take part in this or just walk away from it. I was not sure. But I was convinced, like you, that the process would be run fairly. We did contribute on every different part of

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it, and I would be very disappointed if anyone then said that balance of competences process is now out of date and irrelevant. I do not believe it is.

Baroness Falkner of Margravine: That is not what I am saying. I am saying that in one particular area, financial services, I am afraid it does not reflect either the architecture of the eurozone or indeed where we are in terms of bailouts, Greece and Grexit and so on.

The Chairman: It has been overtaken by events.

Baroness Falkner of Margravine: It has been overtaken by events; that is all I am saying. I am not dissing the process. I started by saying that I was a great fan of it. I am as great a fan as anyone else. Indeed, you may not know but I initiated the only debate that there was at the time on the balance of competences review in the House of Lords.

The Chairman: Our Committee has been broadly supportive and said it was a well-conceived exercise.

Baroness Falkner of Margravine: Indeed. The point I wanted to ask was: do you in Wales, with the emphasis the Prime Minister is placing on competitiveness and flexibility, and given what you just said, Mr Melding, about the big question being eurozone “ins” moving to further integration and eurozone “outs” potentially being disadvantaged—that is the word I would use—by that further integration as it goes forward, see those as legitimate priorities for the United Kingdom? Does it impact on Wales?

David Melding: I think so. If you had a situation where EU institutions were being overwhelmed, that clearly could not be to our benefit at all. There has to be a balance and a recognition that EU institutions are primary. But, clearly, the eurozone mechanisms are developing to face the crisis they have been through, and the eurozone has not recovered to robust health yet. If there is another crisis, there may be a need for further, quite dramatic action. It would have been very difficult to envisage this 10 years ago. Here, I do think there is a very important job to be done, and these are not imagined concerns at all.

Baroness Falkner of Margravine: And you felt sympathy in Brussels.

David Melding: I did, yes. Some of us felt that was very productive and that people really were taking that seriously. It was a real issue for them.

Baroness Falkner of Margravine: The reason I was emphasising that was because we had evidence this morning to suggest that, really, that was not as relevant for Wales, which I was slightly taken aback by.

David Melding: That is not what I concluded from the evidence I heard. Alun and William were there as well.

Alun Davies: This is all-important to Wales, you see. I would not take the view that this basket is central to us as a country and this basket is not. I come from the point of view that membership of the European Union is not simply a transactional relationship, but fundamental to the sort of country we want to be. I do not take that narrow view.

Baroness Falkner of Margravine: Agreed.

Alun Davies: I would say that all of this is important to us. To answer Lord Davies’ earlier question, it is a profound disappointment that the United Kingdom Government have gone ahead with first of all the technical talks and then the negotiations—and we have the same clarity as you do on when one becomes the other—without taking account of the views of the Governments of the United Kingdom. That is a matter of great disappointment.

Lord Davies of Stamford: It is not for me to suggest it, but it seems to be it would be a good opportunity for the devolved Administrations and devolved Parliaments in this country to give some thought to what the remedy might be, to make sure that this mistake is not repeated in the future and that mechanisms are set up now with a view to ensuring that, in future, there is consultation. I will leave that one aside.

The question I want to come back to is directly relevant to what you have just been saying. Mr Melding has been saying he needs dramatic action to cope with this problem of the eurozone being able to caucus and dominate the decisions that are taken for the EU as a whole. There is obviously a real risk, and certainly a theoretical risk, of that happening. My question is—I will repeat it, as I did not get an answer before—what do you think is the solution? What concrete measures can be envisaged, bearing in mind that you have already recognised, and I agree with this, that there cannot be treaty change? With the best will in the world, even supposing there was a desire for dramatic treaty change, for example producing double majority voting structures, and I do not think there would be a willingness on the part of our partners to contemplate such measures, there is no time to change the treaty before we complete our negotiation and have our referendum on the Prime Minister's timetable. That is out of the question, so what concrete measures can be envisaged, or do you have in mind, or did you discuss in Brussels the other day, or any of those things, to address this problem?

David Melding: It is quite a fast-moving area. In response to the Greek crisis and what has been discussed, there are some fairly fanciful ideas out there: that there would be some form of European Parliament that would then just be for the eurozone, which I think would be a profoundly bad idea myself. I do not think that will be advanced. This one has crept up a bit on us. The German Government's position until fairly recently was that there should not be any meetings of heads of Government of the eurozone. That has now gone by the board. They have assured us that there is not going to be any form of caucusing with a caucus position.

Lord Davies of Stamford: There will be informal caucusing, because, as I said this morning, it is in human nature that there should caucusing of a kind. It is inevitable and I am sure it happens here in the Welsh Assembly. Human beings get together and they agree things. Then they go into another meeting and the fact that they are a majority there means that they de facto, without any formality or constitutionality being required, have taken a pre-decision. That is inevitable. The only solution to it that I have ever heard of, though you may have thought of other ones, is having a double majority voting provision in the treaty. That would be a revolution in our decision-making processes. As I said, I do not think there is an appetite for it, but you could not do it anyway, because it would involve treaty change and, as you yourself recognised earlier in the conversation this afternoon, we cannot have treaty change between now and the referendum. So what is the solution? I keep on repeating this question.

Baroness Falkner of Margravine: Perhaps I can help, Lord Davies. One easy suggestion, to start with, is to allow the eurozone "outs" to have observer status in eurozone meetings. That would be a step forward.

The Chairman: We are not going to be able to design this this afternoon, but Mr Powell may have a comment.

William Powell: One other thing that came up with several witnesses last week to address this particular issue, potentially alongside what Baroness Falkner has mentioned, was a formal restatement of the primacy of the European institutions. If we could identify a vehicle

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by which that could be done and could be done with teeth, that might address some of the concerns.

Lord Davies of Stamford: Restatement cannot change the treaty.

Baroness Falkner of Margravine: It could change behaviour, though.

Q27 The Chairman: We could debate it endlessly. The fact is that nobody quite knows what the answer is, but we are all at least in agreement that there is a problem. Can I turn the discussion briefly to something Alun Davies said? He mentioned the word “transactional”, which does occasionally come into this. Trying to look, as we have the benefit of your presence, at the Welsh situation, can you say a little more about the distinctive approach within Wales—clearly there will be party differences, but in so far as there is a common emphasis? For example—I do not want to lead you—is there a social element as well as an economic competitiveness element, or an element of community or whatever, given some of the industrial history and historically rather high levels of unemployment, which have come down well, which is very welcome? Is that part of that? Do you think that that Welsh perspective either has been, or could at some stage be, reflected in the negotiations or indeed the referendum campaign itself?

David Melding: You might get slightly different answers to this, but let me start. There does seem to be a building body of evidence that the people of Scotland are more positive in their outlook about the European Union. Wales is a bit more similar to England than it is to Scotland in that sense. However, it is perhaps slightly between those two points. From our own experience as south Wales at least, being an area of heavy industry that has not completely recovered from the loss, as major employers anyway, of those industries, regional policy has been something that, traditionally in Wales, we have seen as a very appropriate competence at the European level, and infrastructure support. Use of the European Investment Bank was pushed by the Welsh Government when it was very unfashionable in terms of the UK Government using that, so we are more open.

As to the political elite, not that the people are going to follow that direction very much, in 1975, of course, there was a lot more unity among political leaders and politicians to remain within the EEC, as they then said. I suspect there will be a broader consensus in Wales among the political actors that the benefits are such that we should stay in, but that there is still a need for reform and that ongoing work. As I said, those are things I might get contradicted on if anyone else wants to speak.

Suzy Davies: Can I take this opportunity to declare an interest as well? I forgot to do so earlier. My husband is a partner in a farm that operates under the common agricultural policy. On the question of whether Wales benefits from funding from Europe, I represent a part of Wales that has had Objective 1 and convergence funding since as long as I can remember. There are, of course, arguments about how well that has been spent and how it has benefited the region. It is worth recording that one of the greatest growths in support for UKIP has been in this area in my region, where so much money has been spent. You mentioned the political elite, David.

Lord Davies of Stamford: Which region?

Suzy Davies: It is South Wales West, and Port Talbot is part of that, which includes a lot of the old mining valleys. Whether money has been well spent or not, there seems to be a perception among a number of residents there that perhaps they are not feeling the benefit of it. Whether that is a question of good communication of the good that has been done or whether the money has not been spent particularly well, I do not know, but it is having an

effect on how people perceive the European Union at the moment and the benefits that it brings, particularly to my region.

Alun Davies: I concur with the overall analysis that Suzy has given you, but, if there was a referendum on the existence of Westminster, I doubt that it would go very well at the moment. It is a reflection on politics. When I talked to people in the spring who were going to vote UKIP, it was not because they hated the European Union or immigration or anything like that; it was because they hated me. I could not persuade them to vote Labour because they did not believe in what we stood for. There is much more a sense of a plague on all your homes, rather than a plague on one of them. We need to be quite realistic as politicians about our failures and not simply blame someone else sitting somewhere else.

In terms of where we are here, the membership of the United Kingdom or the European Union of Wales would never have been put on the political agenda by anybody in Wales, fundamentally.

The Chairman: Because they did not want the issue reopened?

Alun Davies: Because we would not see it as an issue. I represent Blaenau Gwent, an area that has seen investment but also the loss of Ebbw Vale steel works, the collieries and the rest of it. Nobody has come to me and said, “I blame those Europeans for this. If we were out, we could do it better”. What people say to me is, “We want more investment and we want more access to markets and the rest of it”.

In terms of the earlier point I made, you asked, Chair, whether there were lessons or Welsh experience that might help Westminster, so let me say this. Being a new democracy is an advantage when discussing issues of sovereignty and of competence. I have never been a politician elsewhere; my only experience is here. I recognise the limits of our competence and I recognise the limits of what we are able to do. I think sometimes, in the grandeur of a palace by the Thames, there is very little sense of a limitation to sovereignty and competence. I would say very gently to some of our friends and colleagues that those days will never return, if they ever existed, and that all of us, in whatever Chamber we sit, wherever it happens to be, whether it is Wales, the UK, Europe or anywhere else, need to understand that our interdependencies provide us with greater opportunities to exercise sovereignty than we have had probably in the last century or so.

The Chairman: We are running towards the end of our time, because we need a few minutes in private session. Do any colleagues want to come in, or indeed from your side? If I may say, that, Alun, is a very sobering note to end on. We all need to understand the limitations of power, but, dare I say, possibly the Government need to understand the limitations of government as well. We will leave it neutrally at that, but only on the basis of thanking you, David, and your Committee for a really lively exchange of views. It exemplifies my strong belief in bringing parliamentarians together, wherever they start from, whichever language they speak—and you have kindly spoken to us in the vernacular, as far as we are concerned, and we are very grateful for that. Closing formally, I would just say diolch yn fawr. Thank you.

David Melding: Croeso.

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[Transcript to be found under Alun Davies AM](#)

Craig Egnor and Fiona Hyslop MSP—Oral Evidence (QQ 65-78)

Evidence Session No. 7

Heard in Public

Questions 65 - 78

Members present

Lord Whitty (in the Chair)
Lord Boswell of Aynho
Lord Davies of Stamford
Lord Jay of Ewelme
Lord Trees
Lord Tugendhat
Baroness Wilcox

Examination of Witnesses

Fiona Hyslop MSP, Cabinet Secretary for Culture, Europe and External Affairs, Scottish Government, and **Craig Egnor**, Head of European Relations (Edinburgh)

Q65 Lord Whitty: Thanks for coming to see us as part of our general inquiry. Obviously we have decided that we need to seriously take into account the views of the devolved Administrations and the devolved Assemblies. We now have the exchange of correspondence between the Prime Minister and Donald Tusk. The question really is: does that improve your understanding of where we are heading, and would your view be that the objectives set out by the Prime Minister are achievable?

Fiona Hyslop: Do we know where we are heading? I suppose in a sense we do, because we have the four baskets set out, but clearly, in terms of the original agenda, we have now managed to crystallise the much wider agenda of the Bloomberg speech. It is now restricted to a number of four. Within that, there are things that we as a Government agree with and think are achievable. Donald Tusk, in his response, thinks that three of the four are.

We are very supportive of competitiveness. We think that that makes sense in a lot of different aspects. In relation to our own reform agenda, which you might want to come on to, I have brought some material that might be helpful. We published this back in the summer last year. It is an agenda for reform, but also touches on the arguments about the benefits, which we will come on to. We have our European action plan as well, a larger document about our engagement. That is useful background material.

In terms of the four areas, in relation to aspects of closer union and the issues around sovereignty, it depends what it says. There is no more detail than we knew before. In relation to the economic agenda, does it make sense to have an understanding that the desires, needs and requirements of those within the eurozone are different from those without? Well, a common-sense approach would say, yes, it does. Does that need to be mutually exclusive, or does that cause tension? It should not need to. I think Europe can develop quite easily, bearing in mind that not just a small number but a large number of countries are not in the eurozone. I do not see that necessarily as an issue. In relation to some of the issues around subsidiarity, that is an ongoing debate. You can look at some of the Dutch Government's suggestions in the past for looking at it in a different way. We

know that there needs to be better connection between citizens in Europe and the role of the national Parliaments. Therefore, we see that that is not insurmountable.

I suppose the issue is what is achievable. What is achievable is a reformed EU that the UK remains a part of. Is that what the desired outcome is or is the negotiation an end in itself? That is where I have difficulty. I have concerns that negotiation itself becomes the focus. The ballot we are all going to be facing will come very quickly indeed. I know from my experience with referendums that, in terms of the time, speed and momentum of these things, they can be very quick. Therefore, I am concerned about everything being seen through that narrow prism of the negotiation.

The big issue as to what is achievable or not is, as Donald Tusk has pointed out, the fourth area, which has morphed from treaty change on the freedom of movement to restriction of in-work benefits. That clearly is a challenge for different countries across Europe. We have an issue with it as well. Our view on migration and the importance of migrant workers to our economy is different from the UK's. We have had perhaps a different experience and therefore we have particular concerns around that area.

If your Committee is looking at how parts of the EU negotiation by the UK Government impinge on devolved Administrations, competitiveness does, because we have enterprise and trade as part of our areas of responsibility. Parliaments and subsidiarity does, because we already operate within the current parameters. Closer union may, and we may come on to what that might mean constitutionally. Fourthly, in relation to the issue around benefits, we are currently, as you will be aware, in discussion on the Scotland Bill about the transfer of benefit powers. We do not know where we are just now, but, even putting that to one side, the issue of the importance of migrant workers to our economy has an impact. All four areas touch on our interests and, in some cases, our responsibilities.

Q66 Lord Davies of Stamford: Do you subscribe to the desirability of the four objectives of the Prime Minister?

Fiona Hyslop: Do I subscribe to them?

Lord Davies of Stamford: Yes. Are you happy with them as an agenda for negotiation or do you think that those are not desirable objectives or even perverse objectives?

Fiona Hyslop: I do not think they are the right objectives, on the basis that three of them are, as somebody from another EU country described them to me recently, a bit like motherhood and apple pie; they would not cause any major issues. That is why Donald Tusk can reply and say, "Actually, we think we can accommodate them". Do they require extra emphasis? Would a competitiveness agenda be happening without them? Yes. You can look at some of the Better Regulation around the REFIT programme.

Lord Davies of Stamford: What would be your desired agenda?

Fiona Hyslop: Our desired agenda is as set out in our *Agenda for EU Reform*, which I will leave with you. In terms of our agenda, the big issues that need to be reformed are in relation to how we can co-operate on the big issues of the day, in terms of climate change, youth employment, issues around energy security. These are very practical issues. Rather than looking at processes, the EU would be better tasked, in terms of its reform agenda, to identify key practical objectives for improvement in things that affect everybody's lives. This comes back to the point that, if the EU project is to connect with citizens, it has to have an impact on things that they really care about, and youth employment is one of them, when you look at some of the dislocation happening in some countries. Climate change and energy are most definitely major areas.

We agree with trying to improve regulations. We think there can be improvements in relation to having more directives, rather than regulations, to improve practices. We are already helping on some of those agenda areas. In terms of the things that we think need reform, we are quite clear and have been for some time. We have set them ourselves, so we watch his agenda with interest. Is his agenda necessary to establish a better EU for us to be members of? We do not think it is necessary. We do not think the referendum is necessary. We think that the real issue is: do we want to be part of the EU or not? That is what is going to be on the ballot paper. The ballot paper will not say, "Do you think this is a good negotiation or not?" We will give the four baskets care, time and attention, but at the end of the day they will not be the decisive factor as to whether people decide to vote to remain in the EU or not. That is my opinion.

Q67 Lord Jay of Ewelme: Do you think there is incompatibility between what the Prime Minister has put forward and what you have put forward? We read the 2014 paper, Scotland's Agenda for EU Reform, and look forward to getting that version of it. You talked about a union of solidarity, a social union, a union of support, and I completely understand why those are your priorities. Do you see incompatibility or conflict in any way between what you would like the reform of the EU to be and what the Government are trying to achieve, or is it that they are on parallel lines with no particular points of tangency?

Fiona Hyslop: Yes, they are on parallel lines. Our focus is a different focus. In terms of a focus on a Europe of social protection, as a woman, I recognise the rights that we have gained through the EU in relation to some of the issues around gender equality, but also in terms of workers' rights protection, the 48-hour week, and in relation to age, gender, anti-racism and a lot of the equality agenda. What is interesting is that there is some concern in Europe that that agenda, of which we are supportive, perhaps may not be supported by some in the Conservative Party and that somehow the competitiveness agenda would be used to try to undermine those social protection aspects. My understanding is that that is not the intention of the UK Government. I think that is quite important, in terms of the discussion.

Lord Jay of Ewelme: If it were the intention, then that would worry you, presumably.

Fiona Hyslop: If it were the intention, then that would be a conflict. I do not think it is. I said to the UK Government that, if it is not, it is very important that they express that to other Governments.

Lord Jay of Ewelme: Have they reassured you on that or is this something you just picked up from the ether?

Fiona Hyslop: I have had assurances that that is the case, but they would be better given more publicly, both domestically and internationally. If the competitive agenda is about trying to improve regulation, of course that is one we agree with. The UK has been very influential already in the REFIT changes. It perhaps does not necessarily want to claim that; I am not sure why, but it is recognised across Europe that that has been a very helpful programme. That reform is already happening. People maybe have the perspective that the EU is somehow static and never changes, whereas improvement and constant reform should be the agenda of the EU, and I think they are. To be fair, under the current Commission, it is moving at a better pace and speed, with better openness.

Are they on parallel tracks? Yes, apart from the one that is causing the sticking issue for other countries as well. We do not think benefits should be based on nationality. That is an issue for us, as it is with other countries, because it cuts across some of the fundamental

issues of equal rights and respects. A Europe of equal rights and respects is a fairly fundamental point, in principle as well as in practice.

Q68 Baroness Wilcox: Thank you for your answers thus far. The questions I was going to ask you would almost duplicate them, so I will move slightly forward, if I may. You are starting to characterise attitudes in Scotland toward the question of the UK's EU membership, and that is good and very interesting for us to hear. Is there a distinctive debate in Scottish society compared with the rest of the UK? In what spheres does Scotland either benefit or suffer from EU membership?

Fiona Hyslop: In terms of whether there is a different debate, yes, there is, and for different reasons. For example, it is fair to say that, having gone through an independence referendum in which both the yes and the no sides were arguing the importance of European membership, in the very politicised population that we have, energised by our independence referendum, the critique and understanding of political issues generally are very acute. It is interesting to note that we have had a head start in debating some of the issues about the importance of membership, because it was characterised by both the yes and the no sides. That is one thing.

In terms of what you see in opinion polling, opinion polls can change. Remember, in our referendum, the no side lost 15 points in the last few weeks and months, which went to the yes side, so opinions can always change. My side of the referendum, the yes side, lost, which we were disappointed by, but I am very cautious about the experience of the referendum. The good point about our referendum on independence is that it was focused on the issue. There is always a danger, in any referendum, that it can be blown off course by something else, but, in our experience, it was kept focused on the issue. That is a challenge for the EU one.

In terms of opinions polls, the latest one we have, which you will have access to, is the Ipsos MORI one, which had 65% in Scotland wanting to remain and 22% wanting to leave. Some of the opinion polls are taking UK samples, in which Scotland is very small, but the Ipsos MORI one was probably the biggest specific Scotland one. You have seen the polls from the last few days, where it is marginal; I think 42% plays 40% to leave in the UK, so Scotland's vote could make a big difference in a tight number. We are only 8.4% of the population, but we have a higher turnout, remember, and we have kept that. The Westminster election had a good turnout, which, again, reflected the polarisation that has taken place.

On the issue of whether we are more pro-European, the evidence underlying the academic work seems to be that we are, because I think there is more of a perspective of the importance of exports and trade. Half our exports go to Europe, so we see the benefits: £13 billion-worth of exports go to Europe. That is a 2013 figure. We export more to Denmark than Canada, South Africa and Australia put together, so we are very conscious of the importance of an export market. As in other parts, such as the north-east of England, where you have Japanese companies' investments, in my constituency we have a large number of Japanese investors. They have probably been the most specific that having access to EU markets from locations in an English-speaking country is important to them. We think 300,000 jobs, either directly or indirectly, are dependent on the fact that we have membership of the EU in terms of the trade aspects. I was in Japan in the summer and that was something that people were raising proactively with me. Those are the benefits of it.

Do we suffer? Not particularly. The areas of most concern in the past have been agriculture and fisheries. I was delighted again to see that the fisheries talks yesterday were very positive.

Baroness Wilcox: They have done well today, absolutely. I come from the fishing industry, but from England, so I am not smiling quite so much as you are today.

Fiona Hyslop: Again, that is an area where there have been collective difficulties in the past and it has been difficult for everybody over a long and sustained period. The idea that you can have reform where you help conservation but with quotas that allow people to have livelihoods is a positive example. In agriculture, I think €130 per hectare is what we get. Compared to the EU average, we are right down at the bottom. It is more of an internal UK issue that, when the redistribution of funding came, the UK decided to make it flat across all the UK, rather than Scotland, where we had the lowest number. But, then, if you are part of a membership, some things are more positive than others.

Free movement, universities and connections in terms of students and academic work are very important, so we see that. Going back to the other point about the importance of migrants to Scotland, it is worth reflecting that we have 70,000 Polish people in Scotland who designate themselves as Polish. Bearing in mind that we have 72 constituencies and mine is one of the largest, which is over 70,000, that is a constituency's worth of Poles in Scotland contributing and being part of a fabric.

In previous years, in accession periods, we would have had young single people coming. What is interesting now is the characterisation of our migrants as families, having children who are part and parcel of our education system, and more stable. That is a different characterisation of the type of people who are here. As reflected by the Polish ambassador a number of times to us, our behaviour and attitude towards our migrants in Scotland is a very positive one, from his experience. We are very proud of that and we value that, so we see our migrants as a positive aspect of EU membership, not as a negative one.

Q69 Lord Tugendhat: You mentioned your referendum, and of course you hope that you may have another one in the fullness of time. Therefore, you must be looking at this exercise not only as part of the UK, but also prospectively as perhaps a distinct and separate country at some point in the future. In that connection, I was wondering what your view was about the issue of the relationship between the euro ins and the euro outs. If you are looking forward to a point when you might be an independent country, where would you see yourself standing in relation to being in or out of the euro?

Fiona Hyslop: We have always said that it is in Scotland's best interests, in terms of our economic co-operation, to work within the same currency aspects as the rest of the UK, so a lot of it would be dependent on where the UK is at any point in time. That is important to us, just as much as our European markets are important, because of the trade north-south. I will politely put that in the context that we would expect to be in the same position as the rest of the UK.

Lord Tugendhat: Whether the UK was in or out.

Fiona Hyslop: That would be the sensible operation. We do not anticipate the UK being a part of the euro in any short period, and we do not anticipate Scotland being a part of the euro in any short period.

Lord Davies of Stamford: The Governor of the Bank of England has made it clear that you cannot do that. You cannot leave the United Kingdom and keep sterling.

Fiona Hyslop: We are discussing the referendum immediately in front of us, and that is the EU referendum. We are not anticipating an independence referendum in the immediate future, so that is not an issue that I think is relevant to this inquiry.

Q70 Lord Trees: Can I come back to a point you and Baroness Wilcox were discussing on the opinion polls? I am particularly interested in the remark you made about turnouts. We know what the opinion polls say in England and Scotland. We are fairly divergent at the minute. What is critical in terms of how that translates on the day is turnout. The turnout in the Scottish referendum was exceptional; the engagement was huge, and it is understandable that it was. Do you think, in Scotland, there is the same energy and enthusiasm to participate in the European debate and the European referendum?

Fiona Hyslop: The 85% turnout for the independence referendum was outstanding.

Lord Trees: Yes, exceptional.

Fiona Hyslop: It was a really good demonstration of democracy, of legal and peaceful constitutional change, and a very good example, in terms of what is happening in different parts of the world, as to how things can be done. Everywhere is different, but it shows you how it can be done. One of the significant parts of the engagement was the vote for 16 and 17 year-olds, because this was a decision that would impact on them for a long time ahead, as would the EU referendum, and I was particularly pleased that the Lords recognised that as an important area. One thing that was important was that they took their responsibility so seriously and their level of engagement was really important. They also found ways of being involved in politics slightly differently, with the role of social media in informing young people and the different perspectives that they defined by finding out their own information. It was not just about taking the leaflets or propaganda from any side. People owned it themselves and had debates within their families, across all generations. We would hear it in cafés, at hairdressers and in workplaces. It was interesting that the younger generation also helped engage the older generation. That was part of the democratic debate.

I do not have the figures to hand, but the turnouts in Scotland were I think 5% higher than in the rest of the UK for the Westminster election. Turnout depends on a lot of different things. Will the issue in and of itself motivate people in the same way as the independence referendum? Probably not. We do not know what the timeframe is for the EU referendum, but we have our Scottish Parliament elections in May, so people will be actively involved. I have had local council by-elections as well, and we have had the Westminster election and the independence referendum. If you had, hypothetically, an EU referendum in September 2016, some of the people in my constituency, in the town I live in, would have been to the polls four times. They would have had an independence referendum, a council by-election, a Westminster election and a Scottish Parliament election. This would be the fifth time going to the polls for most of Scotland in the space of two years. People might be quite happy going to the polls all the time, but you probably have your own experience as to whether people like going to the polls all the time.

Lord Whitty: It could work both ways.

Lord Jay of Ewelme: Is there any sense of disappointment here, now Parliament has decided not to give 16 and 17 year-olds the vote? Is that part of the political discourse here?

Fiona Hyslop: Yes, it is a let-down. People's hopes and aspirations of being democratically involved have been crushed. There are people who voted in our independence referendum who could not vote in the last Westminster election, and they felt let down at that point. In terms of the franchise and the possibility of doing it for Westminster, the timescales would have been extremely tight, but clearly it was possible for this one. I would characterise this as disenchantment, disappointment and a genuine missed opportunity. We all know that connecting politics and people is a big challenge and that anger, apathy or, indeed, rejection of mainstream politics and people going to extremes across Europe in different areas is

something we should be concerned about. We cannot blame extremist parties for this. It is the responsibility of mainstream parties for failing to engage in the way they should do.

Q71 Lord Tugendhat: This is a very straightforward question. Do you feel that the UK Government have taken the view of the Scottish Government sufficiently into account in defining their reform objectives? Do you feel that you have been kept sufficiently informed about the discussions in Brussels and elsewhere that the Prime Minister has been conducting?

Fiona Hyslop: The short answer is no. We set out our agenda for reform and engaged with the UK Government, and that has not been reflected from what we have seen in the 10 asks or the four baskets that we have now. In terms of whether we have been informed, yes, more latterly, but not necessarily in a satisfactory way. Our First Minister, as well as the First Ministers of Wales and Northern Ireland, asked for more information and to be engaged. I suppose the first engagement was 21 September, which is quite late in this agenda, and that was a bilateral between the First Minister and Philip Hammond.³⁸ The UK Government have said that the Joint Ministerial Committee is the route to do this. The JMC Europe meets only once every three months. Although EU reform has been on the agenda and, at our request, put at the top of the agenda so it was not just in the AOB at the end, that has not necessarily been satisfactorily dealt with.

I attended on 12 October the JMC for Europe. That was the same day, I think, that David Cameron provided his Statement, so we were being informed at the very same time as Westminster; it was not in advance. I had a bilateral with David Lidington that afternoon. I had a phone call on the morning of 10 November, with the release of the letter from David Cameron to Donald Tusk afterwards. Our officials have been informed and engaged, but they managed to download the letter to Donald Tusk from Politics Home before we were sent it by the UK Government.

We have been informed, but have we been engaged? Not really. Have we been part of the negotiation or have our views been discussed: “What do you think about this”? No. Have we been told at the same time as the rest of the world? Yes. Is that satisfactory? No. That level of involvement is difficult.

I have a phone call this afternoon with David Lidington, at his request, I suspect in advance of the December Council. He has been very courteous in contacting me, but I made it clear to him that I would categorise his engagement as more that he is providing information, rather than engagement. He said, “Yes, I think it is correct to characterise it like that”. I do not think that is particularly helpful. We will continue to pursue the issue agenda.

Why is that important? First, it is about courtesy and the memorandum of understanding between the UK Government and the Scottish Government generally as to how we should operate. They characterise the issue of EU membership as reserved, which we understand EU aspects are. However, our memorandum of understanding with the UK Government also recognises that there are devolved implications, even from reserved areas. As I set out, each one of those four baskets could have an implication for us.

Why is it also unfortunate? We still do not know what the UK Government’s position is going to be on this, which is dangerous politically. It is quite embarrassing to be in a situation where the UK Government cannot say whether they want to remain or leave, because that is dependent on whether the deal is strong enough. I understand from your Chairman that

³⁸ Note by the witness: There was also an initial discussion of the issue at the meeting of the Joint Ministerial Committee (Europe) on Monday 15 June 2015 in London.

you have been following the evidence sessions to the European and External Relations Committee here in this Parliament. Some evidence was provided on 9 December by Professor Sionaidh Douglas-Scott and Dr Cormac Mac Amhlaigh. Their argument is that, depending on their form, the outcomes of the negotiation may require a Legislative Consent Motion to be granted by the Scottish Parliament. The argument there from Dr Mac Amhlaigh is that, if there is a removal from the EU treaties of commitment to ever closer union of peoples, which is the part of the sovereignty argument, that could sufficiently alter the objects of the EU as cited in the Scotland Act, which could trigger the need for an LCM. That is an interesting proposition.

Lord Davies of Stamford: What is an LCM?

Fiona Hyslop: A Legislative Consent Motion. That is where the UK Government have to seek permission from the Scottish Parliament to proceed in different areas. It is a fundamental part of the operation between the UK Government and the Scottish Government. I was giving evidence to the House of Lords Constitution Committee on Friday and they are very interested in that, in relation to the Scotland Bill. We do not have a view on this because, first, we do not know what the sovereignty part of the renegotiation will be in relation to some of these issues or whether there will be a change to the ever closer union of peoples aspect, but there are implications. It is not just a respect agenda, which David Cameron set out when he first came into his position back in 2010. It is not just the fact that a lot of the areas are effectively devolved interests, whether it is trade or migrant workers, but it is a constitutional question, which is an area of your interest and expertise as a Committee. That is worth having a look through, in terms of relations. On all these counts, particularly if the UK Government end up in a position that they are campaigning to remain in, as the Scottish Government have made it quite clear that we want to remain in and we are already actively promoting the benefits of this, I would have thought that we would be good allies to have. Working with us rather than just informing us would be to the benefit to the UK Government.

Q72 Lord Tugendhat: Let me ask you another question, if I may. I regard it as axiomatic that it is desirable that there should be close contacts, and I take your point about your interests, so there is no difference of view between us. Would you accept that the situation now is very different from what it was before the general election? Before the general election, you had a handful of Westminster MPs; now you have a very large number of Westminster MPs. Not only do you have a large number of Westminster MPs, but they are represented, I think, on every Committee of the House of Commons. Therefore, the extent to which, if I can put it this way, the SNP Government in Scotland is in contact with the Government in London, and the capacity of the SNP to ask questions to hold the Government to account and all the rest of it, is greater. It is conducted not only through the channel of the Scottish Government to the UK Government, but also through that of the SNP Members of Parliament to the UK Government, which reports to the UK Parliament, so your position is much stronger and, I would have thought, different in kind from what it was before the general election.

Fiona Hyslop: That is a political rather than a constitutional perspective. It is very important to remember that, while I am here giving evidence as a Scottish government Minister and our Government happens to be Scottish National Party, the number of MPs from Scotland has not changed. There is the same number, although they are perhaps more visible, vocal and present than the previous MPs who came from Scotland to Westminster. Therefore, in terms of channels, it is very important to remember that we should respect the constitutional aspects of the relationship between the UK Government, of whatever political

shape, form or colour, and the Scottish Government, of whatever political shape, form or colour. You are correct, in terms of political analysis, that members of my party are now sitting in the House of Commons EU Committee and different areas, but that should not change the relationship and the respect agenda between the UK Government and the Scottish Government.

Tangentially, I would reflect that it perhaps was only a realisation of the importance of the machinery more latterly that made people realise how the UK Government should relate to the Scottish Government, including from Whitehall. I will give you an example. From 1992 to 2007, by and large you had a Labour Government in the UK and a Labour Government, if in coalition, in Scotland, so the channels of communication were probably more party. It was not until the SNP came into government in Scotland in 2007 that we realised we had to make sure the intergovernmental machinery of consultation worked more closely.

I distinctly remember, when David Cameron came into power in 2010, I attended a joint ministerial plenary session. At that time, Alex Salmond was the First Minister from Scotland. Around the table, you had a Conservative Prime Minister and a Liberal Democrat Deputy Prime Minister. From Northern Ireland, you had Sinn Féin and DUP. From Wales at that time, you had Plaid Cymru and Labour. From Scotland, you had the Scottish National Party. Every shape and colour was around that table. That has meant that, particularly since that time in 2010, there has been in operation an institutional framework of engagement and dialogue as probably should have happened since 1999. That is more stable and sustainable.

Yes, politics matters. Do I talk to my colleagues in Westminster? Yes, I do, but that should not change people's perspective. What I said to Ian Lang in the House of Lords Constitution Committee on Friday is that, if the Westminster Government or the Westminster Houses of Parliament treat SNP Members as somehow separate and outside the system, as if they are other, and there is an othering of that constituency, that is a very dangerous place to be. Politically, there has to be a respect agenda that not only respects the SNP MPs' entitlement within the Houses of Parliament but does not regard that as a substitute for the intergovernmental dialogue that happens in terms of the operation.

I know that is quite a long answer, but it cuts to some of the tensions that lie currently within the UK. I am not a proponent of the union. I want to see Scotland independent, but there is a clear direction of travel by some people within both Houses of Parliament and the UK Government that is leading to a situation in which they are pushing Scotland away rather than embracing it. In a situation where Scotland voted to remain in the EU, and the rest of the UK, or England in particular, voted to leave, and we were being forced out against our will, that is not an active choice from the Scottish Government. That would be the result of decisions by a UK Prime Minister, and people have to be aware of those tensions.

Lord Whitty: That was going to be our next question. It is an interesting, important hypothetical situation.

Q73 Lord Davies of Stamford: I am no longer in the House of Commons, of course, but my impression is that the Scottish National Party Members of the House of Commons are playing a very full part in the proceedings of the House of Commons, both the formal Committees and the informal all-party groups. I met a number of them there and had perfectly normal dealings with them. There is no sense at all, in my view, in which they were being treated somehow specially or boycotted in any way, and I would be horrified if any of your colleagues sitting in Westminster had that impression. It is not my impression at all that any such a danger has arisen. We like to think of ourselves as the oldest continuous democratic Parliament in the world. It is not something we believe in to do that. They have

been populated and they have a proper mandate. We do not agree with them on a particular matter of policy, but that is neither here nor there.

Lord Tugendhat: Can I reinforce what Lord Davies has said? I went to the meeting of the 1922 Committee that took place immediately after the election. There was a Conservative MP who suggested that the SNP should be treated differently from other parties, and the Prime Minister made it absolutely clear that an SNP Member of Parliament was just as much a Member of Parliament as any other MP and had all their rights and privileges; and that the SNP should have, in his view, the same position on Committees and all the other aspects of the House as any other party with the strength that they had. Not only do I agree with what Lord Davies has said, but I know from what the Prime Minister said at that time that his view was that the SNP MPs should be on exactly the same footing as any other MPs.

Fiona Hyslop: I very much appreciate that point being made. Things happen in Parliament; events happen and how people are dealt with can vary. But, for example, in the Syrian debate in the House of Commons, our Government had a particular point that was also reflected by the SNP MPs, but, within that six-hour debate, only three MPs were called. There is the Committee on Human Rights—again, very important. Human rights do not seem to be part of the agenda for EU reform and do not need to be, because that is separate from EU membership anyway, although it has been confusingly presented by some. Human rights are very important to Scotland. Indeed, our constitutional set-up in relation to the Scotland Act is very much underpinned by human rights issues. The review of human rights taking place in Westminster currently has Peers, Labour MPs, Conservatives and a Liberal Democrat on it. Despite the fact that the SNP MPs are the third-largest party, they are not represented on that. You are right. Attitude and behaviour are really important. Going back to the central point of the inquiry, how the UK operates with Scotland should be in a respect agenda regardless of what political party forms the Government in either of them. I am trying to be generous in spirit here in terms of how that should operate.

Lord Davies of Stamford: I regard it as having been worth my taking 24 hours out of my life to come up here, just in order to hear you say that, because I had no idea at all that that was the feeling of the Scottish nationalist party in your headquarters here in Scotland. I am concerned by what you say. The way the House of Commons works, as you know, is that people treat each other hopefully with mutual respect and in a proper democratic fashion, and have lots of conversations behind the scenes. If there is some injustice or problem, it is usually sorted out. I know the Speaker, who I think is a very good Speaker. His door is always open. I imagine that you have gone through that door and explained to him how you feel about it.

Fiona Hyslop: I am not a Member.

Lord Davies of Stamford: No, but I am sure you talk to your colleagues in Westminster the whole time. I am just concerned to hear what you say. There were some rumours in the two major parties, the Labour Party and the Tory Party, that, when you have such a very large harvest of Members as at the last general election, there might be a temptation on the part of the Scottish nationalist party to play games, to hold things up, to screw up the English and give us a hard time. I have not detected any of that at all; nor has anybody. I do not think people have behaved in any way destructively, annoyingly or in that sort of way. Everyone has behaved, so far as I have seen, in a very mature and democratic fashion. Whatever happens, we are not going to change the facts of geography. We will be living next door to each other for the rest of time, so we do not want to do anything to deliberately destroy this good will, even if it is sometimes in slightly short supply.

Fiona Hyslop: Having taken time out of my diary to come here, it is very pleasing to hear what you have said. If you can learn one thing, we call our party the Scottish National Party. That is its proper title. That would be a helpful lesson for today. But you are absolutely right. It is also about what the relationship can and should be, and about how we operate within Europe and in the wider European context. It is very important that we recognise and respect that the changes that we have come about through constitutional, legal and peaceful means, and this referendum coming should be conducted in that same way. We might have different agendas for reform, but, when I speak to other Ministers in other European countries, I am quite clear that the UK Prime Minister needs to have a strong negotiating position politically. He needs to achieve that. We will focus positively on EU membership, so we can be very positive allies for the operation of the UK within the EU.

For example, on climate change, we have very strong legislation, have made very strong progress and have been a very good example at the Paris climate change discussions. We are a country that is now delivering almost 50% of our electricity from renewables. We are on target and in a very strong position, so we want to share that experience and can do so in a constructive way. Until such time as the constitutional arrangements in the UK are changed, we want to operate on that basis.

Therefore, I think the UK should have more confidence in working with us as a Government. As I have said to them, I have been a local government Minister since 2007, and on not one occasion have the Scottish Government ever betrayed a trust from the UK Government. It is what you would expect, but it is also worth remembering that engaging us, not just informing us but having us involved in the process, is part of their interest and can and should be done.

Q74 Lord Davies of Stamford: Let me just ask the question I had on the order paper. You have probably answered it, but let me try to make sure, for both my colleagues and myself, that we have a completely unambiguous answer. If you do not want to give an answer on the part of the Scottish Government at the present time, it would be very helpful to have, informally, your personal expectation as to what is likely to happen. If there were a vote in the British referendum on membership of the EU against our remaining part of the EU and that was based on a majority of the English electorate, and the Scottish electorate voted the other way—in other words, voted by a democratic majority to remain in the EU—is it your expectation, feeling or even explicit policy that that would call for a new referendum on Scotland's continued membership of the union?

Fiona Hyslop: What I will say reflects what our First Minister has already said. Were that scenario to come about, clearly that would cause a constitutional and political issue if the views of the Scottish people were not reflected in the outcome of a referendum. That is why we have asked for a double lock or double majority. We wanted to see in the legislation a provision that, should any one part of the UK decide to remain, they would not be removed against their wishes.

Lord Davies of Stamford: You lost that one. We had that discussion. The answer to my question is yes; is that right? Can we take that away with us back to London?

Fiona Hyslop: That is not our focus. Our focus is to ensure that there is a vote to remain in the EU. It is in our interest for the UK as a whole to remain in the EU. We are not preparing or trying to position ourselves to take advantage of the situation.

Lord Davies of Stamford: I personally very much agree with you. I am a great supporter, as colleagues know, of our remaining in the EU, but that is not the point. In life, you sometimes have to prepare for things you do not want to happen.

Fiona Hyslop: We are not actively preparing for a situation where the remain vote loses.

Lord Davies of Stamford: What is your personal expectation as to what would occur in the circumstances?

Fiona Hyslop: I am less confident of a remain vote across the UK than I was three months ago or six months ago.

Lord Davies of Stamford: But, if you had a Scottish majority in favour of remaining in the union and that was being overridden by a UK majority based on English votes against, would that be acceptable or would you demand a new referendum?

Fiona Hyslop: We have said that the possibility of a future independence referendum would require material change. The scenario you set out would be a material change in the relationship.

Lord Davies of Stamford: That has answered my question, thank you.

Lord Whitty: Can we move back from the hypotheticals to the four baskets, and in particular the fourth basket, the migration basket?

Q75 Lord Jay of Ewelme: We have covered some of this already and you have made it clear that there is a difference of view between the Scottish Government and the British Government about the importance of migration and so on to the economy. I just wondered whether you thought that this is one area where there was incompatibility between the British and Scottish Governments. Would it be something that would concern you, in particular in its implications for the Scottish economy, if we were to leave and stronger controls were put on migration? I say that word, rather than “immigration”, because there is a subtle difference between the two.

Fiona Hyslop: It is a very important difference and that needs to be surfaced in the debate. The Chairman said he wanted to move on from hypotheticals, but I am afraid we are still in the hypotheticals, even on this issue, because we do not know the detail. That is a concern: what is the detail? Is it about in-work migration? Is it just about child benefit? Is it about changes that can happen and have happened in other countries to limit domestic issues in terms of benefits people can achieve? Is it compatible? We do not know. I have asked the Minister, and I think the House of Commons Committee has asked David Lidington as well. How many people are we actually talking about? Is it about people who are already here? As I understand, it will just be for new people coming, as opposed to people already here. Which benefits are we talking about? We should bear in mind that we have just had George Osborne’s Budget and there have been major changes proposed for welfare. In terms of working tax credits there has been a change, not least because of the role of the House of Lords and others as well. It is in-work benefits that he is trying to target.

Now, other countries have different systems, which are worth considering. It is not for me to do their job for them, but other countries have different systems where you have accumulated rights for benefits. We have immediate access and entitlement, and that is different. Other countries have changed their domestic benefit systems already, but they did not do it by requiring treaty change or change from other countries, or impacting freedom of movement. They did it by changing their internal benefits system for their own purposes. For example, Ireland several years ago changed their benefits system, but they changed it for

everybody. It is equality, so that is taking the nationality aspect out of it. I do not know if that is where the UK Government are going or if it is a possibility for them. That is for them to resolve.

We are still dealing with hypotheticals. That is why it is really important. We have agreed with David Lidington that our officials can talk with each other. It is very important that our officials working on welfare benefit changes that we might be getting can have that dialogue with the DWP. My understanding is that officials have had discussions with the DWP but I understand that the DWP were not themselves able to provide as much information. I do not want to compromise you in your discussion with officials, but, in a positive way, we are trying to have that dialogue. Is that a fair description?

Craig Egner: Yes, there has been an initial exchange with the DWP on this issue, but we as a Government are seeking more information from them and they have not as yet been able to provide that.

Fiona Hyslop: The timing for this is critical. In February, you might get an agreement on the first three areas, and they can move into technical talks and presentations as to what that would look like. We can have the political discussion about what benefits are meant in the December Council, in the next few days, and then we go to February. But, remember, we go into the purdah period for our elections at the end of March, so there is a time issue here, and not just for us, but for Wales and Northern Ireland as well. There are different relations to benefits in Wales and Northern Ireland than there are for us.

Lord Jay of Ewelme: You mentioned earlier on the 70,000 Polish people in Scotland. Is that 70,000 Polish citizens or 70,000 British citizens, some of whom are of Polish origin?

Fiona Hyslop: I am also Minister for census, although I do not personally go round collecting people's data. At the last census, we put down some identity issues about where people are from. These are people who have at some point lived or been born in Poland and come to Scotland. There are areas where people self-identify as Scottish-Polish, but the 70,000 are people who have been born in Poland and have come to Scotland. They also may include people born in Scotland. This is rough. We can provide you a proper briefing, so that might be helpful.

Lord Jay of Ewelme: That would be very helpful. Do you have the same figures for others? It is just that the Polish are so much bigger than anybody else.

Fiona Hyslop: Our figure for France is about 7,000. We think that may be underreporting. We thought it would be much, much more.

Lord Whitty: So much for the Auld Alliance.

Fiona Hyslop: The Auld Alliance is very lively. I attended an event last week at the French Consulate, celebrating and recognising the 500th anniversary of Marie de Guise, who was regent of Scotland and had provision for citizenship of Scotland and France collectively, which was only rescinded by General de Gaulle in the early part of the last century. There is an affinity with France more generally. In terms of numbers, Poles are by far and away the largest. This is important in terms of the difference between immigration and migration and the importance of migrant workers. I represent West Lothian, where Mary, Queen of Scots was born, as Marie de Guise was, in Linlithgow Palace. We have had shale mines and coal mines, and we have had different waves of Polish workers at different points. The Polish workers came to West Lothian 150 years ago to work in the shale mines, and we have one of the few John Cantius churches outside Poland. They came for coal mining, but we also had many Poles who came after the Second World War and more recent waves. We have

had about four waves of Polish people. We recently unveiled a lovely memorial to Wojtek the bear. If you are looking for some Christmas reading, I recommend the book of Wojtek the bear, who carried ammunition at Monte Cassino and was adopted as a symbol by the Polish army. When he was a bear cub, he stayed with them, and he ended his days in Scotland. We had a fantastic event, with lots of people coming to it to celebrate.

Looking at migrant workers, we are Scots. There is a McDonald's on every corner, unfortunately for healthy eating, but it is a good point that we are a country of migrants, who have populated it at different times. We cannot see the prism of EU membership through a narrow focus on one area in the context of one time, bearing in mind the movements of people over many, many centuries. There is a record in the House of Commons commenting, "We do not want to be in a situation like Poland is, which is overrun by Scots", because there were 40,000 Scots in Poland 500 years ago. We have to see things in context. Why are we causing dislocation across Europe at this time, when everybody needs to stick together for solidarity and mutual support because of that narrow political prism, which I and many regard as an internal political concern within one party and a threat from another party that failed to realise electoral success at the last Westminster election? Why are we putting ourselves through all this?

Q76 Lord Trees: I do not wear a political hat at all; I am a Cross-Bencher. Would you not concede there are some differences in what the south of the United Kingdom faces in terms of density of population and sheer numbers, which is not a problem here? Is there any degree of understanding of that? To be fair to the Government, they are reflecting a mood in England that is undoubtedly there. We cannot pretend the concern about pressure on resources, on social services, on roads, traffic and housing does not exist.

Fiona Hyslop: It would be wrong not to recognise that there are different issues and pressures in different parts of the country. We are just asking for our difference to be recognised. There are benefits and disbenefits. In terms of the pressure on public services, I also know that, if we did not have migrant workers, we would not be able to provide the public services we do in our health services and elsewhere.

Lord Davies of Stamford: That is even truer of the south-east of England.

Fiona Hyslop: Yes, everybody is looking at it. There is a temptation to look at things from the point of view of the migrants who are using services, as opposed to the migrants who are providing services. That is the evidence that needs to be provided on both sides. There is an issue: why do people move? Is there an issue of lack of work elsewhere? Are people moving for benefits? No, they are not moving for benefits; they are moving for work. I have yet to see evidence that people are moving for benefits. They are moving for work. The fact that the Prime Minister is focusing on in-work benefits is an acknowledgment that people are moving for work. I suppose the issue then is: "How do you change that?" That is the bigger picture of solidarity across the EU. That is an economic argument. It is in the UK's interest to make sure that the south of Europe can be stable economically and improve their employment position. It goes back to tackling youth employment. It is not in our interest for Spain to have high levels of youth unemployment, because we need to have places to sell our goods and services. A stronger EU is a benefit for all of us. The way to tackle some of these issues is to make sure that there are decent wage levels and employment opportunities in those countries from which individuals potentially want to move to Scotland. We have seen the difference in Poland. When they had wage increases and more sustained economic activity in Poland, it is more of an incentive for people to stay in Poland rather than come to Scotland.

Lord Tugendhat: May I make a political observation? It is an irony in England that the feelings about immigrants tend to be highest in the areas that have fewest. When you look at London, which has a very high proportion, UKIP did extremely badly. On the whole, the feeling about immigrants does not loom very large in London. When you look at the areas where UKIP did well, in as much as that is a barometer of feelings, it was in areas in which there are not very many immigrants. It is partly because of the point you make, about the fact that they come for work and that public services rely a great deal on them. Of course, there are social stresses and strains. There are problems about housing. There are problems in schools when too many people do not have mother-tongue English and that sort of thing, but it is an irony that feelings run strongest in the areas where they are fewest.

Fiona Hyslop: That is a very important point. It would probably affect London more than Scotland, as it has far more of a migrant community than elsewhere. Hot off the press, in terms of educational services, we have just had an OECD report into education in Scotland. I read that one of their findings is that the educational attainment of migrants' children in Scotland is better than anybody else's, because there is that willingness to take part in and improve education. Our experience, particularly in the late 1990s and the early part of this century, was that, in Glasgow, the children who come from Kosovo, the Balkans and elsewhere were a great asset to our schools and helped to improve the educational experience of all the children within that area. It depends through which end of the telescope you look at things and whether the glass is half empty.

Lord Davies of Stamford: On the supposed draw of our welfare system, there was a very interesting study, which I quoted in the House of Lords last year, from a group of academics at University College London. You may have seen it. It showed quite conclusively that the contribution by immigrants from other EU countries, mostly from eastern Europe but not entirely, to national insurance and income tax was very much larger than their consumption of benefits and of public services. In other words, every taxpayer in Great Britain is better off as a result of their being here, because they make a net contribution that runs into billions. That is an interesting piece of evidence that has never been refuted. What you have been trying to tell us, but in a very tactful, diplomatic way, is that you think the English in their culture and their history are more chauvinistic than the Scots

Lord Whitty: I do not think the Minister said that.

Lord Davies of Stamford: I am not sure it is not true. I have noticed the *Daily Mail*, which is my great hate, sometimes has different captions and pictures on this matter in its Scottish edition from those in its English edition. You do not get quite so many pictures of Roma coming from Romania and so forth.

Lord Whitty: Before we go down that road, I am conscious of the time here. We asked you for an hour and the hour is almost up. Do you have another 10 minutes or is your timetable dragging you away?

Baroness Wilcox: There is a jolly important question I want to ask you. It is nothing like the ones we have just had.

Fiona Hyslop: I have another meeting at quarter to, so I will need to leave in seven minutes. The UCL figure is really important: £20 billion from 2001 to 2011. Who is going to replace this economic loss? Can we assume that all those currently not working would replace the workers, or would employers just decide not to have the same number of workers? There is an issue about who is going to replace that tax take. Again, it is part of the services argument. It is not just about who uses services; it is who helps make services. It is not just who uses benefits; it is who pays for the benefits from taxation.

Lord Whitty: This is the most contentious area of the four questions.

Q77 Baroness Wilcox: You have had sight of this question, so there are no clever bits or surprises. It is a straightforward question on what I regard to be a very important subject. Regarding the eurozone and non-eurozone member states, the Government are seeking to secure “legally binding principles that safeguard the operation of the Union for all 28 member states and a safeguard mechanism to ensure these principles are respected and enforced”. What is your perspective on this question?

Fiona Hyslop: If it is conducted in a way that does not compromise the interests of either the eurozone or the non-eurozone countries, that is a common-sense understanding. It is quite clear that the eurozone countries themselves are going to have to have some kind of legally binding arrangements, so it is not unreasonable to say the non-eurozone can. But what we cannot have is either of them compromising the other. I do not think that is the intention of anybody. The more that that is articulated as part of this issue, the better.

Baroness Wilcox: But what is your perspective on the question?

Fiona Hyslop: I do not think it would or should be a compromise. It depends what the wording is.

Baroness Wilcox: You do not disagree with what the Prime Minister is seeking or the Government are seeking: to secure legally binding principles that safeguard the operation of the Union for all 28 member states?

Fiona Hyslop: The relationship between the eurozone countries and the non-eurozone countries is not my most burning issue of importance.

Baroness Wilcox: Do you not have a response or view?

Fiona Hyslop: As long as it is done in a way that does not compromise the development of the eurozone countries, and equally their developments do not compromise the interests of the non-eurozone countries. Most of this comes down to capital markets. Remember, Edinburgh is one of the financial capitals in terms of operations.

Baroness Wilcox: So you support the question being asked, at least.

Fiona Hyslop: It is not unreasonable. The big worry the eurozone countries have, as you know, is that what David Cameron is proposing would compromise their development. As long as it does not compromise their development, that is not unreasonable, because we are not going to have a situation in the near future where everybody is a member of the eurozone. That is the reality of life.

Baroness Wilcox: It is easy to drift into these things, if occasionally you do not stop and ask. For example, France keeps saying that the European Union has a single currency. It is not a single currency; not all of us are in the euro. It is important that we do not drift. I think that this question is one that is important to us, because we are in a situation whereby we are different in some aspects. It does not mean to say that we do not want to be part of the European Union.

Fiona Hyslop: Your point of emphasis reflects that there is a spectrum here. For some people, the point you are making will be really important, and that is absolutely critical.

Baroness Wilcox: It is not only our country, of course.

Fiona Hyslop: Others on the spectrum will recognise and acknowledge it, but it will not be of the same importance. That could have been an issue that might have compromised David

Cameron achieving a renegotiation, but I think it can be couched in ways that, as the law is developed, do not compromise the interests of the eurozone and non-eurozone together.

Baroness Wilcox: Do you think it is worth going to the wall for?

Fiona Hyslop: Not particularly, no.

Q78 Lord Whitty: We have used up five of your seven minutes, I think. Can I just wrap up the other two aspects of the baskets from the Prime Minister? On competitiveness, you said you are broadly in favour of better regulation and all of that, but you put in a big proviso that this does not necessarily mean a deregulation agenda, particularly in relation to social protection. Is that your point on that?

Fiona Hyslop: Yes, and we have had somebody from the Scottish Government actively involved in the EU habitats directive, constructively helping, with our experience, with Better Regulation in relation to the existing agenda.

Lord Whitty: In relation to the ever closer union, do you have any views that you would like to record for us?

Fiona Hyslop: I do not know what the Prime Minister is trying to achieve. The concept and the political argument of it I can understand, but I am not sure what the reality of it would be and I have concerns about that. If that is what he needs to do to win a deal and it does not compromise the rest of Europe, let us see what he comes up with. It is too hypothetical, I am afraid.

Lord Whitty: Fair enough. We do not deal with hypotheticals, obviously, although we have dealt with a few today. I am sorry to have kept you slightly longer than we intended, but you have been very good value to us. We have taken a lot from that, so thanks very much for your time and your official's time as well. We would like to keep in touch with you. We will read that literature, if you would care to leave some of it with us. That will be very helpful as well, so thanks a lot. It was very good to see you.

Fiona Hyslop: Thank you.

Michael Emerson—Written Evidence (VEU0001)

Mr Michael Emerson, Associate Senior Research Fellow at the Centre for European Policy Studies

On the UK Government's vision for the EU

1. *Is the Prime Minister right that the over-riding priority for today's EU should be "to secure prosperity"?*

This is a surprisingly limited statement. What is 'right' can be a matter of opinion, but for most European citizens and governments a statement like this should include also 'safeguarding the EU's strategic security interests and its fundamental democratic values'.

2. *Does the UK Government's vision for the EU adequately take account of the changing geo-political context?*

Surely not. Most EU member states and the EU institutions see a geo-political context dominated by Russian aggression in Eastern Europe, Russian realpolitik assertiveness in general currently including Syria, the fight against ISIS, and the refugee and migration crisis.

Most member states, the EU institutions, and (according to Eurobarometer polls) public opinion consider it desirable that the EU's foreign and security policy be strengthened in order to better confront these geo-political challenges.

3. *What does the commitment of the Member States of the EU to create "an ever closer union among the peoples of Europe" mean? Is this aim any longer relevant or achievable?*

This phrase is no more than an aspiration in the preamble to the Lisbon Treaty. It has no legally operational force, and is not followed through in the main text of the treaty. It has no constitutional or institutional meaning, with the word union here spelt with a lower case 'u' because it concerns the peoples and not the EU institutions, whereas all institutional references to the Union in the treaty do carry the capital 'U'. Thus the accent is on the peoples of Europe, and their ever closer union may be seen as seeking to guarantee against reversion to the dreadful conflicts and enmities of the 20th and earlier centuries in European history. In this reading the wording is a simple, basic and noble sentiment, which remains relevant. The Prime Minister seems to regard the wording as meaning that the EU should be heading towards ever more centralised powers for the EU or a federal union, but this reading does not seem to be shared by others.

The Prime Minister has his own agenda for enhanced EU policies in certain domains, such as the single market for services, and (as remarked above) there is widespread support in principle for an enhanced foreign and security policy. The UK government also acknowledges the need for the Eurozone system to be enhanced in the direction of a fiscal union. At the same time there is widespread support for the current Commission's attack on legislation that does not respect the principle of subsidiarity. Overall this means that the competences of the EU are a complex mix of those policies that have reached a state of maturity, those that need to be further reinforced, and those that can be trimmed back.

Senior officials in the EU institutions are sensitive to these complexities, and do not consider themselves to be driving or driven by some linear integration model.

4. *Insofar as there is a lack of consensus on the long-term future of the EU, is a two-speed (or multi-speed) Europe feasible?*

Multi-speed Europe is a reality already, but there is no two-speed Europe. Most non-Schengen and non-Euro member states aim to become members of these policies in due course, but the timing will be heterogeneous, so multi-speed it is. The UK is alone in wanting to keep out of both the euro and Schengen definitively.

1 November 2015

European Policy Centre, Bertelsmann Stiftung and Centre for European Policy Studies—Oral Evidence (QQ 133-138)

European Policy Centre, Bertelsmann Stiftung and Centre for European Policy Studies—Oral Evidence (QQ 133-138)

[Transcript to be found under Bertelsmann Stiftung](#)

Rt Hon Lord Elis-Thomas AM, Alun Davies AM, Suzy Davies AM, David Melding AM, and William Powell AM—Oral Evidence (QQ 22-27)

Rt Hon Lord Elis-Thomas AM, Alun Davies AM, Suzy Davies AM, David Melding AM, and William Powell AM—Oral Evidence (QQ 22-27)

[Transcript to be found under Alun Davies AM](#)

Jonathan Faull—Oral Evidence (QQ 106-119)

Evidence Session No. 10

Heard in Public

Questions 106 - 119

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Lord Liddle

Baroness Scott of Needham Market

Examination of Witness

Mr Jonathan Faull, Head of the Task Force for Strategic Issues related to the UK Referendum

Q106 The Chairman: Jonathan Faull, you are well known to many of us individually, particularly those of us who have been working in and about Brussels. You are well known and respected also by the Members of this Committee who do not have that experience, on the back of your deep and encyclopaedic knowledge of the workings of the European Union from an official viewpoint over many years and your distinguished career in it, proximately because of your leadership of the task force for strategic issues related to our referendum. As the nation has heard from the Prime Minister, we are spending all hours of the day and night on this matter at the moment. This inquiry is looking at visions of Europe. In due course we need to report what we have discerned about how that process is being carried through to its completion, but we also felt that we wanted to get some idea of the extent to which the British Government's negotiating objectives coincide with those of other member states, the European institutions and, indeed, other stakeholders such as the European Parliament.

You have very kindly consented to give us evidence on the record, so this session is on the public record. We will take a text, which will be helpful to us. If we may, we will start, unless you want to share anything with us. We will start with what you might call an overview of the process. I will ask the first question. Do you feel that the United Kingdom Government have presented a clear and coherent vision for reform? We have heard a lot about the four baskets, of course, but do they have a common theme and purpose, which you can identify and to which the European institutions can respond?

Jonathan Faull: Thank you very much indeed, and thank you for this opportunity. Thank you for travelling to Brussels. Perhaps I could preface my remarks by pointing out, as I must, that I am a civil servant and the views I shall express are not necessarily those of the Commission as an institution; let alone—and I shall come to this in detail—am I in any way an authorised interpreter of what the British Government may or may not want. You are

closer to them than I am. But I shall of course endeavour to answer your questions as frankly as possible.

To answer your question—have the Government presented a clear and coherent position for EU reform in the four baskets?—yes, we take it as that. The Prime Minister’s letter to European Council President Tusk and various other statements that he and other senior Ministers have made have presented the issues as ones that they judge to be of great importance to the British people and relevant to the referendum question, and we seek to respond to those concerns on that basis. There are four categories—four baskets—set out, which have some links between them. We have worked on them, as have other institutions and member states across Europe, on that basis.

Q107 The Chairman: Thank you for that. Two things that the Prime Minister has mentioned a number of times are flexibility and diversity; perhaps adding to them, in the context of recent sad events, security and a more geopolitical and geostrategic approach. Do you feel that these amount to a persuasive and durable vision, at least of the British position vis-à-vis the EU, and possibly the EU vis-à-vis the British requests in these concepts? Are we having a serious discussion about issues that we can identify as important and to which you can respond, I hope, in a positive way?

Jonathan Faull: Yes, I think that is the case. The European Union has already shown in the past few years that it is capable of recognising the diverse situations of its now 28 member states and that the mechanisms and rules of the European Union are flexible enough to cope with that state of affairs. We have member states in the euro and not in the euro, in Schengen and not in Schengen. We have many challenges facing groups of member states and many challenges facing all of them. I am not suggesting that all of those challenges have been met satisfactorily, because they are still very much with us, but I think that the European Union has shown—for example, in the development of the banking union, in its reactions to the financial and economic crisis, and the issues of governance of the euro area—that it is able to respond with the necessary flexibility in recognising the diverse situations of its 28 member states, which, let us face it, are far more different from each other than the original six founding countries were in the very different world of the 1950s. Without in any way suggesting that we have found the perfect response to every issue facing us, because there is still a great deal of work being done and to be done, I think the European Union’s mechanisms have shown the necessary flexibility and recognition of diversity and have shown the potential—this is where the British requests become relevant—for responding to those concerns as well.

Q108 The Chairman: One final question from me, at least at this stage, is whether, in your judgment, agreement on the Government’s reform proposals would constitute a fundamental—and, I think, by inference a positive—change in the EU’s relationship with the UK, and the extent to which the issues in the baskets matter, or the extent to which the symbolism of agreement on the issues in the baskets matters even more than the issues themselves.

Jonathan Faull: I am not sure that that is a matter for us to judge. We have been asked to respond to a set of issues set out by the British Government and are seeking to do that. How they are presented to the British people is a matter for the British Government, and how they are received by the British people is a matter for the British people in the referendum. I would not want to hazard a judgment on what is fundamental and what is not. That is for others to make.

Q109 Baroness Scott of Needham Market: I want to continue this line of discussion and think about the ever-closer union issue for a moment. As you have described today and on other occasions, there is quite an array of opt-outs and protocols and so on but this clearly is not sufficient for the British Prime Minister, who wants something more formal. Is what he is seeking simply an opt-out for the UK or does he want something that covers all the member states, in which the present flexibilities are formalised in the treaty? What are your thoughts on the mechanics of dealing with the ever-closer union question?

Jonathan Faull: As you know, there will be a meeting of the European Council in a few weeks' time, on 18 and 19 February, where this matter will be discussed, and I cannot prejudge those discussions. The notion of ever closer union is indeed one of the issues raised by the Prime Minister in his letter and other statements. That notion is, frankly, understood differently in different countries in the European Union. It has been present, with amendments over the years, in the European treaties for a very long time and has been the subject of interpretative statements, the most recent being by the European Council at the request of the British Prime Minister in June 2014, which pointed out that this is ever closer union between peoples—it is not an integration charter between states or Governments—and the words are accompanied by a statement about subsidiarity decisions being taken at the closest possible level to the citizen. It has proved to be fully consistent with different member states doing different things within the European Union framework. I mentioned some of them earlier. Obviously, the United Kingdom is not in the euro area or the Schengen area; it has opt-outs on justice and home affairs; it has a special budgetary rebate arrangement. All those things and others involving other member states have coexisted happily—as I said in Dublin a few weeks ago, and you quote this in your question—with the notion of ever closer union.

A starting point is to recall that reality, which may assuage some of the concerns which suggest that it is what it is not, for example the suggestion that it is a charter for ever more integration of state or governmental activities between EU countries. It is not that. It is ever closer union with a small “u”, by the way, and even the word “union”, I understand, is not translated in all languages as “union”, but I will not pursue that today. It is about peoples, not about Governments and states, and it has proved flexible and adaptable to the diversity that we talked about earlier. We will see in the European Council in a few weeks' time what the leaders make of that state of affairs in responding to Mr Cameron's expressed concerns. It is going to be an important discussion among Prime Ministers and Presidents, and we start—as we should, I think—from the reality of the current situation as well as from the actual wording.

Baroness Scott of Needham Market: The reality as you have just described it has not changed since the June 2014 Council meeting. Prime Minister Cameron included this in his baskets in the full light of that. One would have to assume that that has not been enough for him or he would not have seen fit to include it. Can you envisage what more he could be given? Can you envisage, and what would be the impact of, an opt-out to whatever ever closer union might mean for one country? Can you envisage a situation in which it is simply removed from the treaties as part of the next treaty change? What more could Cameron be given to persuade him not to be so concerned about ever closer union?

Jonathan Faull: I am afraid that you may have to ask him that. It is understood that this is a matter of concern. He has said so. The Chancellor of the Exchequer said so in a speech in Berlin, explaining how the notion is understood differently in the United Kingdom from how it is in other member states, or some other member states at least, and that has to be grappled with. Discussions are going on about a statement of whatever ever closer union

means in the 21st century for all member states, given the factual situation that I described. That will be a matter for discussion in the European Council and I am afraid we will have to wait and see what comes out of that.

Q110 Lord Liddle: I would like to pursue the significance of this change, looking at it from the Brussels end of whatever is agreed on ever closer union. When I became an interested pro-European, the metaphor that was very common in the Brussels world, if I remember rightly, was of a convoy that may be moving at different speeds but would ultimately get to the same destination at some dreamy distant point in the future, but none the less everyone was working towards going in the same direction. It seems to me that what Mr Cameron wants through his change in ever closer union is something that he can point to which says, “No, we are not going to the same destination. We are all going to different destinations, and that is what is accepted in Brussels”. Do you think that that is how this will be interpreted here, as opposed to what he will say in London?

Jonathan Faull: You are asking me to speculate about different interpretations of something that has not happened yet. We will have to look at the precise wording. I think it will remain the case, as it is today, that member states have—and the United Kingdom has more than others—a variety of different commitments to European rules and mechanisms. It will also remain the case that all member states of the European Union face a number of common challenges which call for co-operation between them and, where that involves rule-making, the mechanisms of the European Union’s legislative and other processes for that purpose. It is an expression that has been understood in different ways; it is not an expression of such legal importance that it is used as a basis for legislative activity and has therefore been the subject of dozens of court judgments interpreting and refining it. It is not that. It is perhaps not surprising, particularly if you add the translation difficulty to which I referred, that at different times and in different places it takes on different meanings.

I like to say that the best example of ever closer union that I have seen recently was English football fans singing “La Marseillaise” at Wembley as a reaction of neighbours sharing values in the face of a massive, tragic challenge to those values. That is our general understanding of what the notion means. It is not something that we use as a basis for legislation, whether integrating further or not. But we have to recognise—the Prime Minister and the Chancellor have made this point—that it can be understood differently and is understood differently in different places. These things are important in politics—I think we understand that—so the Prime Minister’s counterparts in the European Council may seek to provide him with some additional satisfactory reassurances that this does not mean what he may fear it is understood to mean.

The Chairman: The word “ratchet” comes to mind as a word that is often used in Britain as part of the underlying political fear. I see you nodding at that—is that reasonable?

Jonathan Faull: I am aware of that notion and that fear. I do not think that the notion of ever closer union among the peoples of Europe is necessarily the cause of that concern. But if I am told that it is, then there are ways of addressing it, as the European Council already did in June 2014. As Lady Scott points out, obviously that is deemed to be insufficient because the Prime Minister would not still be raising it. He is, so we need to give some more attention to that.

Q111 Lord Davies of Stamford: Jonathan, we all appreciate this opportunity, but we realise that as a civil servant in a public session you have to be cautious about what you say. I will therefore ask a fairly technical question but a very important one, I think, on which you

personally and your legal services here at the Commission will be asked to present a definitive view, I am sure. Which of the Prime Minister's requirements or demands, as you understand them, would require a change in the treaty? How would you make a promise of a change in the treaty effective in the way that the Prime Minister says he wishes to have, so that it is reliable and irreversible and so forth, when all changes in the treaty are subject to a ratification process? You cannot commit parliaments in advance, and I think six countries in the Union have ratification by a referendum and you certainly cannot commit electorates in advance.

Jonathan Faull: I am not trying to avoid the question, but the form depends on the substance. Whether or not a treaty change is needed for a particular response to one of the British concerns depends on what that response is. Certain responses can be given within the framework of today's treaties, either with or without legislative change. There may be some responses which cannot be given, on the basis of legal analysis, under today's treaties and could be given only by changing the treaty. So everything will depend on the substance of the responses that are agreed by all 28 in the European Council; that is, satisfactory both for the 27 other countries and for the United Kingdom itself. It will not be until then that the judgment can be made about how to implement that agreement. It may be that no treaty change is required. You quite rightly point out that a treaty change is not an easy thing to bring about. It requires unanimity among all 28 member states and ratification, therefore, in all 28 member states, some by parliamentary ratification and some perhaps by referendum. That will certainly take some time and the outcome will depend on the parliaments and, where there are referendums, the peoples of the countries concerned.

Lord Davies of Stamford: If I may say so, Jonathan, you have repeated very elegantly rather than answered my question. I will put it to you more specifically. If you wanted to get rid of the reference in the treaty to ever closer union or you wanted to introduce the notion of discrimination in the labour market, those two things unambiguously would require changes in the treaty, surely—is that not the case?

Jonathan Faull: If you want to remove words from the treaty that are there today rather than interpret them, only a treaty can remove words from the treaty, of course. If you wish to provide for something that today would be unlawful under the treaty, again only a change of the law—the treaty, the primary law—would achieve that objective. I am not saying that that is necessarily needed to respond to the Prime Minister's concerns.

Lord Green of Hurstpierpoint: Just to follow up, assuming that some part of the response to the Prime Minister's four baskets did require change in primary legislation, and given the difficulties in securing treaty change that you and Lord Davies have outlined, what is the best possible result that the Prime Minister could expect to be able to unveil to the British people on this point about treaty change?

Jonathan Faull: The Prime Minister has said that he wants change that is legally binding and irreversible. What is legally binding and irreversible is an international law agreement, a change in secondary legislation and a treaty change. What the Prime Minister will accept because he believes that it meets his requirements is a question for him, obviously. There will be consideration, no doubt, of the nature of the change and the timeframe in which change can be implemented and delivered. Those are all issues that would have to be considered by all the leaders in the European Council.

Q112 The Chairman: To close this bit on the process itself rather than the issues raised by the process, I have two questions. First, it is evident from the context of your responses and other inquiries we have made that there is a very heavy legal input into this process, in

that you need to get texts and to flesh out what may be high-level political agreement with something that will stand up, particularly in the context of the existing treaties. I wonder if you can give us your take on these matters? Is it your impression that the detailed technical discussions—the Sherpa discussions, if you like—have kept pace with the debate at ministerial level and the high-level aspirations of our Prime Minister and other heads of government? In a way, my second question bears on that as well. The Prime Minister, David Cameron, has a number of times referred to the protocols and other instruments agreed for Denmark and Ireland in the past. I think I am right in saying that there is a distinction because those were ex ante the operation of the new treaties. Anything agreed now would be ex post the existence of the Lisbon treaty—the TFEU. Are those helpful precedents? First, is there sufficient legal and administrative firepower to deliver an agreement which may or may not be reached in February? Secondly, if it were to be, would it be possible, at least, to draw on the analogies of the earlier protocols and opt-outs as a vehicle for delivering these concerns?

Jonathan Faull: Thank you. On the first question—they are related—I think that the answer is yes. There have been many long, technical discussions between senior officials, including lawyers, on all sides, going back to July, involving ourselves in the Commission, our colleagues in the Council and the British Civil Service. There has been some involvement of the other member states through discussions among the Prime Minister’s Sherpas, European advisers, Cabinet Office officials and their counterparts across Europe, and the ambassadors—the Permanent Representative Ivan Rogers and his colleagues here in Brussels. That has been going on throughout the process in parallel with the higher, political-level discussions, both formal and informal. As you know, the Prime Minister and other senior Ministers have been in fairly regular contact with their counterparts in other European countries. There have been summits at which all these leaders have come together. The two political and technical sets of discussions have been going on at the same time, with reporting mechanisms between them in the normal way, and a great deal of work has been done on exploring the technical and legal aspects of all of this in addition to the political input by the most senior politicians in our countries.

In response to your second question, the precedents of Denmark and Ireland are, as you rightly say, not direct precedents in that we are not in the same process of treaty ratification as we were then. It is a different context. But by analogy—to use your word—there are mechanisms there that have indeed been the subject of discussion, as one would expect. This is a technique which can be used in certain circumstances to provide for a binding set of commitments in advance of fully fledged treaty change. If that path proves to be one down which it is necessary to go, it is indeed something that we will be able to draw on.

Q113 The Chairman: Thank you. I think we can move on. We have rehearsed one basket—the question of ever closer union—but in terms of the constitution, perhaps it would be worth throwing in a request for you to give us a take on Her Majesty’s Government’s desire to introduce “a new arrangement where groups of national parliaments, acting together, can stop unwanted legislative proposals”. What is the view of your task force and the Commission on whether that would help to meet some of the democratic deficit and possibly whether it is sufficient to show that there may be a live democratic interest? As you will know, our Committee has taken a certain interest in green cards and so forth, rather operating beyond the Government’s position. How do you analyse that?

Jonathan Faull: As I think you will be aware, we have over the years instituted mechanisms designed to involve national parliaments more in the European Union decision-making

process, while of course respecting the prerogatives of the EU legislators—the European Parliament and the Council of Ministers, to use the order in the treaty. Some progress has been made. There are concerns about some of the details of the current arrangements—deadlines and so on. There are ideas—your own green card idea is one that is taken seriously.

The Chairman: Thank you.

Jonathan Faull: Our understanding of the British Government’s position is that the desire is to improve the current process, and you read out the language that is used. That is very much a matter for discussion in the European Council in the middle of February. There are ways of improving the current arrangements so that national parliaments feel more closely involved and, through them, national electorates feel more closely involved in the EU decision-making process. Nobody wants “unwanted legislative proposals”. Of course, the Commission does not believe that it makes unwanted legislative proposals.

The Chairman: It makes fewer now, as a matter of record.

Jonathan Faull: Thank you. But should proposals not be perfect when they leave this building—we have to contemplate that possibility at least—we would expect the EU’s legislators to respond in the normal way. As we all know, the Commission’s proposal never emerges intact from the real legislative process from our democratic elected European Parliament and our Council of Ministers, but a way of making national parliaments more involved in that process certainly encounters no objection of principle. It may be a matter of organising the mechanism in a better way.

Q114 Lord Jay of Ewelme: Turning to another of the baskets that the Prime Minister has, and I do not know whether you set out or fill or whatever you do with a basket—

Jonathan Faull: Put eggs in it.

Lord Jay of Ewelme: I think Churchill once said, when asked whether he wanted to let all the members of his Cabinet go up in the Comet for the first time, “It would be a mistake to put all your baskets in one egg”.

The Prime Minister identified immigration—he used the word “immigration” rather than “migration”—as one of the four key challenges facing the European Union, with the specific objective of enabling the UK to control migration from the European Union. My first question is: to what extent is migration within the European Union—free movement, in other words—a challenge for the EU as a whole or is it a specific and rather unique British preoccupation?

Jonathan Faull: Free movement within the European Union is not uncontroversial in the politics of other member states. That is a matter of fact. The free movement of people within the European Union is a fundamental freedom of the European Union single market. Can it cause difficulties for countries from which people move and/or countries into which people move? Clearly. The politics of member states show that that can be the case. It is not an unconditional right. From the very beginning, the European treaties provide for the possibility for member states to take certain measures in respect of all the fundamental freedoms, by the way, in the name of public policy, public order, public security and so on. All the member states were given the possibility of imposing up to seven years of delay of free movement rights following the enlargements of the past decade. Many member states used the full seven-year possibility. The United Kingdom chose not to in all cases, but in itself an adaptation period was considered appropriate. We see free movement as a right and an opportunity, not as a problem, but one has to recognise that it is not an unconditional right.

The very existence of the Prime Minister's basket on this issue shows that in the United Kingdom it is seen as an issue requiring attention. It would be wrong to suggest that the United Kingdom was completely alone in having that view represented in its political discussions.

Lord Jay of Ewelme: Do you think that the fact that the question of migration has become as difficult an issue for the European Union as it has recently, as shown, for example, by what is happening in Germany, will or could lead people to look at the whole issue in a slightly different—I will not say sympathetic—way that could open up the question to different sorts of solutions from those that are being examined at the moment?

Jonathan Faull: I think, generally speaking, that the view in other European countries is a clearer one of distinction between immigration from outside the European Union and free movement of European citizens within the single market. Just as we distinguish between the flow of goods, capital and services among ourselves within the European Union single market and those which go to or come from the rest of the world, the distinction is clearly held in other European countries, and is certainly held by the European institutions, that there is a wholly different approach to be taken in respect of immigration *stricto sensu* from outside Europe and free movement within the single market.

Q115 Lord Jay of Ewelme: Focusing down a little more on the Prime Minister's specific proposals, as you know, he is seeking to exclude EU migrants from accessing in-work benefits such as tax credits during their first four years in the UK. In the light of the discussion at the last European Council and the discussions you have been having, what would you judge to be the prospects for agreement on that proposal? Have you seen other ways in which the Prime Minister's objective might be achieved if that is too difficult, for the reasons you have just explained?

Jonathan Faull: As the Prime Minister himself has said, there may be other ways of meeting his objective. I do not think that I am betraying any secrets by telling you that there was considerable opposition to what others see as four years of discrimination between people doing the same job, paying the same taxes, on the grounds of their nationality. There was considerable opposition to that notion but there was considerable interest in devising other solutions that may meet the Prime Minister's objectives. You will have to ask the Prime Minister what his objectives are, but I understand them as being to reduce what may be seen as artificial incentives to free movement other than the normal, natural free movement you would expect in a single market.

Q116 Lord Liddle: Moving on to the euro-in/euro-out question, and discrimination there, it is clear that the Chancellor of the Exchequer regards this as one of the most important aspects of the British renegotiation. Of course, the problem is that there are no concrete proposals for eurozone integration at the moment. So the question is: what can be done in practice to assure against discrimination when one is trying to anticipate a bit of an unknown, really?

Jonathan Faull: We know something about what has happened in the past few years. We have created a banking union, which is a single supervisory and resolution system that is open to all member states of the European Union to join but which is joined automatically by the euro-area countries. Today it is coterminous with the euro area. No non-euro country has joined yet. We also know that there are new ideas—the Commission was of course party to the five Presidents' report on future governance of the eurozone. It is very

much a matter under discussion, but it is moving. How fast or slowly it is moving is a matter of judgment, but it is certainly very much on the agenda.

Meanwhile, the United Kingdom has both an opt-out from joining the euro and a Government stating that they do not intend to join the euro. As a matter of fact, within the European Union single market there are member states with different currencies and we have to organise the single market taking account of that reality. I think that the banking union experience shows that that is possible and gives us certain principles, precedents or mechanisms to which further consideration can be given in the identification of wider principles, such as—as you point out, Lord Liddle—a principle that there should be no discrimination on the grounds of currency or location of activities within the single market. So we have something to work on.

It is not an easy issue but, again, this is grounded in the reality of life in the European Union. We have a single market. We have 19 countries now sharing the euro and developing mechanisms between them for governing the euro. We have the European Central Bank. We have the banking union and the bodies it has created. We have two member states with opt-outs—Denmark and the United Kingdom—and we have other member states not yet in the euro. We have to make all that work. The United Kingdom has the City of London within its territory. It has a very important interest in the financial sector and has raised a number of questions in the relevant basket, and they are being addressed.

Lord Liddle: So the answer is that you think there is no reason in principle why these concerns cannot be addressed in the renegotiation?

Jonathan Faull: I see no reason in principle why they cannot be addressed.

The Chairman: That is helpful. Let us move on to the final basket. Lord Green.

Q117 Lord Green of Hurstpierpoint: Thank you. On competitiveness, the Prime Minister has argued that all the various different proposals, promises and agreements that have to do with the single market and trade, cutting regulation and so forth, should be brought into, “one clear commitment that writes competitiveness into the DNA of the whole European Union”. Do you have any sense of what that might mean in practice, other than some protocol that simply uses those same words or something rather like them? What would be different from what is already under way in the new mandate of the Commission and the expressed objectives of the Commission itself, which often sound like that?

Jonathan Faull: Thank you for recognising that. We believe that this Commission, led by Jean-Claude Juncker, has set out and is now implementing a set of policies which go very much along those lines. We want to make the European Union more competitive—we need growth and jobs in our economy—and we want the single market to be even more of a reality than it is today. We want to make progress on services and on trade agreements, for example, and are working flat-out to that end. I think the British Government recognise that.

The idea of bringing all those various commitments, programmes and policies into sharper focus in one clear commitment “written into the DNA” is a perfectly sensible and, I think, achievable goal. Precisely how it is done, what words are used and what instruments are used is a matter for the European Council. We are working hard to achieve that. We want to do all these things as quickly as we can and we think that the European Union is advancing on the right path, and we are very grateful for the British Government’s support in all these areas. The United Kingdom plays and has historically played an important part in the development of EU policies in all these areas.

The additional point you did not raise but I will meet head-on is whether targets can be attached to this process so that there can be a measurement of progress in achieving these things; for example, in reducing the regulatory burden on business. We are looking at that as well. It is not as easy to do across 28 different countries as it may be within an individual country, but that is not an excuse for ignoring the issue. We want to do this and to be seen to be achieving progress in doing it, so we are very open to consideration of how that can be done.

The Chairman: Thank you. On that particular point, it is a matter of record—I see the documents and triage them every Monday, typically—that we are beginning to get a flow of what you might call positive proposals coming through; for example, one on the use of the iPlayer or whatever outside your own state, which would be very welcome to my daughter; I discussed it with her yesterday. I mention that only as a small example. Roaming charges are perhaps a much stronger one, which the Prime Minister has mentioned. It seems to me, at least in principle—you may want to comment—that there is a certain coincidence of what you might call the reform agenda and the political agenda, and the economic and competitiveness agenda around that area. Would that be a reasonable way of looking at it, not least because no doubt the Prime Minister will want to say something as and when an agreement is concluded?

Jonathan Faull: Again, that is a matter for him, of course, but I think, generally, yes, this is not a contentious issue.

The Chairman: Are there any bear traps that we still have to look out for?

Jonathan Faull: We have to get to grips with the reporting target side of it—and we are certainly not unwilling to do that—to show that progress is being made. Apart from that, this is not a very controversial basket, not only for us but, I think, Governments across Europe, whatever their political composition. There will be disagreements on the detail of trade agreements. After all, it takes two sides to make a trade agreement so we can want one as much as we like but we have to persuade the other party—be it the United States in the case of TTIP, or other countries—to do that as well. Those who have been involved in trade negotiations will know how complex they can be, but the prize is a very important one and this Commission is very committed to that—and, to repeat what I said, the British Government's support is very welcome.

Q118 Lord Green of Hurstpierpoint: An observation would be that, looking back, the area of most difficulty in making progress has been the domestic services sector rather than trade. Trade is a clear Commission competence and a lot of fairly consistent focus is brought to bear on it. Historically, I think we would all recognise that it is the services sectors where least progress has been made in achieving a real single market. The question stands but it may be one that has no possibility of an answer: what difference does the Prime Minister's focus on this really make to what will happen over the next five years?

Baroness Scott of Needham Market: Perhaps I might add a supplementary to that. One of the things I observe as the chair of a sub-committee is an increasingly interventionist stand from the European Parliament. Unlike national Governments, where the Government is reflecting the parliament, that same arrangement does not work here. We can have all the deregulatory intent we like but the European Parliament is often anything other than deregulatory—I just make that as an observation.

Jonathan Faull: Well, it requires a lot of hard work and persuasion and largely that is happening. The United Kingdom is not the only country pushing for freer movement of

services around Europe—the freer provision of services from one country into another. It has often found itself in groups of countries—coalitions—taking initiatives, signing letters, et cetera. There is work to be done, no doubt, with other Governments and with the European Parliament in doing that. This is not a matter where lots of new rules are needed; it is largely a matter of implementing rules that are already there in the treaty and the services directive. Our general better regulation agenda, which I think is supported by the United Kingdom, is one that is shared across the European institutions. We do it under an inter-institutional agreement with the European Parliament. This is all very much work in progress. It needs constant attention and impetus and the British Government are usually not shy in providing that, and I hope that continues. The Commission welcomes the British Government's support in the agenda that Jean-Claude Juncker and his Commission are committed to and, in the case of the internal market, Commissioner Bieńkowska is working on very hard.

Q119 The Chairman: Thank you. As we begin to draw this to a close, I suspect that many of us who are students of diplomacy will have looked, occasionally with horror, at, say, the events of 1914, in that we have a tight timetable and perhaps the machinery will not work. Those of us with a political background will also worry at clouds no bigger than a man's hand, which suddenly become immediate and imminent. I just wonder, in what seems to be a well-conceived process at the level of the European institutions—and you have spoken with some delicacy about the role of the European Parliament as well—whether at the last moment, as it were, there is a possibility or any significant likelihood of difficulty either from the European Parliament institutionally or indeed from other member states, which may, for their own purposes—dare I say?—suddenly seek to introduce some further pitfalls in the process, possibly in pursuit of their own particular interests.

Jonathan Faull: I cannot speculate on what might or might not happen, I can only say what I see now with my eyes. What I see—and I think the December European Council confirmed this—is all 28 leaders wanting to find solutions in responding to the British Prime Minister's concerns, wanting to keep the United Kingdom in the European Union and wanting to maintain the integrity of the European Union's political and legal systems and the integrity of its single market in all its aspects. So there is a remarkable consensus, I think, about what leaders, whatever their political complexion or the composition of national Governments, want and say they want to achieve. I think we all agree that the European Union faces major challenges of quite considerable gravity and complexity, and leaders want to show their common commitment to meeting those challenges within the framework of the Union that we have created. They very much see the United Kingdom as an important player in all those processes, whatever its status in respect of particular policies. There is a very strong commitment, which certainly we in the Commission share, to solving these problems, responding to these concerns—which are those of the British people, as presented to us by the British Prime Minister—and keeping all that is good in the European Union going, so that it is able, and its member states acting collectively through it are able, to meet the daunting challenges that we face.

The Chairman: On that note, Jonathan Faull, I draw this session to a close by thanking you very much. You, rightly as a high official, distance yourself formally from the political process. We could probably summarise what you said and indeed the note you left the discussion on as being both discreet and remarkably informative and helpful to us. That is exactly where we are and we are encouraged by that. We wish you every success in the immediate and proximate negotiations and thereafter. Thank you very much indeed.

Jonathan Faull: Thank you.

Ashley Fox MEP, Catherin Bearder MEP and Glenis Willmott MEP—Oral Evidence (QQ 126-133)

**Ashley Fox MEP, Catherin Bearder MEP and Glenis Willmott MEP—
Oral Evidence (QQ 126-133)**

[Transcript to be found under Catherine Bearder MEP](#)

French Sénat European Affairs Committee—Oral Evidence (QQ 151-161)

Evidence Session No. 15

Heard in Public

Questions 151 - 161

Members present

Lord Boswell of Aynho (Chairman)

Baroness Armstrong of Hill Top

Lord Blair of Boughton

Lord Borwick

Lord Davies of Stamford

Baroness Falkner of Margravine

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Baroness Kennedy of The Shaws

Lord Liddle

Baroness Prashar

Baroness Scott of Needham Market

Baroness Suttie

Lord Trees

Lord Tugendhat

Baroness Wilcox

Examination of Witnesses

Jean Bizet, Chairman of the French Sénat European Affairs Committee, and **Fabienne Keller**, Vice-Chair of the French Sénat European Affairs Committee and Rapporteur on the UK-EU Relationship

Q151 The Chairman: Good afternoon, my Lords, ladies and gentlemen. I begin by extending a very warm welcome to our French visitors, Senator Bizet, chairman of the European Affairs Committee, and Senator Keller, the vice-chairman. Both are known to me through work on the international side of European affairs on behalf of this Committee. I know that they have both taken a close interest in our affairs. They are working on our current negotiations and will produce a report on them shortly. It is both an honour and a privilege to welcome them.

I have one small insight. I think I am right in saying that Monsieur Bizet is a veterinarian. Is that correct?

Jean Bizet: Yes.

The Chairman: In Lord Trees, we have a distinguished British veterinarian, so they can get together and discuss some aspect of prolapse or something afterwards.

If I may continue the thought, many of us have had the privilege of being guests of France in Madame Keller's city of Strasbourg, through the Council of Europe and other work. I am delighted to see you. I know that you have attended our Committee meetings in the past.

As I said to you, this is not a court of law. We are holding a public evidence session. We will prepare a record of it and send you a copy for any corrections. We will be very grateful to hear what you can say on the record. There is a small public gallery. The only restraint, beyond our normal ones, that I will ask is that people should be careful to be relatively measured in their speed of speaking, because of the translation. Secondly, they should try to be silent when they are not addressing the Committee, because of the difficulty of conflicting noise.

You are very welcome, Senators. I hope this can be an exchange of views, as well as an expression of formal evidence. Please feel that you can contribute by asking us questions as well. I will begin by asking you to say something on the record for us about the work of your committee in relation to the United Kingdom-European relationship and the British Government's proposals for reform of the EU. Could you indicate the most significant findings of your report on that subject? We are already aware that discussing Britain's relationship to reform in the European Union is not necessarily the same as discussing the European's Union's attitude to reform in the European Union. Are they the same, or are they distinct? Is it helpful if they are coincident in view and not opposed? That is really asking for a report. Secondly, given that the pace of the negotiations is becoming quicker, could you explain how your Committee will seek to respond to the British negotiating agenda in the coming weeks and months?

Jean Bizet: [*Interpretation*] Chairman and members of the Committee, we are delighted to be here and to greet you. In a moment, I will give the floor to my colleague, Fabienne Keller. She is really in charge of this question, having already written a report on the issue, with another report being prepared. We are very interested to see how the referendum will be prepared and take place and, obviously, depending on the result, what the United Kingdom will do—how it will position itself in an environment that will doubtless be a different one from today.

The referendum worries the political class in France, particularly those interested in the future of the European Union. We are interested in knowing how you got here—why you decided to have a referendum—and how we can help and support you, depending on the outcome of the referendum. The report will come out on 28 January and will be there to inform all our senators on the future development of the EU, again depending on the outcome of the future referendum.

The Chairman: You asked a simple question: how did we get into this referendum? That, of course, is a domestic political issue in Britain. There would be different views across the Committee, according to whether members belong to one party or another. I have no party affiliation at present. Perhaps the best person to ask is the Prime Minister, because he wanted one. All I will add is that I am sure that he wished to deal with some problems in his own party. In fairness—that is my duty—I should also say that there is some opinion in Britain that it is necessary to validate or confirm British membership, because it is a long time since some of us voted in a referendum. Some of my younger colleagues here may not have had the opportunity of doing so.

For your information, as someone who is rather interested in military history, I remember voting in our last referendum. It was in 1975, so I call those who voted “les soixante-

quinzainaires”. I hope that is appropriate. Just for a little audience action, while we are here, may I ask—I have not asked this before—how many of my colleagues participated in the referendum in 1975? It is approximately 50%. I am sorry to have interrupted you. Senator Keller?

Fabienne Keller: Thank you very much, Lord Chairman. It is a great honour for my Chairman, Jean Bizet, and I to be in front of you to discuss the future of Europe with you. When we talk about the United Kingdom, we are talking about a very important country within Europe. I was not authorised to vote in 1975—I am not a British citizen—but I followed that referendum closely, because the United Kingdom being in or out was a big question in the huge project of building and growing Europe. You had just come in, and two years later you decided to discuss whether or not to confirm that. As a teenager, I was very interested in that.

I am from Strasbourg, which is part of the explanation, because Europe is in our everyday life. We live not only with Germans but with the European Parliament and a lot of different European influences. It is great to share discussions with Italian, Swedish, Greek and Spanish people.

About 15 months ago, following the review of competences that was in its concluding phase in Great Britain, Jean decided to ask me to do a report on that process, which was very interesting, because it was very open. It took two years, so people could bring forward information. There were a lot of exchanges, albeit among informed people. There seemed to be fairly wide consensus. I did not read everything, but I read what was said about defence and markets and found it really inspiring. It was very balanced—what was positive and what could be improved—and it was written in a style that was very easy to read. After that you had the Bloomberg speech, which described another perspective. Here we are, after the internal British elections and you are in the process of negotiating with Europe before a referendum. I am doing follow-up work on the situation because, of course, it is very important for us. As in 1975, it is central for Europe.

The Chairman asked whether Great Britain could participate in global improvement in Europe. I hope so, but I am not sure that the process that is going on makes that possible. The purpose of the February Council is to discuss the conditions that are acceptable to the 27 and whether they are enough to enable a positive outcome in the referendum for Great Britain, rather than to have a global discussion in Europe about how we can build a future. It is not possible to discuss that under such strong calendar pressure initiated by only one country, even though your questions concerning markets and the philosophy—the political objective of ever closer union or something more like an integrated and rational market—are probably shared by other countries, such as the Netherlands and the Nordic countries, and by some parties in other countries of Europe. It is too bad. I believe in Europe, but we have to define a new objective, after the one concerning peace following the Second World War, which we in Strasbourg experienced very intimately. We have to define a new project, probably around the theme of the future of our youth and employment, probably concerning poverty and maybe concerning demography. There are huge demographic changes in Europe that we have not faced up to until now, except through the German answer, which is migration.

In the initial report, I wrote that we believe that the European Union has been rather stimulating for the UK and that your country has benefited from the open market and other aspects of European policy. After the Bloomberg speech, we understood how determined your Government were to change things in Brussels. That has already had some success, because apparently the dinner at the December Council concentrated solely on the issue of

Great Britain. As we know, all important decisions are taken at informal times, not during official meetings.

Q152 The Chairman: Is it your understanding that the presentation our Prime Minister gave at the dinner was rather helpful to the debate? Last week we heard evidence in Brussels. We took from that evidence that there was a sense that for the first time people were hearing a political case they could respond and react to.

Fabienne Keller: Yes. They are all high-level politicians. It was very important that Mr Cameron could make those points about how important it is for internal reasons and what the main forces in play are. Everybody follows British policy, more or less, but one has to take the time to make the analysis. The point is important not only for the UK. If the UK decides to go, it will be an historic point for the whole of Europe. They had to be conscious of that and to understand what the important points are in order to have a discussion in February that can bring us to a consensus that is efficient internally, because on different subjects you expect different outcomes. I am not being very clear.

The speaker continued in French.

[*Interpretation*] It was important for people to find out over dinner what the important points were where concessions had to be made.

The Chairman: That is really helpful. We look forward to your report with great interest when it is published. Can I ask one follow-up question before my colleagues come in? You said that it would be an important point for the rest of Europe. Could you give a little more flesh to that understanding? Could you fill it out a little? Why would it be critical? Let me make the argument. There is a provision for a member state to give notification to leave. There is a discussion. Why does that affect the other existing member states? Why do you think it is an important point for the Union as a whole?

Fabienne Keller: Because of the European dream. It is not very rational reasoning. Europe was built with six, at the beginning, and then nine. Then Great Britain came, then the southern countries et cetera. It was an ever-growing area of people improving their lives and stabilising freedom. Greece was a dictatorship before it entered. The same applies to Spain and Portugal. We do not think about it, but Mr Barroso would tell you about his youth. He was a communist, because he was fighting against dictatorship. It is very recent. Europe is this marvellous system that helped them to stabilise politically and to develop economically, so that after the political outcome wealth would bring a better life and improvement. That continued with the eastern and Baltic countries. If you drop out, it is the end of that dream—the end of that capacity to absorb, even though we have a lot of difficulties, to bring progress and hope for the future, and to maintain internal rules on freedom, respect for people, the importance of education and culture and the profound values of the European Convention on Human Rights. If the oldest democracy in Europe—that is what you are—drops out, what is the sign to the rest of the world? It is a loss of power.

Jean Bizet: [*Interpretation*] I would like to add a few words to what my colleague Fabienne Keller said. After the Council of the 18th and 19th and the different informal lunches, on one of the trickiest subjects for a number of member states—benefits for new migrants coming to this country—it seems that the German position, which was probably the most rigid, changed somewhat. I, for one, was never particularly shocked or surprised by that proposal from Britain, but it seems to me that things are going well in that respect. I feel that the question of benefits is well legitimate.

You asked a question about Brexit. I believe that a Brexit would be a setback for the whole EU, because in this globalised world of the 21st century we still have a lot of work to do together. We can do things better together than we can apart. I am thinking of things such as international trade relations, rebalancing the world vis-à-vis Asia and China, and European energy policy. If we want to give Europe a new industrial impetus, we have to have cheap and reliable energy, with secure supplies. In that regard, we are very happy about the positive message that is being sent by Britain on nuclear energy and we hope that others will join that consensus. The digital economy is also very important. Those three aspects are at the heart of the development of the global economy. That is something that we can do better together than if we are divided.

The Chairman: Thank you. At this point, I will do two things. First, I will throw questioning open to my colleagues. I will ask Lord Davies to come in first, followed by Baroness Scott. If the Committee will excuse me, I have an urgent message to deal with. I ask Lord Liddle to take the Chair for five minutes until I return.

[Lord Liddle took the Chair]

Q153 Lord Davies of Stamford: Senator Bizet and Senator Keller both described the eventuality of Britain leaving the European Union as a setback for the Union. I think that you are right about that. I always recall a long conversation that I had with Raymond Barre about 20 years ago, when he said that he thought that it was a great mistake for the United Kingdom ever to have applied to join the European Union and a great mistake for the European Union ever to have accepted the application—and he was not a Gaullist. I disagreed with him at the time and I disagree with him now, but I wonder whether you could let me know how widespread you think that view is in France. How many people in France would react to Great Britain leaving by saying, “Thank God they have gone. They should never have come in. They can never make up their mind to make a serious commitment to the European idea. They have been coming and going and humming and hawing indecisively for the last 40 years. They are nothing but a nuisance. They are always asking for some special status or derogation. Now we can concentrate on making real progress with people who are seriously committed to the project”? That must be a coherent and intellectually possible reaction to our leaving. I know from my own experience in the past that it has been the view of some prominent Frenchmen and Frenchwomen. I wonder how widespread that view is today in French political life or French society.

Fabienne Keller: Very few French people would be happy if Great Britain came out. For most French people, you are friends. People can now go to London easily. In Strasbourg, for example, we were so happy to have a Ryanair service. When it was stopped, it was bad—people cried. Now that it is back, people are very happy. It is very popular. The only problem with Great Britain is that it is expensive for us, because your currency is too strong. We live together. We use your language all the time; young people are doing so more and more. You have wonderful musicians. For most French people, it is very pleasant. It is possible that some technocratic groups do not much like British people being in the discussions, because you are very strong and organised. I am impressed when I see British lobbyists, who are very well organised intellectually and in their methods. They are better than our Latin spirits, which are not so well organised, not so rational and, sometimes, not so professional. I do not think that the spirit of Mr Barre or Mr de Gaulle is still there. England used to be far away, but you are now so close, with the Chunnel and the open world in which you are living. You are our neighbours now. For our kids, it is very close, familiar and normal, so it would be a shock for a large share of the population. They would ask, “Why don’t they want to live with us and build a future with us?”

Jean Bizet: *[Interpretation]* I agree completely with my colleague. The feeling that you described, Lord Davies, was more widespread some years ago than it is today. I would say this to you: please do not change too much. That is not a joke. The fact that your position is original and slightly different on a few points—this singularity—is part of your British charm.

I said that the political class was concerned about the referendum. We are concerned about the possibility of a negative outcome, which would be a collective failure, but we also see it as an electric shock that may be necessary, since the EU is not working properly. We do not believe that the problems will be solved by your leaving the EU. We do not think that we will progress towards the future better without you and we do not believe that you will be better equipped to deal with the challenges of a globalised world without the EU.

[Lord Boswell resumed the Chair]

The Chairman: Thank you. I am very grateful to the Committee for its indulgence. Can we go to Baroness Scott?

Q154 Baroness Scott of Needham Market: I want to explore the electric shock a little further. In the next few weeks, clearly the focus will be on developing a set of proposals that enable David Cameron to say, “That’s fine. We’ll have a referendum, and I recommend that we stay in”. I wonder whether you see that as the end or as the beginning of a process in which there can be a debate not just about the UK but about the EU more generally—about its direction, about flexibilities and about diversity.

Jean Bizet: *[Interpretation]* We live in a world where economic time is quicker than political time. It is better for Europe to change continuously in the way in which it functions. That is the best way for the EU to respond to the concerns of its citizens and—because I am particularly interested in the economic aspects—of economic stakeholders, businesses and so on. As I said, the economic pace is faster than the political pace, in my opinion. If tomorrow Mr Cameron comes back from Brussels feeling that he has been listened to, that is one thing, but Europe will still need to keep changing, while keeping our values and basic architecture. The EU cannot afford to remain static, because the rest of the world is not remaining static and it will not wait for us.

Fabienne Keller: You have opened a discussion about improving the functioning of the markets. As Jean said, that is important, because we are late. The pressure that you put on the digital market or the energy market is very important, because energy and digital are strategic. That might be followed up by further discussions, because it coincides with the interests of other member states globally. However, the difficulties that most European countries encounter today relate to two subjects where you are not part of European policy—migration and the eurozone—so probably the focus will no longer be on your more political aspects, such as ever closer union and coherence between the eurozone and countries outside it, which are very philosophical: how can we build Europe further, and how can we define common objectives that are largely shared? I have a dream that somehow we can have that type of discussion, because if we do not think about a new project, Europe will have severe difficulties one day. Schuman, Jean Monnet, De Gasperi and Bevin are gone now, so we have to refine this new spirit.

The Chairman: This discussion is developing very positively. I would like to move to some of the specific British reform proposals, although they include some aspects of the general situation to which we have been referring. For the convenience of my colleagues, I would like to structure this by talking first about national parliament co-operation and then a little more about ever closer union between the peoples. Those are both practical and, to some

extent, philosophical questions. Then we might talk about the two areas that Senator Keller has just mentioned as current important issues: the management of the eurozone vis-à-vis non-euro members and competitiveness and the single market. Towards the end, perhaps, we can talk about migration, which both of you mentioned as a serious current political issue. We see it on our televisions every night. We will start with Lord Borwick.

Lord Borwick: Thank you for the written document that you produced for us earlier.

The Chairman: Technically, that is not on the record, but it is very useful background.

Q155 Lord Borwick: Indeed so. The question is posed about there being two schools, one in favour of a Union of national independent states and the other in favour of a supranational Union. You say, “We French have not had the debate, because it would destabilise our parties”. It is clear that a fear of destabilising parties is something that we have greatly in common around Europe. You say that the question is in breach of the trend of European treaties over the last 40 years and the way Europe has been developed. Would it not be more important for us to answer together the question of whether there should be a Union of national independent states or a supranational Union? If it is to be a supranational Union, we really ought to organise what is the role, if any, of the parliaments of individual states. Surely producing the red card will increase the power and authority of individual parliaments around Europe, at the cost of the European Commission. Should we not sort out that problem first?

Fabienne Keller: Is it solvable? We are this marvellous construction of independent countries, bringing things together but with a very special organisation. Our Executives are the ones who decide the law at European level. There is now more and more sharing of power with the European Parliament, but it is still a strange construction. Where is the balance between respect for national structures and democratic organisations, like the Parliament, and giving some power at European level, so that we can harmonise?

We are clearly in favour of national parliaments having more power, because we are national parliamentarians and—more seriously—because we see that in common discussions European decisions are not explained. They are not subjects of discussion in the newspapers, so when they arrive at national level everybody discovers things that have already been decided. I am very involved in environmental subjects, where 80% of the laws are made in Brussels. When we decide in our parliaments, most of it is already done. Involving national parliaments in a better way, so that they can discuss laws more before they are adopted at European level, is an interesting way forward. I love to participate in inter-parliamentary sessions on different subjects. I participate on environment and finance. The problem is that the European Parliament does not want those structures to have any power, even to agree resolutions, because that takes away part of its own power. However, the sessions are a good way to progress, so that we can meet colleagues who specialise in the same areas and understand one another better.

This is a little strong, but is the question of whether we are going towards a more federalist or a more national structure not a theoretical discussion? Should we not organise things practically, so that democracy is livelier and our citizens feel that they have taken part in discussion of decisions taken at European level? It is also our fault, as members of national parliaments, for not sharing those subjects with our citizens, even though the process at European level is impossible for normal people to understand, with the directives and all the decision-making.

Jean Bizet: *[Interpretation]* I have one more point. The Lisbon treaty gave more powers to national parliaments. There is one last thing that is improving and is being tested. As my colleague knows, at the latest COSAC meetings the principle of the green card has been started, whereby national parliaments can take initiatives. That is something Mr Timmermans, at the Commission, is sympathetic to, so the idea of the right of initiative for national parliaments is making progress.

The Chairman: You are very kind, Senator Bizet, about our attention to that matter. I should have said this earlier, but perhaps you could give the respects of this Committee to Madame Auroi in the Assemblée Nationale, from whom I had good wishes only this morning. As you know, they have responded to our initiative by suggesting work on corporate social responsibility. We have been in correspondence with them about some of the detailed thoughts on that. It is the beginning of a dialogue. The only point that I would make, other than to register that, is that we will clearly need to be sensitive to the interests of the European Parliament. If we want to deal with democratic deficits, we have to agree among ourselves before we can start to challenge the Executive.

I do not want to spend the afternoon on the green card, but it is fair to say that it is an experimental procedure. It is an example of how we can take an initiative together.

Q156 Lord Jay of Ewelme: Senator Keller, you said a little while ago that you thought that two of the issues raised by the Prime Minister were rather philosophical. One of them was the relationship between the eurozone and non-euro countries. I am not sure that that is philosophical. I think it is a very practical consideration and one of the more important aspects of the negotiations.

I want to ask about the other issue that you raised, which is the aspiration in the preamble to the EU treaties to the establishment of “an ever closer union among the peoples of Europe”. As you know, that is one of the issues that has been raised by the Prime Minister and that he sees as important to us. Could you say something about how far you yourselves or how far the French people regard an ever closer union among the peoples of Europe as having real resonance? What do they understand by that phrase? Would it make any difference, in your view, if there were agreement to the phrase “ever closer union among the peoples of Europe” not being applied in some way to Great Britain?

Fabienne Keller: First, as you know, “ever closer union” is in the treaties and was a very strong principle of the founders of Europe. We always have to progress.

Lord Tugendhat: Excuse me, could you please face the front?

Fabienne Keller: I am sorry; I have a low voice. I said that it was a principle written in the treaties. It was in the mind of the founders of Europe that we always have to progress. That is part of the stability of Europe—always having new objectives and ambitions for Europe. In France, we have not recently had a discussion globally about whether or not it makes sense, because we do not have sessions or work on what the shared objectives of Europe will be 20 or 30 years from now. As in Great Britain, we talk more about posted workers—workers coming from other European countries to work in your country, because there are lower levels of social security in their countries of origin and they will work more cheaply in your country. We are involved more in the same debates as you, to do with competition and so on, applied to the French situation. I do not know what the spirit of France is today with regard to the ever closer union project, but if we as politicians do not propose a new project to people, they cannot share that ambitious objective.

Lord Jay of Ewelme: If there is agreement in the renegotiations that in some way or another that phrase no longer applies to the United Kingdom, what effect, if any, do you think it would have on France and the rest of the European Union?

Fabienne Keller: It is difficult to say. May I speak off the record?

The Chairman: Yes. The Committee respects that. We will take this answer off the record.

The Committee continued in private session and then resumed in public.

The Chairman: Thank you for those comments. We will now revert to the record. It might interest our French guests to know that one of our interlocutors in Brussels the other day said that his interpretation of an ever closer union among the peoples of Europe was when English football fans sang “La Marseillaise” after the bombings in Paris. Whether you agree with that comment or not, it was a very eloquent one.

Fabienne Keller: In fact, Mr Cameron was the first person to react and to call Mr Hollande after the Bataclan attack, very early in the morning.

The Chairman: There was a very strong feeling here. We should record that.

Fabienne Keller: For us, this is at the level of the Queen Mother during the Second World War. Whatever rational discussions we may have, it is about what happens when a country is really in difficulties. During the Libyan crisis, the British and the French—the marines and the aeroplanes—were able to work together. That is essential for our future.

The Chairman: Lord Jay, I should have let you finish your point.

Lord Jay of Ewelme: No, that is all.

The Chairman: Thank you. May we go on to matters financial? Baroness Falkner has a question.

Q157 Baroness Falkner of Margravine: Madame Keller, one of the other things that you mentioned was that the eurozone and immigration are two critical areas where the UK is not wholly there. Indeed it is not. I want to talk about economic and monetary union deepening by doing, as it is called. First, it would be interesting to hear from you whether people in France recognise that London is Europe’s global financial centre. If you recognise that, co-operation between the eurozone and the United Kingdom is vital. As you know, it is one of Mr Cameron’s four demands. You will also recognise, of course, that the United Kingdom authorities very much want to keep a lot of the discussion at the EU 28 level. Do you think that that is possible, as we move forward?

Fabienne Keller: Are you asking whether we recognise that London is our global financial sector headquarters?

Baroness Falkner of Margravine: Yes.

Fabienne Keller: That is a fact. All the figures prove it. I see no question about recognition. It is so. You are the largest financial centre.

Baroness Falkner of Margravine: As regards eurozone trading, it is—

Fabienne Keller: Of course. It is the major eurozone trading place. It is very secure, efficient and well organised, and it is developing. A lot of French people work in the financial sector here. On a personal note, I used to work at a bank called CCF, in the asset management

business. It was bought by HSBC, and all my colleagues are in London. If I had not become Mayor of Strasbourg, I would be in London, working in asset management.

Baroness Falkner of Margravine: It is our loss.

The Chairman: I should tell you for the record that the chairman of HSBC who carried out that transaction is one of our colleagues—Lord Green. He was speaking to me favourably of the bank in Brussels the other day, on the margins.

Fabienne Keller: I prepared the due diligence and then conducted my campaign to be Mayor of Strasbourg.

The Chairman: Thank you. I am sorry for the interruption.

Fabienne Keller: It is funny. I am glad to meet you, Lord Green.

Is it possible for the 19 to co-operate with the seven—or for the 19 to co-operate with those that do not want to enter the eurozone and with the others? What is particular in the British situation is that you do not want to enter. We have countries that are out but willing to join and some countries that do not yet know whether they will join or resign. I am sure that it is possible, if we are clear that there are two different circles and that on your side you accept that, because we share a currency, we need to go further on fiscal integration and social rules. Without that, it is just crazy for a country like us, which is too protectionist with regard to personal interest. We have competition from people coming from other countries. Because they can work everywhere, it is not sustainable in the long term. If you accept that, you can take advantage, as in the financial sector, where you have built it yourself, but you should accept the fact that a few things are decided among the 19, even though today you are always part of the discussion. There is no institutional place only for the 19, except for the European Central Bank. No other European institution takes decisions at 19. The 28 are always around the table, so you can share the discussions, make your points and hear everything. We will probably have to work on how those two so-called systems work.

Baroness Falkner of Margravine: Can I come back on that a little? I accept what you say with regard to caucusing; there is probably not very much of that, and the United Kingdom is involved in discussions. When you look at the developing architecture of the eurozone countries, you have a very different regulatory format and so on. To be fair, UK concern revolves around examples like the financial transaction tax, where you have used a certain article of the treaties to move forward. In other areas, you use intergovernmentalism to move forward.

Fabienne Keller: But it is not progressing, because you are there and you are opposed to it.

Baroness Falkner of Margravine: Only recently the bridging finance story, which affected the UK, was not discussed with the UK.

Fabienne Keller: What are you referring to?

Baroness Falkner of Margravine: The bridging loan for Greece in the summer was not discussed with the United Kingdom. What you said is very significant, in the sense that there are areas where we need to move separately. The UK concern is that the single market, which is an acknowledged 28-member issue, can be weakened when we get more and more regulatory arbitrage between the eurozone countries and the non-eurozone countries.

Fabienne Keller: Can you remind me whether you are contributing a small share of the loan to Greece, or not at all?

Baroness Falkner of Margravine: Not any longer.

Fabienne Keller: Two years ago I wrote a report on the FTT. It will never work, because you are there. You have explained all the problems that it poses. I am speaking very freely. You are part of the discussion. Even though it is subject to the enhanced co-operation procedure, you are still in the discussion and participating, knowing each step and each proposal from the Commission. As you may know, we are still waiting for the new proposal, because you explained why it was not possible to apply it and so on.

On the loan to Greece, as the leading financial centre in Europe and one of the top two or three in the world, you took advantage of the fact that Greece did not go bankrupt, but you did not pay.

Baroness Falkner of Margravine: United Kingdom banks were not as exposed as French and German banks.

Fabienne Keller: Of course, we have all sorts of relations. Still, you did not participate directly in the financing, which is very costly and risky for us. I think that is fair, due to your position. You are not in the eurozone, so you are not in charge of stabilising the system, but you cannot say that it is a negative point. On the contrary—the fact that the eurozone is strong is very important for your financial position. You took advantage of that.

Jean Bizet: *[Interpretation]* I will make one point in answer to the second part of your question. We were talking about the singularity of Britain. We have dealt with more difficult problems in the past. If we think about something along the lines of the Ioannina compromise, it should be possible to find a solution that would not be harmful to you and would not impede the development of the eurozone.

In the minds of French people, particularly the French political class, the City is something that is viewed positively. We know that the City has huge expertise when it comes to financial engineering and that that is a good thing for the other member states, which can try to emulate that example. It is a source of progress for everyone involved. This is where the differences make us all richer. Again, I pay tribute to the financial expertise and excellence of the City.

The Chairman: You are very gracious. We will finish the financial and economic questions with one from Lord Green.

Q158 Lord Green of Hurstpierpoint: The question is a broader one and is about the single market. In his comments on the single market, David Cameron said that he was looking for a commitment that would “bring together all the different proposals, promises and agreements on the single market” in a single “commitment that writes competitiveness into the DNA of the whole European Union”. I suspect that that phrase is something with which all parties almost everywhere in Europe would agree. I imagine that among the French establishment it would achieve wide resonance at that level. I also suspect that, when we dig deeper, there will be differences of view about what a single market should really be based on. There is clearly a difference between a very market-liberal approach and a much more social market-oriented approach, so there will not always be agreement on the practicalities. In any event, without resolving all those philosophical questions about the single market, can you imagine that there will be particular, specific benchmarks that could be included in the response to David Cameron and would give more substance to the rhetoric? Can you imagine a form of resolution at the February meeting of the Council that would agree to put the single market DNA at the heart of everything that Europe does and translate that into specific objectives the Commission would be held accountable against?

Fabienne Keller: I am sure that the diplomatic representatives will find the right formula. Everybody agrees with the spirit, which is that we have to deepen the efficiency of our markets. We have to organise the markets that are not organised at European level, such as the digital market. We could be strong there, but we are weak, because we are not together within common walls. In the energy market, it is crazy not to have common views, exchanges and defined priorities. We have all this change and we are all investing tremendous amounts in renewables, but we are not sharing energy and our political choices efficiently. We can make progress only if we are more integrated.

Concerning all the different improvements that are possible in markets, the idea that some aspects of our markets are not efficient and that whatever can help the barriers to disappear has to be done is an objective that can be shared. Free movement of goods is so much in Europe's DNA that it is very important to improve the functioning of the markets, but on the practical side.

Jean Bizet: [Interpretation] This question bothers me a little, because I would say that French DNA is not as good as what we call Anglo-Saxon DNA when it comes to economic competitiveness. Here we have a lot to learn from Britain. France finds it very difficult to launch structural reforms. If you have a neighbour who is struggling and is not able to launch structural reforms, that will not be good for Britain. If France cannot make structural reforms, that is not something Britain has anything to gain from. A few years back, I was writing a report on posted workers and I came to Britain for that work. Even back then, I was impressed by how far ahead of us you were in what you were doing. For the EU to progress, there has to be a programme, with different phases and commitments. That is in your interest, but it is even more in France's interest, because then we will have to respect those commitments, which will force us to make the changes. That willingness to change is not something that is in the genes of Mr Hollande, although perhaps it is more in the genes of my colleague and me.

The Chairman: We will leave the French political debate and go on to what is in many ways the most difficult of the issues that our Prime Minister has identified. It follows the posted workers directive; it is the issue of migration. Two of my colleagues would like to contribute.

Q159 Baroness Prashar: As the Lord Chairman said, not only the most difficult but probably the most challenging issue is that of migration, which is further complicated by the current crisis facing Europe on asylum seekers. Do you think that it is uniquely a preoccupation of the UK, or is it something that challenges Europe as a whole, because it touches on the issues of freedom of movement and equality of treatment? I would like to hear your views on that.

Lord Blair of Boughton: If you would not mind, I would like to ask a second question, which is linked to immigration. How do you assess the impact on the renegotiation and, indeed, the forthcoming referendum not only of mass migration but of events such as the attacks on women in Cologne and Stockholm and, of course, the Paris attacks themselves?

Fabienne Keller: On migration, our understanding is that the issues that are important in Great Britain are more about people from Poland and the Baltic countries coming and taking advantage of social benefits in Great Britain, whereas in France or the Netherlands the issue is more about Syrian people coming. As nobody is controlling that, nobody knows exactly who is coming. As a manager of the French administration told me, everybody coming in today is Syrian. It is a stress when you mix that with terrorism. Maybe some of them are

terrorists. Even if it is only a few, it is enough to increase the risk in our countries. It is clearly a new atmosphere, where all these subjects are mixed up.

We do not have the same fear of European workers, although we used to. There was the issue of the Polish plumber. A friend of mine, who is from Poland, told me, “Do you know the name of the first Polish plumber? Marie Curie”. It is a very good point, meaning that exchange within Europe has always created a lot of wealth. That is why we speak about migration in all parts of society, whereas in the past it was more a subject for far-right people.

Living in Strasbourg, I know that the situation in France is very different from that in Germany. There is a small city on the other side called Kehl. They have about 500 Syrian migrants. They have organised their lives and have hired German teachers—some French people have been able to find a job in that way—to include them in German society. It is very difficult to say how all of that will balance. One of the huge paradoxes is that we have so many people who are unemployed, yet the Germans explain to us that they need so much migration just to fill jobs. Something is not working in Europe. Is it about qualifications, mastering the language or the real mobility of lower-level workers? Something is not working. That is probably why the issue, which would not have been accepted at all at European level two years ago, may be treated as a relevant subject, even though the mobility of European people within the European Union is still a principle.

The Chairman: But the British are not resented for raising the subject. The fact that we have said that we want to have changes is not a matter of offence to your colleagues in France or to French opinion.

Fabienne Keller: No. Because we have a migration problem, of very different origin, it is more acceptable to discuss the issue of migration. That is good, because we are looking at reality—we are looking at what is really going on.

Baroness Prashar: How do you reconcile that approach to broader migration with the concepts of freedom of movement and equality of treatment? I can see why the current situation is making migration an acceptable subject to discuss, but how do you reconcile that with those concepts?

Fabienne Keller: Talking about external migration is no problem. We could fix quotas, if we decided, at European level. Your subject, the subject for the British—quotas for internal European migration—is a question of principle. How far will the leaders decide to accept that the principle should be changed? In Brussels, senior civil servants consider it a very strong principle of the European dynamic, because through the movement and transfer of people you increase your national GDP. That has helped Spain and Portugal in the past, for example. We do not know where the compromise will end up, but clearly everybody is more open on the subject of migration—even people on the French left.

The Chairman: That is interesting. Monsieur Bizet would like to comment.

Jean Bizet: *[Interpretation]* This is a very complex and painful question, because behind it there are real people—men, women and children. It is not the case that the French population is against the British attitude in this respect. What we did not understand was the fact that Mrs Merkel seemed to react with her heart rather than her mind. That is not something we have been used to from her. This massive migration phenomenon is really a consequence of the failures—in particular, the military failures—of our American friends and of the EU. We failed to anticipate and to settle the crisis in Syria. We also failed in our neighbourhood policy, because we looked towards the east and failed to see the dangers

that were emerging in the south. Genuine asylum seekers should be given asylum, but economic migrants should not be allowed to come in. And Asylum seekers will go back to their home countries in the future. The phenomenon will carry on as long as we do not have a proper neighbourhood policy south of the Mediterranean, because the source of migration will still be there. We will have to do more. As the EU, we will have to invest more in those countries so that it is not just up to countries like Germany, Britain or France to carry the burden of the problem.

The Chairman: We have been going for well over an hour now. I know that one or two colleagues would like to add questions in a moment, but at this point we should ask our French guests whether they have any questions of the Committee. Who would like to go first?

Jean Bizet: [*Interpretation*] It is not really a question. I would like to express two wishes. The first is that Britain votes well at the referendum—that you do not leave the EU. Secondly, after the referendum has been won, we would like to come back here to see how together we can work to improve the functioning of the EU, because we agree that it is not working very well at the moment.

Fabienne Keller: My feeling is that sometimes France has a bad image in the United Kingdom, because we are not as practical and efficient as you are in the business sector. Of course, you love France. All the people we met who were in favour of Brexit have a house in France, so you have no problem with the nature, the culture, the spirit or the atmosphere. However, what could you or we do to improve the efficiency of being two partner countries, to build a common future both within Europe and together, as France and the UK—as two countries that are long-term friends, with a common history over several centuries?

The Chairman: That is for later, but it is very interesting to hear your comments. There is just time for Baronesses Armstrong and Kennedy.

Baroness Armstrong of Hill Top: Has my question not been asked?

The Chairman: Some of it has. I just wondered whether there was anything else that you wanted to add to it or to what Baroness Prashar said.

Q160 Baroness Armstrong of Hill Top: I was going to ask about the consequences of Brexit, not just for Britain but for Europe and for France. Is there anything else that you want to say about that?

Fabienne Keller: I think that you have a responsibility for the future of the rest of Europe. If you drop out, you put us in bad shape, because clearly it is a setback. It is a big break in the progressive project. When I was Mayor of Strasbourg I met members of an Asian structure that had been started. They looked admiringly at European construction and said, “How did you do that through time? It is marvellous, with common rules, a free market and understanding for one another”. Sometimes we should step back and look at what we have been able to build together in the past 50 years, because it is a miracle. It is something very exceptional in the world, so help us not to withdraw too much.

The Chairman: Baroness Kennedy, while not the only member with an interest in human rights, is the doyenne of the Committee in that field.

Q161 Baroness Kennedy of The Shaws: I am a human rights lawyer, so this is not a surprising question. Of course, our engagement with human rights and with the European Court of Human Rights is not contingent on our belonging to the European Union. If we

were to withdraw from the jurisdiction of the European Court of Human Rights, do you think that it would have consequences for our relationships with our fellow members of the European Union?

Fabienne Keller: Are you asking about your membership of the Council of Europe, as a signatory to the European Convention on Human Rights?

Baroness Kennedy of The Shaws: Yes, of course.

Fabienne Keller: That is also now included in the treaties of the European Union. You should have that in mind.

Baroness Kennedy of The Shaws: There is talk of creating a British Bill of Rights, which would be very similar to the European convention, but the jurisprudence of the European court would not apply and the European court would not have a remit. That possibility is being debated. What would be the impact of that on our relationship with Europe?

Fabienne Keller: Huge, of course, because you are the oldest democracy in Europe. In a lot of areas, you are the root of the rules on human rights. It would be impossible to understand. When I happen to go to the Court of Human Rights in Strasbourg. I always find it very nice to have all those judges working together. Of course, it is more complicated. It is not controlled by the British people, but it is strong and important in Europe.

Jean Bizet: *[Interpretation]* This is perhaps the only point on which Fabienne and I differ slightly, perhaps because she has a much bigger heart than I. My heart must be a bit smaller than hers. I talked about this at a recent COSAC meeting in Luxembourg. The Lisbon treaty mentions the European Court of Human Rights. In the last few years, the European Court of Human Rights has been going quite far, in my opinion, so I cannot say that your attitude to this upsets me. I listened with a lot of interest to what the President of the Court of Human Rights said when he visited Paris only a few days ago. He said that, faced with the challenge of terrorism, the European Court of Human Rights had to be realistic. He used the word “realistic”. Perhaps I am being a bit provocative, but that is very interesting, because the European Court of Human Rights has not always been very realistic, in my opinion. Perhaps this is something that will offend or upset some of you, but it is my opinion. I have a minor difference with Fabienne in that respect.

The Chairman: I suppose that my comment on that is, “Vive la différence”.

It is nearly 5 pm. You have been working very hard. First, I would like to express our appreciation to the translator and the transcriber for their work. It is not easy. Politicians have their own styles of speaking and sometimes their own interpretation of their words and the words of others, but you have operated very helpfully for us. In particular, I would like to thank our two guests and friends, Senator Keller and Senator Bizet. Perhaps more eloquently than anyone could on paper, they have expressed their solidarity and interest by attending our Committee and giving us helpful evidence and some very thoughtful and, I think, unanticipated lines of argument, which we will reflect on very carefully.

We have a lot to exchange views about. As my colleague from COSAC, Monsieur Bizet, knows, there are opportunities, but, as you have also indicated, there are possibilities for the future for collaboration and the concertation of views. If that can be done to this level of intensity, interest and engagement, it will be very helpful. I would like to express the thanks of us all, to wish you a pleasant time for the rest of your stay in London and to ask you to visit us as often as you find that you can. Thank you very much indeed. There is applause in the room. Applause is not common in these meetings, but your evidence has been very much appreciated. I now close the formal evidence session.

French Sénat European Affairs Committee— Written evidence (VEU0017)

Question 1

What can you tell us about the work of your Committee in relation to the UK-EU relationship and the UK Government's proposals for reform of the EU? What would you highlight as the most significant findings of your report into UK/EU relations?

How will the Committee be seeking to respond to the UK renegotiation agenda in the coming weeks and months?

Our European affairs Committee decided to follow up this important issue – i.e. the very special relationship between the UK and the EU – as soon as we heard about the British review of the balance of competences. At that time my colleague Mrs Fabienne Keller was entrusted by our committee with the task of preparing an information report on the results of this review and on the exact mood of the British Government and British opinion about the European Union.

We were very impressed by the work done by Whitehall in the review. We realized it was remarkably detailed and on the whole quite balanced. Eventually it was obvious that being a member of the European Union had been rather stimulating for the UK and quite beneficial in many respects in spite of too much red tape and shenanigans from Brussels. Reading the review, one was also soon convinced that there was plenty of room for reform and a large capability for improvement in the way the EU was functioning.

With the Bloomberg Speech as an echo of the Bruges Speech, we understood how determined your Government was to change things in Brussels or at least change your relationship with Brussels and failing that, quit the EU. But at that time, many of us thought the issue was a mere political move related only to British internal affairs. This was a shortsighted analysis, I must confess.

I am glad to say that on the contrary, in her report, Mrs Keller showed that the British people and the British officials, whatever their political allegiance was, were almost all sceptical about the EU and the simple reason for that was a deep rooted pragmatism and a real dissatisfaction with the European process all in all.

What was the EU for the British? Something too continental, I may say. The United Kingdom has enjoyed democracy for so long and always avoided the trauma of dictatorship and occupation. Therefore you see no reason why the EU should be a means to foster peace and fence off political dangers in order to protect Europe from History - so to speak – and no reason to part with most of your national sovereignty in order to be protected by a supranational power. Building the United States of Europe is not a palatable project for the British. Europe should not be a grand romantic affair, as we French feel about it. Europe should remain a single market and everything should be done to turn it into a level playing field for all economic agents. Mrs Keller made it clear in her report that the British conception of the European Union could not be more different than ours and that there were good reasons for this unbridgeable Channel between our views.

This report was issued in June last year. Our committee now plans to deliver a response to your Government's proposals at the end of this month. This response is not

connected to our Government's position which is not known yet. We simply want to take a stand before the European non-paper is scrutinized by governments of all Members States and before the next summit. Then we will report on the outcome of the summit.

Question 2

Do you feel that the UK Government has presented a clear and coherent vision for EU reform? How confident are you that an agreement can be reached at the February European Council?

Flexibility and diversity are key themes within the Prime Minister's reform proposals. Is it possible to base a persuasive and durable vision for the EU on these concepts?

We do not think that the four proposals of the UK Government constitute a real and thorough reform project for the EU. We could even say that we somewhat regret the lack of a more ambitious and more detailed project, but we all know that a step-by-step approach is more suitable when dealing with Brussels. So we shall admit that it was a very shrewd and clever move from your Government.

As to clearness and coherence, they perfectly apply to the first three proposals. On the contrary, the proposal on immigration does not appear coherent enough in our view, because even if it were agreed upon, it would not be efficient. London is so attractive for young Europeans that they will come and work in the UK even if deprived from in-work benefits. So proposal n°4 still puzzles us.

With proposal n° 1, it is clear that the UK wants to protect the interest of its financial market and remain the financial centre of the EU without joining the euro. With proposal n° 2, we understand that the EU is first and foremost a single market for the UK and shall never be a supranational organization on a federal basis. With proposal n° 3, the UK reminds us that sovereignty should remain in the hands of the Member States, that sovereignty can only spring from national parliaments and that Brussels officials should be accountable to national parliaments.

We are very confident that an agreement will be reached. This confidence is based on the fact that letting the UK drift away or leave the EU altogether would be the sure signal of the unraveling of the Union. We doubt whether this compromise – it will be a compromise – will be satisfactory for your Government, or if it is, whether it shall be perceived by voters as a sufficiently convincing reform to remain in the EU.

Can we imagine the EU as a flexible and diverse union? We do not need to imagine such a union. The EU is already diverse and somewhat flexible as you know. The problem is that some people want more flexibility and others do not. We cannot twist other people's arms and head together by force for a unified block. This would lead to utter failure. So we have to imagine a two-tier Union with some States more integrated than others such as those in the Eurozone. Now the question will be: will the more integrated States be more equal than the others? I suppose that is what you fear and I freely admit there is a risk but I also firmly believe that we shall strive to strike a fair balance.

Question 3

How would you summarise attitudes in France towards the UK's proposals for EU reform, and the future of the UK's relationship with the EU, whether within the Government, your own political party, other parliamentarians or among French citizens?

What reforms to the EU would you wish to see? To what extent do your priorities coincide with those proposed by the UK Government?

French officials tend to be very discreet on the matter because, as I said before, they first ignored the whole Cameron project and dismissed it as mere political propaganda. The French public opinion does not even know what is going on and the French press started reviewing the British proposals only when polls indicated that a majority might vote for a Brexit.

Many are still convinced that leaving the EU would damage the UK more than the Union itself. Many think that Britain is different and to put it in General de Gaulle's famous quote: "England is an island".

So the EU reform prepared by your Government is quite a new issue for my fellow citizens and a non-issue for most. We may regret but that is how it stands at the moment. At least no one is asking you to leave which I take as a good omen.

At the moment in France, you can feel that some pundits and mandarins have started to fret over the issue as they understood that the promised referendum was a risky business as always with referendums. So do most of our national MPs. We are mostly in favor of keeping the UK inside the Union. Only extremist parties (far left and far right) and a few political towering figures who always fought for national sovereignty – advocate an exit that would teach the EU a good lesson and show the way out to several unruly Member States. Some wiser people think the British move is an excellent goad to much delayed reform of the EU.

We also think that reform is needed especially in the energy supply market, the digital market, the fight against global warming, the organization of migrations, the fight against terrorism and the accountability of European officials before the national parliaments.

Though we don't see eye to eye with the British on European matters, I must confess that your Government's proposals help us outline issues that will have to be addressed sooner or later.

Question 4

Do you support the UK Government's desire to enhance the role of national parliaments and address the perceived democratic deficit within the EU? If so, in what practical ways can the role of national parliaments be strengthened?

What is your response to the UK Government's wish to introduce a "new arrangement where groups of national parliaments, acting together, can stop unwanted legislative proposals"? Will this help address the underlying issue?

We indeed support the UK government's desire to enhance the role of national parliaments. We think that two reforms are necessary:

- The first reform should lead to the creation of a “red card” or the strengthening of the “yellow card”; we should try to introduce some kind of qualified majority of national parliaments needed to stop unwanted legislative projects.
- Another reform should help us intervene earlier in the legislative process and suggest proposals to the Commission, again on a qualified majority basis.

We must not forget though that on this topic, we broach a sensitive matter. It is tantamount to a complete reversal of the spirit of the European treaties, and we face two important rivals: the Commission and the European parliament. With these reforms we are trying to reclaim part of the powers granted to them by the Treaties

The British have a long parliamentary tradition and you will defend national sovereignty more convincingly than we do. But whether it is wiser to uphold the principle of a red card or to revise the dividing line between national sovereignty and European competence is a moot point.

You know that there are two schools: one is in favour of the Union of National independent States and the other in favour of a supranational Union. We have shunned the debate so far because it would destabilize our parties but we shall have to come to a clarification someday soon.

Question 5

How do you interpret the aspiration, in the Preamble to the EU treaties, to the establishment of “an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen”? What is the resonance of this aspiration for the people of France?

What would be the long-term consequences of either removing this aspiration from the treaties altogether, or disapplying it in respect of one or more Member States?

The question of the “ever closer union” is highly symbolical and has no legal binding strength. Yet I must tell you that the British proposal either to discard it or to be exempted from its enactment will always upset all those on the continent who believe in the future creation of a federal supranational European State.

To accept the idea of exempting some Member States from establishing an “even closer Union” is one way to put up with a too-speed Europe.

We understand that the UK government has sent a signal that federalism is not an option for the UK. So far so good.

We all know that we should not quarrel about this hopeful sentence and that some of us take it as part of European wishful thinking. It is a matter of faith. To the French people, it only has a sentimental ring about it. I hope we shall find a compromise to please both schools. I think I can safely say that we would not like the UK to leave the EU so that we can go on sticking to our mantra.

We are aware that eventually there will be two groups inside the Union, those who want a closer union and those who feel more comfortable with a flexible relationship.

Question 6

How do you respond to the UK Government's desire to reach a lasting agreement to safeguard the interests of both Eurozone and non-Eurozone States? What principles should underpin such an agreement?

On the relations between the euro ins and outs, we are convinced that an agreement can be reached around a set of principles that will ensure the possibility for the Eurozone to develop even further and be efficient while avoiding discrimination *vis-à-vis* the member States who remain outside. As I said before we should not wish for some Member States to be more equal than others!

Of course those outside the Eurozone must be able to make sure that their interests are fully protected. They must also be able to raise concerns and have them heard. We will not go as far as offering the outsiders a veto, of course, but we should reach an agreement satisfactory for both groups. There should not be any caucusing or ganging up of the majority group against the minority group. The Ioannina compromise which takes its name from an informal meeting of foreign ministers which took place in the Greek city on 27 March 1994 may be an option. Among the decisions taken at the meeting was a Council decision on the question of qualified majority voting. The resulting compromise laid down that if members of the Council expressed their intention of opposing the taking of a decision by the Council by qualified majority, the Council will do all within its power, within a reasonable period of time, to reach a satisfactory solution.

Yet, when all this is said, we must all be honest and remember that first the British case is a special case and second that there is some sort of competition going on between the Eurozone and the rest of Europe on the financial market.

First the British case is quite apart. The British have the very capital centre of European finance on their ground: the City – and we know that the City as a financial centre is not British but mainly German and French and on the whole quite global – is the place where the euro trade is most thriving.

On the other hand, a competition is on and Frankfurt and Paris as financial centres think they might win something if the Eurozone strengthens and are eager to bring the euro trade home.

So as you see, there will be in any case a fierce competition and the Eurozone members will try to fend off all assaults from the City, all the while strengthening the Eurozone.

So the question is: how can the City prove that – though outside the Eurozone – it fully deserves to remain the financial centre of the European Union?

Question 7

The Prime Minister has identified 'immigration' as one of the four key challenges facing the EU, with the specific objective of enabling the UK to "control migration from the European Union". To what extent are either migration generally, or internal free movement, significant challenges for the EU as a whole—or are they uniquely British preoccupations?

We all know that if Britain votes to leave the EU, it will be essentially because of hostility to immigration. The man in the street is not really concerned with the threat of Eurozone caucusing, the role of national parliaments, the regulatory threats to the City of London or the competitiveness of the EU economy.

Today, dissatisfaction with the EU has risen because membership of the EU has become synonymous in many voters' minds with uncontrolled immigration. Whether this is reality or a twisted view of it won't change things. Whether you have to thank UKIP or New Labour for it does not matter anymore.

To put it cynically, it is almost an advantage for Britain that this dissatisfaction has been channeled through EU mishandling and to a referendum that may or may not resolve the point (We also fear referendums which turn into neverendums!)

We, in France, witness the same hostility to immigration and – as you know – experience anguish at every election in case extremist parties succeed in coming to power.

Now you have facts and you cannot go against them:

- net immigration into the UK is stronger every year (the same in France);
- workers' real wages fell strongly between 2008 and 2014 (it is getting better now, I hear) and in the popular mind, there is a causal link between too numerous migrants and falling wages;
- you have a shortage of housing (but so have we);
- your National Health Service and education services are under pressure and migrants are blamed for it;
- the diminishing social status of the working class is also seen as the result of incoming migrants.

We think that you are facing the same problems as we are : the failure of successive governments to tackle the country's real problems (housing shortage, poor educational performance of the working class, unemployment, poor financing of the public services) leads to hostility to newcomers especially when they are too numerous.

On top of this situation, you decided not to take advantage of the possibility of postponing the freedom of movement for the citizens of new Member States when their countries joined the Union. We hear that you have more than one million Poles and of course complaining about Polish immigration is easier for your citizens and your papers for it is not considered as racist as complaining about black or Asian immigration.

All these preoccupations are also ours but it may even be worse in France since we seem to be less attractive than you for Poles and Baltic citizens and our migrants are less skilled and dynamic.

Yet if we focus on intra European immigration – which should not be called immigration –, I must stress the point that we are attached to two important principles:

- one is “free movement of persons inside the Union”;
- the other is “equality of treatment for all workers”.

Therefore we agree on fighting abuses and we would also agree on temporary measures that could be taken in extraordinary circumstances constituting a real threat to the normal

working of the State and the public services. But we really cannot support the idea of general restrictions to the freedom of movement. Then the question will be: is the enactment of principle of free movement of persons inside the Union a threat to your State or your society? If so, let us find temporary and derogatory alleviations.

But as I said before – in-work benefits or not – you will have the young people of Eastern Europe in the UK. So another more efficient solution is to be found.

Question 8

The Prime Minister argues that all the different proposals, promises and agreements on the Single Market, on trade, and on cutting regulation should be brought into “one clear commitment that writes competitiveness into the DNA of the whole European Union.” Do you share this objective? If so, what more can be done to meet this aspiration?

Competitiveness is what we all want and we are aware that we cannot go on paying for our welfare State with borrowed money. We need competitiveness and subsequent growth. So we do share Your PM’s objective. But as you perfectly know, here also there are two schools: some want a free enterprising liberal Europe and other are eager to use the EU in order to impose social improvement on all member States.

QUESTIONS FOR THE LORDS EU COMMITTEE TO CONSIDER

1 – Do you agree with the idea that the British Government’s proposals are consistent with the needed reforms of the EU if it is to meet the challenges of the 21st Century?

2 – Would you agree on the statement that Britain sees its membership with the EU more as a contract binding two parties and that any contract agreed upon is so to the mutual benefit of both parties? Subsequently would you consider that if one of the two parties thinks the contract is not beneficial anymore or has become a threat to its own interests, the contract should be changed or denounced?

3 – To implement a reform of the EU – whatever the reform is – legal changes will be necessary. Do you really expect the treaties to be changes easily and rapidly?

4 – Would you say that this in-out referendum would be necessary in any case because the British people has not been consulted upon European matters since 1975? Is it part of a democratic process based on the need to reassess the European legitimacy?

5 – Would you say that the most important threats to the EU are: War? Terrorism? Economic decline? Lack of entrepreneurship? Demographic decline? Overwhelming migrations? Rise of nationalism? Disruption of the Welfare State? Or constant growth of budget deficits in some Member States?

6 – Could you explain Your PM’s idea of a flexible network opposed to the rigid bloc the EU has become?

7 – Would you agree with the idea that the continental view of the EU is more emotional and romantic than practical?

8 – Would you rather have an alliance of national States or a federal union? Would you accept the motto “Europe when necessary, national when possible”?

9 – Do you think the Eurozone can overcome its shortcomings, reach stability and create a more integrated core inside the EU? Would you doubt that such a goal can be reached before countries like Greece leave the Eurozone?

10 – Would you support the idea that the European competitiveness is currently undermined by our views on social security and the rigidity of the European labour market?

11 – According to you, can we accuse the EU of being run in a non-democratic way because there is a lack of accountability and consent in the EU, the sovereignty of the people being often ignored?

12 – Should the migration crisis be seen as an exceptional situation allowing each Member State to choose for themselves the way they want to respond to it? Or should we offer a unified European response?

13 – Would you make a distinction between the three main sources of massive migration in Britain: Central Europe, Commonwealth and the third world or do you think that the three bring about the same consequences?

14 – Britain wants to protect the interests of the countries which chose to remain outside the Eurozone. Could you detail for us which interests are concerned?

15 – How great is the risk that Eurozone States will use their collective bargaining power to reduce UK interests and create second-class citizens out of non-euro Member States? What should be done to prevent the Eurozone to caucus or gang up against the minority not belonging to it?

16 – Making sure that a country can be in the EU and not in the Eurozone without being discriminated is tantamount to creating a two-speed Europe. Do you expect a two-speed EU to last long if a more integrated Eurozone becomes a powerful supranational State?

17 – Would you say that the EU thwarted European growth and could you give us examples of this obnoxious influence of the EU on the economic mechanisms? In case of Brexit, would the City lose most of euro-related business? Would the foreign investment collapse?

18 – EU membership is said to have turned Britain into a more regulated place. Are European regulation and protectionism damaging Britain’s prosperity? Would you admit that the burden from existent European legislation is still too high?

19 – Would you admit that the principle of subsidiarity is not properly enforced?

20 – Could you describe what your Government calls the EU’s excessive red tape?

21 – The sovereignty issue is a paramount issue for Britain as you consider that all sovereignty should flow from your Parliament. Would you say that you strongly oppose an ever closer political union that would lead to federalism?

22 – How far would you like to go in reinforcing the role of national parliaments?

23 – Why do you consider that the European parliament cannot be the sole source of real democratic legitimacy and accountability in the EU? What does it lack?

24 – Would you advocate a new treaty and a new divide of competences between the EU and the member States?

25 – Which competences should remain national? Which competences should be re-nationalised?

26 – Would you admit that the enforcement of the European principle of free movement is done at the expense of your native citizens? How?

27 – Does the enforcement of the principle of free movement disrupt your public services and housing market? Is it only a matter of scale and speed? Would you say that southern England is already overpopulated?

28 – How will you manage to curb the net migration to 100.000 a year instead of 300.000?

29 – How would the concept “abuse of free movement” be defined? How will restore a normal link between migration and labour requests?

30 – Would you say that in-work benefits are too generous and seen as a powerful incentive by immigration candidates?

31 – How will you reconcile your proposal of a four-year delay before in-work benefits can be awarded with the principle of equal treatment for all workers?

32 – Should Britain be granted a special status of its own inside the EU encompassing the former opt-outs and leaving the option for more opt-outs when necessary?

33 – Would you advocate an emergency brake on immigration?

34 - If Britain votes to leave the EU, it will be because of hostility to immigration. Why has the EU membership become synonymous with uncontrolled immigration?

35 – Could the vote at the referendum be influenced by the possible consequences on Ireland and Scotland, In other words, are some Euro sceptics likely to vote in favour of remaining in the EU simply to avoid a break-up of the United Kingdom? Can this be an issue?

36 – Can Labour and SNP be trusted to campaign and support thoroughly the in-option and not work underhand in favour of the out? It looks obvious to all observers that a Brexit would serve better the immediate political interests of both parties?

37 – Should we fear that the compromise - for it will a compromise – next February in Brussels will be crucial but pointless?

38 – Would you agree with the indictment that the absence of a satisfactory housing market, poor infrastructure and a rather poorly educated adult population are hindrances which cannot be blamed on EU membership?

39 – Would Britain have more leverage on European legislation inside or outside the EU? Once out, would Britain have any say over how financial rules are created in the EU?

40 - According to you, which Member States are willing to support Britain’s proposals? Why?

18 January 2016

Dr Maria Garcia—Written Evidence (VEU0010)

Sources of Democratic Accountability and Legitimacy within the EU

1. Whilst perceived as remote by citizens, two out of the three major EU supranational institutions are elected bodies. The European Parliament, directly elected by EU citizens (each voting for MEPs from his/her own state) is billed as 'voice of the citizens'. Each Treaty revision has enhanced the powers of the EP, and the Lisbon Treaty extended co-legislation procedures (ordinary legislative procedure) to most policy areas, enhancing the involvement and power of this elected body within EU policy-making processes. The European Council (Heads of State and Government of the member states) and the Council of the EU (Ministerial level Council) bring together the governments of the member states. Each government has been elected democratically within its state. The European Commission, for its part is made up of a technocratic bureaucracy and a political leadership that is appointed by the European Council, i.e. consensually appointed by elected national governments. Through domestic elections the Council is indirectly accountable to voters. By having to account to both the Council and the European Parliament, the European Commission is also indirectly accountable to voters. Following the Lisbon Treaty, procedures have been put in place so that the President of the European Commission can be indirectly elected (from a shortlist of possible appointees selected by the Council) by the European Parliament.
2. EU legislation is based on the principle of subsidiarity. This requires that legislation be made at the level at which it is most effective. In theory this should preclude excessive legislation originating in Brussels, as it should only draft legislation on matters where a supranational solution is the most appropriate and effective.
3. National Parliaments within the EU, also scrutinise EU legislation through specialist committees (although their ability to amend or reject legislation as they would with domestic policy has been limited), and they also ratify all international treaties signed by the European Union where issues that remain in the power of national governments are included. The Treaty of Lisbon introduced the Early Warning System (<https://portal.cor.europa.eu/subsidiarity/regpex/Pages/Early-Warning-System.aspx>), whereby national parliaments can review legislation drafts (and consult with sub-national level parliaments) and respond to these within eight weeks on whether they consider that it is breaching the principle of subsidiarity. The system does not enable a single national parliament to overturn draft legislation, but it does create two procedures whereby coalitions of national parliaments can affect the legislative outcome:

"Yellow card": If reasoned opinions represent one third (one quarter in the area of freedom, security and justice) of the all the votes (each national Parliament shall have two votes), the draft must be reviewed. After such a review, the legislative initiator may decide to maintain, amend or withdraw the draft, but should motivate its decision (Article 7 Protocol 2 Treaty of Lisbon <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008M/PRO/02:EN:HTML>).

"Orange card": applying only to EU draft legislative acts under the ordinary legislative procedure. If more than 50 per cent of the national parliaments oppose such an act on grounds of subsidiarity, the latter must be reviewed. The European Commission may then decide to maintain, amend or withdraw the proposal. If the European Commission decides to maintain its proposal, it has to provide a reasoned opinion justifying why the Commission considers the proposal to be in compliance with the subsidiarity principle. On the basis of this reasoned opinion and that of the national parliaments, the European legislator (by a majority of 55 per cent of the members of the Council or a majority of the votes cast in the European Parliament) shall decide whether or not to block the Commission's proposal (Article 7 Protocol 2 Treaty of Lisbon <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008M/PRO/02:EN:HTML>).

4. The Treaty of Lisbon has, thus, made concerted efforts to begin to address issues of democracy within the EU architecture, and whilst no individual state or national parliament is able to overturn legislation that others desire, more space is being created for groups of actors to exert vetoes. The European Citizen's Initiative (where 1 million signatures across seven states) enables citizens to suggest policy initiatives to the European Commission, thus creating an access route for citizens to impact legislation (the first one to break the 1 million barrier- one to stop TTIP was rejected on technical and procedural reasons).
5. An important source of legitimacy for the EU, and which has counterbalanced the indirect routes for democratic input legitimacy, has been output legitimacy, effectiveness in delivering desired public policy outcomes. Whilst the EU was able to generate more or less desired public goods (market creation, market freedoms...), it derived legitimacy from this. However, the financial and debt crisis, and the slow responses to the eurocrisis, which have been widely unpopular and have failed to rapidly resolve the problems, may be weakening the appeal to output legitimacy. Likewise, recent responses to the migratory flows crisis, and the inability of the EU institutions to lead in responding to the crisis (the response has come via the Council, where member states' divisions have come to the fore and complicated responses), can raise questions as to the limits of that output legitimacy. Perhaps more worrying from a democratic accountability angle, is the fact that mechanisms created for Eurozone members in the wake of the crisis (European Stability Mechanism) are more technocratic, and are outside of the main EU institutional architecture (leaving the European Parliament and national parliaments out of the proceedings). European Commission oversight mechanisms over national budgets also constrain policy options for national governments, and can greatly constrain elected governments, especially if they are elected on an anti-austerity platform (e.g. Greece). The problem, of course, lies in the fact that for Eurozone states the choices of one government (e.g. repudiating debt to the other states) will have repercussions on the other states (rising yields etc) and on their finance costs and policy space, hence Eurozone members are locked in a catch-22 situation.

Changing Geo-political situation

6. One important factor to take into account, is that even when speaking as a bloc (and in conjunction with the United States), increasingly the perspectives and interests of European states are being challenged and contested. Within the WTO, emerging and developing states succeeded in dropping from the agenda key aspects of the EU and United States proposals (which are aligned with UK trade policy preferences) regarding public procurement markets, liberalisation of services, intellectual property rights and competition policy. Despite its shortcomings, presenting a common front (after resolving myriad internal divisions) in international trade negotiations at all levels has been beneficial to the EU, as its large market size has acted as leverage to gain acquiescence to its own regulations and standards in trade. To a large degree EU trade policy follows UK trade preferences well,³⁹ and therefore, losing the EU's trade policy as an amplifying mechanism could be detrimental to the UK. EU free trade agreement negotiations with India, for example, have been protracted and challenging. To a large degree it is EU demands in terms of services (including financial services) liberalisation and access to government procurement and medicine patents that have complicated negotiations. These are the points that the UK would also be keen to negotiate, and if the attraction of the entire EU market and the added asymmetrical leverage it grants in negotiations, has been unable to persuade the Indian government to alter its stance, the UK alone would fare no better.
7. Geopolitics is becoming increasingly complicated (relations with Russia, China, tensions in South China Sea, Middle East) and requiring coordinated responses. Given the diverse views within the EU, multi-speed Europe is likely to continue into the future. The Common Foreign and Security Policy and European Defence and Security Policy already contain mechanisms whereby not all member states are required to participate in actions, nor even to vote in them. A future Europe may rely on a greater array of such mechanism. The downside is that the increased complexity may weaken its ability to act. The Government has launched an important debate, and one where hopefully, European partners will also engage to address the questions of what Europe means and where we collectively want to go in the future. Geopolitically, and internationally, a common front has more to offer individual member states, especially in terms of changing other's behaviour, together the Europeans will have a greater voice internationally, than as small states. Research on perceptions of Europe in Asia and emerging states have revealed that emerging powers are interested in the EU as a whole, not individual states, and that needs to be weighed carefully.

30 November 2015

³⁹ Although the UK's position on agriculture is much more liberal than that of the EU, agriculture has been gradually reformed in the EU, and barriers slowly lowered through the WTO, so increasingly it is a lesser problem. The EU free trade agreement with Mercosur has yet to be realised due to differences over agriculture, however, this has not been as significant an issue in the negotiation of other trade deals.

General Medical Council—Written Evidence (VEU0003)

GMC response to House of Lords European Union select committee call for evidence:

Visions of EU reform

Executive Summary

The General Medical Council (GMC) is an independent organisation that helps to protect patients and improve medical education and practice across the UK.

- We decide which doctors are qualified to work here and we oversee UK medical education and training
- We set the standards that doctors need to follow, and make sure that they continue to meet these standards throughout their careers
- We take action to prevent a doctor from putting the safety of patients, or the public's confidence in doctors, at risk.

In this submission we highlight issues linked to our view that patient safety in the context of the mobility of health professionals within Europe should be included as a priority for the EU and for the UK Government's vision for the future of the EU.

We believe that European legislation, particularly that governing the movement of healthcare professionals, should give greater priority to patient protection, while continuing to facilitate professional mobility. With doctors now apparently the most mobile profession in Europe, we believe this issue has increased resonance and relevance.

We would therefore wish the Government to consider whether any or all of these issues might be usefully included in the negotiations around the UK's role in the European Union – we are not seeking better terms for the UK than other member states, but we believe reform in this area would result in better protection for all Europe's patients.

Every patient should receive a high standard of care. Our role is to help achieve that by working closely with doctors, their employers and patients, to make sure that the trust patients have in their doctors is fully justified.

- We are calling for patient safety, in the context of the mobility of health professionals within Europe, to be included for the UK Government's vision for the future of the EU
- As part of this, we are calling for regulators to be able to refuse recognition, or impose additional measures, on doctors who have not practised medicine for a number of years before coming to the UK
- It would be safer, fairer and more reassuring for the public for there to be a single standard for entry to the register that everyone can rely on. We are therefore developing a licensing assessment to create a straightforward and transparent route to medical practice in the UK. We would very much like to ensure that all new doctors joining the medical register meet this standard
- We are calling for the provisions around temporary and occasional doctors to be tightened so that regulators across Europe can assure themselves that doctors coming to practise under this regime are safe and fit to practise

- We are calling on the European Commission to undertake a full, independent assessment of the impact of the European professional card on nurses, pharmacists and physiotherapists in order to identify any patient safety concerns before it is extended to doctors.

Introduction

The principle of free movement of labour is fundamental to the EU and brings many benefits, including in medicine, and EEA doctors have made a considerable contribution to the NHS. But while the underlying principle of free movement has remained constant, the EEA has grown dramatically in size and diversity to its current composition of 32 countries. Medical migration within the EEA is now on an entirely different scale than when the UK became a member in the 1970s, and the economic downturn from 2008 has made the UK more attractive to doctors, particularly from eastern and southern Europe. There are currently more than 267,000 doctors on the UK Medical Register; more than 29,000 (11%) of them qualified in other parts of the European Economic Area. In 2014, we granted registration to just under 4,000 doctors who qualified in the EEA.

As patterns of migration have changed, so too has the practice of medicine. Modern medicine is not simply a question of technical skills: it is culturally and context specific, and it is high risk. In order to practise safely in another country, doctors need the requisite skills, knowledge and behaviours, as well as an appreciation of local social norms and patient expectations. In the UK context, doctors also need to understand the structure and ethos of the NHS.

It is important that European legislation keeps pace with both increased mobility and indeed the increasingly complex practise of medicine. We do not believe that has happened.

We have strong evidence that doctors from other European Economic Area (EEA) countries (and elsewhere in the world) can get into difficulty in the UK, reflected in complaints to us from the public, employers, healthcare professionals and bodies acting in a public capacity. But for EEA doctors – unlike doctors from elsewhere in the world – the recognition of professional qualifications Directive prevents us from assessing whether they have the right knowledge, skills and behaviours to practise safely in the UK.

Our view – which is shared by other medical regulators in other EEA countries - is that the Directive does not strike the right balance between patient safety and healthcare professional mobility. There needs to be greater priority given to patient protection. This is a view that we have consistently maintained but, with doctors now apparently the most mobile profession in Europe (in terms of establishing a practice in a member state other than the state in which they are fully qualified to practise), it is one that we feel has increased resonance and relevance.

Concerns with current EU legislation

In 1975, the so-called ‘Doctors Directive’ established minimum training requirements for primary medical and specialist qualifications. Doctors whose qualification met these minimum requirements were entitled to have them recognised in all EEA countries (the EU plus Norway, Iceland, Switzerland and Lichtenstein). The provisions were updated throughout the 1980s before being finally consolidated into the recognition of professional qualifications

Directive (the Directive or RPQ), which was adopted in 2005. This Directive covers more than 800 regulated professions across Europe and was recently revised. The updated provisions come into effect in January 2016.

The Directive sets out obligations on member states to recognise the medical qualifications held by doctors from within the EEA and, as a consequence, doctors' freedoms to establish themselves and provide services in another member state. It provides a legal definition of 'basic medical training', which is based on length of the training rather than the content or quality and stipulates recognition deadlines, documentation and language requirements associated with recognition.

For a limited number of professions (including doctors) the Directive allows for qualifications to be recognised automatically across the EEA. This means that the host state only has the ability to check whether or not the qualifications are in line with what is required under the Directive before granting 'automatic recognition'. The GMC, with other UK health regulators, lobbied vocally against aspects of the proposed Directive before 2005 including the concept, which was then novel, of 'temporary and occasional' registration.

The Directive is legally binding on the UK. In other words, the UK Government is required to implement the Directive by way of national legislation. In terms of doctors, amendments are made to the Medical Act to bring the Directive into force in the UK. Business, Innovation & Skills (BIS) is the lead UK government department in connection with the Directive, with the Department of Health (DH) overseeing the necessary changes to our – and other healthcare professional regulators – primary legislation.

The revised Directive

Amendments to the Directive were agreed by the European Commission in 2013 and will come into force in January 2016. Following an extensive engagement campaign with the UK Government, UK and European regulators, MEPs and the EU institutions, the GMC was successful in securing some important amendments to the Directive that helped to support high standards of medical education and training including:

- The introduction of a mandatory proactive fitness to practise alert mechanism among competent authorities;
- The introduction of the European professional card as an online certificate and not as a physical card as originally proposed and a decision not to apply the card to doctors in the first phase;
- A new definition of basic medical training which safeguards UK graduate entry programmes. This now stipulates that training should last 5 years AND 5,500 hours rather than the proposed 6 years AND 5,500 hours which would have made the current UK Graduate Entry Programmes non-compliant as they are counted as only 5 years - 4 years at university plus one year in the Foundation programme as a provisionally registered doctor
- Substantially stronger and clearer language checking powers for all health professions (in part reflecting the changes made to the Medical Act in 2014).

However, the revised Directive also introduced some new aspects which we contend raise serious concerns about patient safety. The most significant of these are outlined below.

Temporary and occasional services

The Directive allows doctors and other health professionals to come to the UK to provide ‘temporary and occasional’ services as long as they are established elsewhere in the EEA. The principle of temporary and occasional registration was originally introduced in 2005 but it is currently little used for doctors coming to the UK. However, the revised Directive now requires that all such applications be accessible online from January 2016 which will make this option more visible to potential registrants from elsewhere in Europe. It is therefore possible we will see an increase in applications for temporary and occasional status.

The Directive prevents us from carrying out even basic checks on such doctors:

- A doctor is entitled to access the medical profession and treat patients simply by submitting a declaration of his or her intention to provide medical services together with certain other documents
- We cannot check that a doctor is safe to see patients (a limitation which applies to all EEA doctors benefiting from free movement, not just under the temporary and occasional’ provisions)
- We cannot require such doctors to take part in revalidation - an on-going demonstration, legislated by the UK Parliament, that they remain up to date and fit to practise – this includes an annual appraisal and a requirement to undertake Continuing Professional Development
- Although we can refuse to issue a licence to practise if a temporary and occasional doctor has not demonstrated the necessary knowledge of English, there is a ‘risk window’ in that, at the time that their entitlement to access the medical profession technically arises (on receipt of the declaration and supporting documents), we will not have had an opportunity to assess whether a doctor can speak English
- We are restricted in the way in which we can monitor such doctors
- We cannot charge a fee of any kind, which means that other doctors practising in the UK must bear the cost of regulation for this group.

The principle of temporary and occasional work is not new but is currently little used. It does have value if used appropriately – for example, by doctors providing medical services to national teams competing in sporting events such as the recent Rugby World Cup. However the mandatory introduction of an online application form from January 2016 will make this option more visible. Furthermore the introduction of the European professional card (see below) is likely to make the temporary and occasional regime easier to access and therefore more attractive.

We are calling for the provisions around temporary and occasional doctors to be tightened so that regulators across Europe can assure themselves that doctors coming to practise under this regime are safe and fit to practise.

The European professional card

The European professional card is intended to provide an online, faster method of recognition for professionals wishing to establish themselves in another member state or deliver professional services across borders on a temporary and occasional basis by issuing an electronic certificate.

It will apply to nurses, pharmacists and physiotherapists from January 2016 and is likely to come into force for doctors in 2018. It will mean that UK regulators will have:

- A limited role in issuing the authorisation to practise in the UK for those providing services on a temporary and occasional basis. This responsibility will pass on to the regulator in the home member state
- Limited power to turn down an application or challenge the authorisation decision made by another member state should any information be missing or give rise to concerns
- Strict time limits within which we should make our decisions, with tacit recognition of qualifications allowed where these time limits are not met.

We are calling on the European Commission to undertake a full, independent assessment of the impact of the card on nurses, pharmacists and physiotherapists in order to identify any patient safety concerns before it is extended to doctors.

Assuring migrating doctors are up to date

In addition, the Directive does not allow regulators to assure themselves that migrant healthcare professionals have kept their skills and competence up to date since the award of their qualification. EEA doctors have an entitlement to be registered regardless of recent practice or experience.

We are calling for regulators to be able to refuse recognition, or impose additional measures, on doctors who have not practised medicine for a number of years before coming to the UK.

Assumed equivalence of specialist training

Further, professional mobility rests mainly on assumed equivalence of specialist training curricula agreed in the 1970s. The equivalence is based on minimum training periods, rather than on curricula content or outcomes. This means that for the majority of EEA qualified doctors, we can have no evidence or assurance that they can practise safely – other than the qualifications that they hold as listed in the Directive and the Certificate of Current Professional Practice provided by their home regulator.

It would be safer, fairer and more reassuring for the public for there to be a single standard for entry to the register that everyone can rely on. We are therefore developing a licensing assessment to create a straightforward and transparent route to medical practice in the UK. We would very much like to ensure that all new doctors joining the medical register at least meets this standard. We would encourage the UK Government to include commitments to this assessment in its future vision for the EU.

The UK Government's vision for the EU

We believe that patient safety should be included as a priority for the EU and for the UK Government's vision for the future of the EU.

As well as strengthening patient protection we believe this could increase the attractiveness of the UK health system and UK medical education to overseas applicant and therefore have a positive impact on economic and healthcare priorities.

We know that many UK and European regulators share our concerns and are likely to be supportive of attempts to protect patient safety in this area. We work closely with our medical regulatory counterparts across the UK and Europe and convene a bi-annual meeting of regulators to discuss developments in the rules governing professional mobility. Through this forum we have adopted policy positions on a wide range of patient safety concerns that are shared by regulators across Europe, such as the European professional card and its future application to doctors.

The principle of free movement of labour is fundamental to the EU and is highly unlikely to be unpicked while the UK remains a member state. Free movement brings many benefits, including in medicine, and EEA doctors have made a considerable contribution to the NHS. But while the underlying principle of free movement has remained constant, the EEA has grown dramatically in size and diversity and the practise of medicine has grown more complex and potentially dangerous. Mobility of professionals brings economic benefits to the UK but this should not be at the cost of patient safety.

We would therefore wish the Government to consider whether any or all of these issues might be usefully included in the negotiations around the UK's role in the European Union – we are not seeking better terms for the UK than other member states, but we believe reform in this area would result in better protection for all Europe's patients.

November 2015

German Bundestag Committee on European Affairs—Oral Evidence (QQ 181-190)

Evidence Session No. 17

Heard in Public

Questions 181 - 190

Members present

Lord Boswell of Aynho (Chairman)

Baroness Armstrong of Hill Top

Lord Blair of Boughton

Earl of Caithness

Lord Davies of Stamford

Baroness Falkner of Margravine

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Baroness Prashar

Baroness Scott of Needham Market

Lord Trees

Lord Tugendhat

Lord Whitty

Examination of Witnesses

Axel Schäfer MdB, Deputy Chairman of the SPD Parliamentary Group (with responsibility for European Affairs) and Substitute Member of the Bundestag Committee on European Affairs, and **Detlef Seif MdB**, Deputy CDU/CSU Parliamentary Group Spokesperson on EU Affairs and Member of the German Bundestag Committee on European Affairs

Q181 The Chairman: Good afternoon, Detlef Seif and Axel Schäfer, and others who have come to this public evidence session. It is the final session of an inquiry that this Committee is conducting on visions of EU reform, in which we are looking at the objectives and visions of our Government in conducting these negotiations and the extent to which other countries may share them or not, and at working towards a shared vision of the future. You will understand that we are conducting this on the basis on consecutive translation, for which we are very grateful. We will be recording the session and it is being webcast. We will also send you a copy of the transcript for any corrections. Beyond that, my wife always says to me, “Kein Deutsch in publicum”, so I will merely say, “Ersten Mal willkommen”. We are delighted that you have been able to come. We have valued our operations with the Bundestag in international and bilateral gatherings, so it is a pleasure to see you. We appreciate that you are giving your time. We have details of your biographies and we would be happy to start with the questions, unless there is anything you particularly wish to say first.

Detlef Seif: [Interpretation] Let me start by thanking you very much indeed for your kind interpretation, and I am sure that I also speak for Mr Schäfer. It is a great privilege and honour to be here today to give evidence on this very important subject at such an important juncture. Of course, last week Donald Tusk published his letter to Heads of State

and Government. The day after tomorrow the Sherpas will have their next meeting, while on 18 and 19 February the European Council will once again meet. It is very important to us as well that we are taking part in this evidence session. I believe that in the last session you had a Foreign Minister from Great Britain. This is a subject of the utmost importance not just for the United Kingdom but for Europe as a whole as well as for Germany.

Axel Schäfer: Thank you too for the invitation. In the German Parliament it is normal to speak English with guests from other member states, but today I will have the opportunity to speak German in your Parliament. Thank you very much for that.

[*Interpretation*] It is indeed a special occasion for us to be here in such a traditional Parliament as yours. I must admit that we are in a slightly difficult position, because out of the 630 Members of Parliament in Germany, there is not a single one who is in favour of the so-called Brexit. Every single Member of Parliament, no matter which political denomination, fully wants, in their hearts and with their heads, the UK to stay in the EU. It does not divide us on party lines because it is our common experience that we should stay together as one in the European Union.

Q182 The Chairman: When we move from the principles of politics to the decisions, we have to make those decisions and read the small print. Although we will not be discussing it with you, the Committee has just received our Government's memorandum on the documents that were published and circulated along with the letter from President Tusk on 2 February. We know too that that will be the basis of the discussion at the upcoming Council later this month. Given what you have already told us about your colleagues' views and what you know through your own contacts are the views of colleagues in other member states, how confident are you that an agreement can be reached at the February Council? Perhaps we should start with Mr Seif. I understand that Mr Schäfer will begin. We are used to working together and we do not have too much in the way of party politics in these proceedings.

Axel Schäfer: [*Interpretation*] It is usually our rule that the larger political party starts the talks, but when there are only two representatives it is not such an important point. I am of the firm conviction that on Thursday and Friday next week when the European Council meeting takes place, an agreement will be reached. I believe that the preparatory work and the proposal put forward by Donald Tusk are close to moving towards a result that will make it possible. I am also personally of the conviction that there will be a referendum on 23 June in this country, and I can say clearly that from the EU perspective I do not expect any delay in it. I am also certain that we will have clarity on the position within the first half of the year.

The Chairman: Can I ask a supplementary question? I shall come on to Mr Seif in a moment. If that is the view of the Bundestag, do you want to comment on the views of the European Parliament: that is, those of other member states as well as German Members of the Parliament?

Detlef Seif: I thought it was an additional question for Mr Schäfer.

The Chairman: If you want to answer it, that is fine. We are used to co-working, so it is not a problem for us.

Detlef Seif: [*Interpretation*] If I may, I would like to open up the perspective on this a little. I did not think it possible that Donald Tusk's proposal would have been quite as far-reaching as it is. He said that he has tried to accommodate quite a large proportion of the British requests, and I think that is clearly reflected in his proposals. The British signature is clearly

visible in them. Of course, there can now be many debates about the different points of view, perhaps of the Visegrad countries such as Romania and Bulgaria. The Committee may remember that the President of the European Parliament made two criticisms of the Tusk proposals, but we should remember how these documents were presented to the public. I believe they are a clear signal from the EU that it wants the UK to stay within it. This is close to our hearts. While of course there can be many different laws, Acts and regulations, in the end it is what is being done here that is the most important thing. Contracts, treaties and wording can be changed, and while the details might need to be debated, the clear principle and signal that the UK should stay within the EU is very clear. It could have been very different; it was not clear from the beginning that Donald Tusk would be so welcoming to the UK and would agree to do what had been requested, but that was not the case, so I believe that this is a solid basis for reaching an agreement.

Axel Schäfer: *[Interpretation]* I was a Member of the European Parliament from 1994 onwards and I have been a European activist since 1978, so I have seen all the British MEPs since 1979 in live session. In the European Parliament there will of course now be a debate on the decision—because that is what it is: a decision of the Heads of State and Government. After the debate, a law or an Act will be passed. I can already tell the Committee that the debate will lead to the majority saying, “Yes, we will implement what has been decided”. But even if the text that is then put forward as a law is the same in all the different languages, the interpretation of that text will vary in those different countries. Such a difference in interpretation is in fact necessary, because while we all want to co-operate in the European community, we do not want to create a uniform view of history, of culture or of our states. We want to remain different; that is the essence here. Diversity is necessary in this area, not uniformity. As I say, we do not want a uniform Union. So the difference of views is most important, and perhaps I can say what Monnet once said: that it is the solidarity of deed that is of the utmost importance.

The Chairman: I should just like to record for our German visitors that I had a very positive session with President Schulz when I visited the Parliament at the beginning of July. That was helpful, as are your comments on those areas and the general political scene.

Q183 Lord Jay of Ewelme: Herr Schäfer said, I think, that every Member of the Bundestag wants the UK to remain in the European Union, which certainly as far as I am concerned is an extremely encouraging thing to hear. However, Herr Seif said that the details would need to be debated. Can you give us some idea of the process in the European Community or in the Bundestag more generally over the next few weeks to consider the details of President Tusk’s proposals, and whether there are any particular aspects that you think might in some way be difficult or controversial?

Detlef Seif: *[Interpretation]* Perhaps I will start. I would like first to look back a little. Of course there are many different important subjects for the Bundestag to discuss. We have had Greece and the debt crisis, Greece III and now the migration crisis, but, throughout, the question of whether the UK will stay within the EU has remained an important issue for us. There has been a regular exchange with the Government about the position and the developments. So colleagues who are looking in particular at the question of the UK staying in the EU have had conversations not only with the former ambassador, Sir Simon McDonald, but with the current ambassador, Sir Sebastian Wood. We have therefore followed closely the Bloomberg speech and the explanations that have been made in the United Kingdom, the public debate over here, as well as the statements made in November. All this has led in the end to the four baskets as proposed by Donald Tusk.

Axel Schäfer: *[Interpretation]* The process in the Bundestag is really quite simple and transparent. The Bundestag meets for 22 weeks a year, and during those sessions we have committee meetings that are attended by either the Defence Minister, the Minister in charge of Europe or sometimes the Finance Minister. We also have the Secretaries of State who are responsible for these areas, and they attend these meetings every week. They inform us about the current situation. So this coming Tuesday we will be given information about the status quo, while on the following Tuesday we will hear about the outcome of the European Council. It is clear that it is for the Bundestag to decide what to do with the information it has received. It might decide to hold a plenary debate on the subject, or it might decide that the Chancellor and the Government have to give a full declaration to the whole Parliament, which might result in a debate entirely on this topic that lasts for two and a half hours. It is also clear that until the referendum takes place, this work will continue and the question of whether the UK stays in the EU will remain clearly in our focus. It is also possible for us to call for an evidence session or a hearing before our committee in which the four political parties in the Parliament can call for experts to come forward and give us further updates.

Q184 Baroness Scott of Needham Market: Do you see the so-called four baskets essentially as a collection of particular UK issues that have been designed around UK sensitivities and the political situation here, or do you see within them something that might be thought of as a vision for Europe going forward, perhaps with more flexibility and a more diverse Europe? Where on the spectrum do you see the four baskets?

Detlef Seif: *[Interpretation]* The four baskets are only part of the answer to the criticisms that have been made of the EU. I would like to stress that the UK and others have been saying for years that there is too much red tape and bureaucracy, and that there is a lack of impact assessment of the decisions and regulations that come out of the EU. The current Commission under President Juncker has, I think, done something about it. He could see that 28 different Commissioners, Presidents and other dignitaries in the EU were simply too much, and he had, I believe, a very good idea. He said that instead we should have clusters and concentrate on the main strengths. So now if a Commissioner has a new idea, he needs to get support from the Vice-President, and Frans Timmermans is the first Vice-President to have been really beneficial in terms of change in this area. We are not in a position to say, “How can we improve the EU? Here are the four baskets and that is how we will do it”. We are already involved in a process of change and reform that has actually been kicked off mainly by the United Kingdom. Other countries such as Germany and Sweden are in support of these changes, and the reforms are already under way. One of the baskets, of course, looks at reducing the bureaucratic burden and aims to find a better way of implementing the regulations. Of course, the REFIT programme is part of this, but it is not all of it, because progress has already been made. If you want more information I will be happy to respond, but this may be enough for the interpreter.

The Chairman: Thank you. Please remember that if you want to write a letter to the Committee, we would find a German speaker to translate it for us.

Axel Schäfer: *[Interpretation]* As you can see, we divide our work even though we are not always of the same opinion or political affiliation. I would like to add to the idea of the four baskets. Perhaps we should think back to the original position: that is, where all this came from. The criticisms of the EU that have been mentioned are about things that certainly need to be improved. If something is repeated over a long period of time by many people, it becomes something that probably should be implemented. But what we are living through at the moment is not only that; I think it is more. Right now we have a situation that is as it was back in 1974 when the question was: do we stay in the EU at all or do we leave? That is

more than just asking whether reform of the EU is necessary. In 1973, Ted Heath had brought the UK into what was at the time the European Community. There was also a referendum in France, the result of which was in favour of the UK joining the EU. Then Harold Wilson, as you will know better than I, negotiated and told the British people that the Tories were all for being in the EU while Labour was split on the subject. He said, “If you are happy with my negotiations, vote yes and we will stay. If you are not happy with them, vote no and we shall leave”. But since that time the European Union, or the European Community as it was then, has quite clearly received a British stamp on it; it has also been formed by the United Kingdom. When we look at the EU today, much of it is actually the UK. The best example of that is the fact that nowadays the most important politicians all have to speak English. If the UK had not joined, the language would probably have been French, Spanish or perhaps German, but it certainly would not have been English as it is today. For those of us who are very much in favour of the UK being in the EU, it is not always easy to follow the debate in Britain and to understand the mind-set over here. Indeed, we have to put our own German mind-set to one side in order to try to understand you. So this is also a very valuable discussion and debate for us.

The Chairman: I can assure you that it most certainly is valuable to us.

Q185 Baroness Prashar: I too was interested to hear that no Member of the Bundestag wants the UK to leave the EU, but I would like to hear about the attitudes in Germany towards the UK’s proposals for EU reform and its future relationship. What is the position of the federal Government, the principal parties and your citizens generally?

The Chairman: Can I add a short question to that? Given that we see on our televisions a saddening tendency in many countries towards extreme politics, albeit in a minority, in the form of reactions against migrants and other attitudes that we may well deplore, how often are people in Germany saying, “Why are you giving concessions to the British?”, or even, “Why are you even thinking of giving concessions to the British when we have our own problems at home?” You both come from mainstream parties and it is very useful to have your dialogue, but can you give the Committee some sense about the outliers in this debate and whether they influence colleagues in your own parties or opinion more generally?

Detlef Seif: *[Interpretation]* I think we probably differ from some of our French colleagues, who might say that no concessions whatever should be made to Britain. I do not think it is on the German agenda. The issue in question is how far you go with concessions. The four freedoms of the European Union are a basic principle: the free movement of goods, of people, of services and of capital. Of course, opinions differ on what exactly that means. Another principle of the European Union is that there is to be no discrimination in Europe. Where there are organisations and people, there can always be developments to a worse point. We have seen this in the EU, so the criticism that has been applied to the EU has come not only from Britain but from Germany, for instance.

To come back to your earlier question, it is not only British preoccupations that are in effect criticisms of the EU; our country also has certain points of criticism to make. The accession of new states can certainly also lead to a disruption of the usual procedures, which is why there is this one basket in Donald Tusk’s proposal that actually says that if there is undue stress on the system in one country, benefits may be withdrawn for certain people for a certain period of time.

Axel Schäfer: *[Interpretation]* I should like to differentiate two different points, even though in the public’s opinion they are often mixed together. First, the draft decision—and it is a decision by the Heads of State and Government—to keep the United Kingdom in the EU is

one thing, and it was taken for the sake of the United Kingdom. On the other hand, there is the issue of what we do to improve the European Union as such. How do we reduce the bureaucratic burden? How do we improve the legislation and the regulation by the EU? At the same time there needs to be a relationship between both areas, because we need a clear majority that says, “Yes, we want the EU to function as a union, and we want it to stay together”. For you to understand the German perspective, I have to tell you that of course in Germany we have a specific problem: what our constitution, our basic law, tells us. It was written in 1948-49, and the top priority of this basic law, which makes our country, is that no war must ever start on German soil again and that Germany is there to serve peace. So the ultimate priority of the German state is not that of national sovereignty, and here it probably differs from your own perception of the world. We have a different European obligation from yours in this country. Churchill said at the time that there had to be a United States of Europe and a special role for the UK. The development has been slightly different from what he envisaged, but we need to take both points of view into account and further both ideas.

Baroness Prashar: That is extremely interesting, but you did say earlier that there is some criticism, and it would be helpful to hear what reforms, if any, you would like to see for the European Union and how far they coincide with those in the UK’s proposals.

Detlef Seif: [*Interpretation*] We are of course from different political parties, so our political attitudes may be different. I personally think that we should investigate the errors of the past and, as I said earlier, take into account the work that has already been started, such as the REFIT programme and the Commission’s introduction of impact assessments. But all this would then need to be put into treaties. That is because when the Commission under Juncker goes, who can say whether everything will not go back to the way it was before? Things can change, so we need something more concrete. The way the reforms are going at the moment is all very well, but they should be put into treaties as well. While it is not a Dutch idea as such, Prime Minister Mark Rutte has said that the EU should focus on the bigger picture and leave the nitty-gritty detail to individual states. That would certainly seem to be a good idea, but then we need to think about what subsidiarity actually means. There is of course Protocol 2, with its different interpretations, but what subsidiarity means needs to be made much clearer. We also need to learn from our past errors.

We should also analyse whether migration has in the end been all that bad. All in all it probably has not, because it has brought a lot of prosperity to the United Kingdom. There have been several different waves of migration, from the Commonwealth, from non-EU countries and from the EU, so perhaps there should be a clearer analysis of the real disadvantages to EU migration. By doing that, the problems would be found and something would be done about them by incorporating certain decisions into treaties. One aspect that has not been mentioned at all yet is that it is not only a question, on the one hand, of one country receiving too many people as migrants. On the other hand, you have a country that is probably losing its most important people from its own economy through a brain drain. The contracts and treaties that we will need in the future should not be about cherry picking and asking, “What in this will be to my advantage?” We should analyse what has gone wrong and look at what can be done to improve the situation. Great Britain has been a good and constructive critic of the European Union, and if it was to lead the debate about change within the EU, that would be extremely valuable.

It is not only about the four baskets, which have more to do with the internal policies of the United Kingdom and the referendum, and with appeasing current thinking in the UK. If we

want a European Union that is really worth while, we have to make sure that we have a common strategy for reform to make it a valuable institution.

Axel Schäfer: [*Interpretation*] The question is about the changes that we want to make. One of those changes, which I know the UK is also very much in favour of, is the wish for economic strength for the European community. It is one of the main aspects. The reforms that we are looking at, independent of the British referendum, have to be ones that will turn this union of 510 million citizens into the strongest economy in the world. We are already more economically important than the United States or China, and we have to make this position a benefit for all the countries of the EU. It means that the EU has to be more and greater than the sum of its 28 member states. The Tusk proposals are going in the right direction in this regard. On the one hand, we have to make sure that the economic strength of the European Union is broadened and deepened, while on the other hand we have to ensure that countries such as Denmark, Britain and Sweden, which held a referendum to stay out of the eurozone, are not excluded from the progress of this economic strengthening with the resulting benefits for all. In 2014, I had a discussion with the former UK Minister for Europe. I asked him, “Which country do you think the UK exports more to, India or my country?” He replied, “Well, it is obvious that we export more to Germany.” I said, “No, not to Germany. The UK exports more to my Bundesland, the state of North-Rhine Westphalia. It has 18 million people and its most beautiful city is Cologne.” That, in essence, is what the European Union is.

The Chairman: We have only half an hour left in this evidence session. I should warn the Committee and our witnesses to try to pick up on what you call the *Schwerpunkte* of the discussions: that is, the detailed issues that have given rise to concern. If we can all be restrained, I think that we can explore at least three of those topics. At the end perhaps I may summarise the areas that interest us, and perhaps you might like to write to the Committee about those in whichever language you find the most comfortable.

Q186 Lord Blair of Boughton: Thank you, Lord Chairman. This question is about sovereignty, particularly legal sovereignty. In his Chatham House speech in November 2015, the British Prime Minister suggested that one of the models that the UK might wish to adopt is that of the German constitutional court, which I understand is entitled the *Bundesverfassungsgericht*. He has suggested that that is where we should go, but one of the sub-committees of the group on which I sit has discovered a lecture on 31 October 2013 by the president of that court, Professor Voßkuhle, who says specifically, “In their case law, the federal constitutional court and the European Court of Justice fundamentally agree that EU law is in principle accorded primacy over national German law”. Is the Prime Minister right to point to the constitutional court as a way out for British sovereignty?

Detlef Seif: [*Interpretation*] In Germany, we of course have a jurisdiction that is also determined by the result of the Second World War. The constitutional court is an independent court that also examines political decisions and laws that have been passed by the political arena. An example that I provided is the OMT decision, where the question was whether the European Central Bank could go ahead and buy the government bonds of countries that had debt issues. At the time, the constitutional court of Germany asked for a preliminary statement from the European Court of Justice to see what the European law was on this and how that would combine. We are both probably looking forward with quite a bit of anticipation to the German constitutional court’s imminent decision as to whether this was also against European law; it is not just our own constitution which the German constitutional court is looking at but European law. In our constitution certain articles will always exist. Article 1 specifies that the dignity of the human being is inviolable. Fundamental

rights are enshrined in our basic law, as we call the constitution. Article 20 makes a democracy and a republic certain in Germany. Article 79.3 specifies that these articles can never be changed and are eternally valid. The constitutional court in Germany was introduced to make sure that every new law and political decision was in keeping with the basic law. If you were to consider having such a court, you would have to have a Supreme Court that is absolutely independent of the political process and of the judiciary below it. It would be a court that could repeal any Acts of Parliament, so you have to ask yourself whether that is really what you want to have. Otherwise, it will probably remain a German solution only.

Axel Schäfer: *[Interpretation]* My response may show a different aspect of your concrete question. You could ask who is right: Professor Voßkuhle or Mr Cameron? The answer is that both are right. Why is that? The EU is a community of states and it is the decision of a sovereign state whether it wants to join this community or not. As soon as a state joins the community, it decides that part of its sovereign decision-making process is also exercised in communion with the other states. For instance, the European Court of Justice and the Court of Auditors have members from all over the European Union, including from Great Britain. There are 87 European parliamentarians and thousands of British civil servants working in the EU. In the end, it is all about co-operation. This is also true for the European Court of Justice, which is a body that symbolises co-operation between individual sovereign states. Neither German politicians nor the German constitutional court would say that the German solution is the best one and that everyone else should follow it. But it is always in the interests of the European Court of Justice to combine national law and European law in such a way that both are preserved. Since its inception, there have of course been developments within the community of the given status or the *acquis*. There is the direct influence of the European Parliament, which has led to certain developments so that a British Commissioner, when he is in Brussels or Strasbourg, is not a Brit but a European. That is why I say in answer to the question, “Is Mr Cameron right or is Professor Voßkuhle right?”, that they are both right.

Lord Blair of Boughton: I have a very brief question to which the response can almost be yes or no. Article 23 of the German basic law permits the transfer of sovereign powers to the European Union. Is that correct?

Detlef Seif: Yes.

Axel Schäfer: It is a sovereign decision when it is taken by you and by the Members of House of Commons in London. It is then your sovereign decision.

Baroness Falkner of Margravine: I think Mr Schäfer has covered what I was going to ask.

The Chairman: We have two more topics to cover.

Q187 Earl of Caithness: Can I take you on to the eurozone and the members of the non-eurozone? Do you think that Britain was right to look for a lasting agreement on a *modus operandi* between the eurozone countries and the non-eurozone countries? The second question is that that has a caveat to it, because the non-eurozone countries cannot exercise a veto or delay the urgent decisions of the eurozone. We do not know the details of that, so how do you think it is going to work in practice? What happens when the eurozone agrees something and says, “This is what we want,” but it will injuriously affect the non-eurozone countries?

Detlef Seif: *[Interpretation]* This is of course an extremely important question. It is clear that we do not have a Union that incorporates several currencies within the eurozone. If a

country does not want to be part of the eurozone, that is okay, and it is what the United Kingdom has decided. But the core questions for the countries in the eurozone cannot then be vetoed or delayed by a country that is not part of the club, if I may put it that way. Someone who decides not to join a club cannot decide what the rules of that club should be. It is also clear that there must be no discrimination and that nothing must be done to the detriment of any country outside the eurozone. But through discussions and the decisions that are taken in the European Council, there is a sufficient exchange of knowledge for the UK to feel happy with the position. Of course there will always be a disadvantage due to the mere fact that there are different currencies. There are risks attached to foreign exchange rates, and we have different financial markets and supervisory bodies for the banks. In the end the only solution for the UK, in order to avoid any disadvantage from not being a eurozone member, would be to join the eurozone. At the moment that is probably not the political path that the UK will choose, but I hope that the worries of the UK in this area can be alleviated.

Regarding the practical solution as to how to ensure this, I have to say that I do not know how to stop eurozone members proceeding along their own paths. The fiscal compact was also something that the UK was against. While there can be bilateral negotiations, that is not really the purpose of a union.

The Chairman: We will now ask our final formal question. I referred to Schwerpunkte earlier, and I suppose migration is just that.

Q188 Lord Davies of Stamford: I have always thought, and indeed said on many an occasion, that migration would end up being the biggest issue in this referendum campaign. It has been a sensitive matter for British public opinion for a long time. There has been a lot of confusion, in my view deliberately generated in many cases, between freedom of movement within the EU, which on the whole has been a happy experience for us economically and otherwise, and illegal immigration, bogus asylum seekers and so forth. We have now had three traumatic events, which probably account for the hysteria that you notice on this subject in the British press and which I am sure will continue for a long time—at least until June. The first was the mass murders in Paris, then there were the very horrid incidents in Cologne, and before that, of course, the federal Chancellor's decision to admit 800,000 Syrians to the federal republic. All Eurosceptics are saying that in three years' time those 800,000 will all have German citizenship, and therefore EU citizenship, and that they will all come here. Of course, that is absurd. Most things written in the Daily Mail are absurd, often risibly so, but they have influence. It appears that the European Union has mastered the problem of migration, that you have successfully strengthened the external frontier of the Schengen area, that there are proper controls, that proper distinctions are being made between legal and illegal migrants and that illegal migrants are being returned, so the systemic danger that is now being mooted so widely in the press in this country is not there. You are kind enough to say that you want to sustain the European Union. If you want to sustain the European Union, you can help us most by trying to resolve that problem.

Axel Schäfer: *[Interpretation]* Dear colleague, you certainly left the most difficult question until last. Nobody in the whole wide world has the answer to that question, so here is my part-attempt to answer the question of how to deal with a migrant situation where millions of people are fleeing all over the globe. Whether you are in a state like the United States, whether you are in Britain or in Germany, in a country that has a tradition of immigration or a country that has no such tradition, whether you are part of the Commonwealth of Nations or whether your own immigration laws have their basis in the events of 1918 does not matter, there are three fundamental problems.

First, the EU is facing its biggest challenge since 1951, a challenge that has led to all sorts of national movements that seem to take away from the central force of the European Union: nations doing their own thing. I believe that all countries and all continents have similar problems with migration and have similar issues on which they do not agree with one another, which often leads in other regions to civil war and unrest.

Secondly, we know that there is a different tradition, a different history, a different situation in the UK regarding migration. For us it is a new experience. We decided, in a very dramatic situation, to open our borders, and I believe it was the right decision to take at the time. Now, of course, we also believe that the burden of migrants has to be shared evenly among the countries.

Thirdly, we should not mix up the different subjects. Paris would have been possible independent of the migration crisis. In the case of the United States and 9/11, the attackers were not migrants to the USA.

Lastly, on your point about Cologne, I personally love Cologne—I come from there—and I think we have to be realistic: if I was to give you the number of sexual assaults and even rapes at, say, the Munich Oktoberfest or other major events in Germany, you would probably, quite reasonably, be shocked. Even though what happened in Cologne on New Year's Eve was totally unacceptable, we must not focus on the fact that in this particular situation there were a large number of migrants among the perpetrators. It is very important not to mix up these different issues.

Q189 The Chairman: Will Mr Seif also reflect, perhaps as a lawyer, on the separate issue, which our Prime Minister has taken an interest in, of the freedom of movement and non-discrimination on the one hand and the wish to avoid internal EU migration or population transfer, or at least to regulate that, on the other in order to make that tolerable for the host community?

Detlef Seif: [*Interpretation*] Lord Davies said, “Because of the referendum”. If the referendum was to take place in June, then of course I would say that the current migration situation will not be the best stroke of public relations ingenuity that one could think of, so the question of the timing of the referendum is rather important. I believe that we are only at the beginning of the migration problem as we see it. If in June—and these are our expectations in my region in Germany—we see 8,000 to 10,000 migrants coming in every day, it is quite clear that different steps will be necessary to address the problem. Of course, no one knows what is really going to happen and it could be very different. Perhaps there will not be 8,000 to 10,000 people knocking on our door every day and then maybe the timing of the referendum over here will be perfect. But if I was the Prime Minister, I would consider it to be too risky a strategy. Of course, you also have the election in Scotland in the following year and national elections taking place in the EU, so that might be a better point. There is also the question of whether October or November would be a better time.

There is obviously a certain pull effect within the migration problem that we are all aware of. When we say that we want to help those who are being persecuted, which is something that the UK is doing as well of course, it often means that economic migrants are also encouraged to come. I think in all honesty that the highest figures for migration are only just starting. There are all the genuine refugees that the United Nations has counted, but on top of those you have hundreds of millions who just want to improve their standard of living and have a better life, and who are we to say that they should not try for that? But it means that on a long-term basis, the European Union has to change its position on migration. It may also mean that the Geneva convention for refugees needs to be clarified or adapted because at

the moment it allows refugees to travel through transit countries in order to get to their point of destination. As Mr Schäfer has already said, a great deal has been done to address the problem, but we need to think about the neighbouring countries when we consider, for instance, the Syrian conflict. We have to think of Jordan, Turkey, the safe regions in Iraq and Lebanon, and work out how to protect refugees in those areas. Only last week an important conference on Syria and the region was held here that was meant to gather funding for such projects. On the one hand we are all in agreement that persecuted people need our protection. There are different approaches to that. The UK has decided on a quota and is applying it, and therefore is not experiencing the influx of refugees and migrants that we are currently seeing in Germany. I hope that this migrant situation or crisis will not influence the referendum and shift the result by several percentage points. That should be avoided.

The Chairman: Thank you very much. Unfortunately, we are running out of time. I am going to record for our German colleagues three areas that may be of interest. If you wish to correspond with us, please do so. The first is the issue of competitiveness, which is within the British Prime Minister's negotiating package, and whether the Tusk text is satisfactory in this area. The second is the question of so-called ever closer union, or ever closer union of the peoples within the treaties, and whether the Tusk text offers sufficient assurance to make it clear that that is not the same as political integration. The third is a more practical one, which seeks any suggestions that you may have about the powers of national Parliaments.

Before I thank our witnesses and close the formal part of the public evidence session, it is only fair, since you have been so generous with your time, to offer each of you the opportunity to send one or two sentences in the form of a message to this Committee. Who would like to go first?

Axel Schäfer: *[Interpretation]* Thank you, Chair. We will certainly answer those other questions and we can do so in writing, or if you have time we can have a personal talk afterwards. I think our English will be sufficient for that. The most important thing for all of us in the European Union is to look at what we have achieved through our co-operation over the decades and ask whether we really could have done all that on our own. For me this goes back 65 years, because my personal involvement in co-operation with the UK stems from the twinning of my town of Bochum with that of Sheffield. During those 65 years there have been exchanges among pupils and citizens as well as economic exchanges that in my opinion are certainly worth keeping. While in Germany we often put a price on things, there is a value in co-operation at the European level that cannot have a price tag put on it.

I have one hope. I think that all members of the Committee are probably fans of the game that is football. The five most important leagues in the European world of football are those of Spain, France, Italy, Germany and of course England. All these leagues have at some point won the World Cup or have been the European Champions. In 1966, England was the world champion of football. My wish is that 50 years later, in 2016, you also become the European champions.

The Chairman: You are very gracious. Mr Seif.

Detlef Seif: To be or not to be, that is the question, and I add: to be strong together.

[Interpretation] This was the first part of the letter from Donald Tusk, and I think he chose the analogy with Shakespeare quite consciously, because if the UK took the wrong decision during the referendum regarding staying in or leaving the EU, that could certainly turn into a tragedy—an economic tragedy and maybe a tragedy of further political repercussions, with Scotland possibly holding its own referendum afterwards, the fragile situation in Northern

Ireland maybe coming to the fore again, and Wales even deciding to say, “We are not part of this any more”. You might end up with a Great England, which would be a great shame in our opinion.

I am all for strong co-operation, and I do not think there is any room for a vacuum. A leap in the dark would be too risky, so I believe that the voters must know when it comes to a referendum that the right decision is for the United Kingdom to stay in the EU. My colleagues and I are certainly working very hard on trying to achieve the United Kingdom staying in, not just for the economic benefit but for the co-operation on a human level. My wish is therefore for a positive outcome to the referendum.

The Chairman: Thank you. We now close the public evidence session. I would like first to remind our witnesses that we will send a transcript for their correction. The other business, which I can assure you is not formal, although it is not typical to say it, is that I think we would all like to express our appreciation for the excellent interpretation, which has helped many of us today.

Beyond that, I thank our two witnesses, Detlef Seif and Axel Schäfer, very much for their contributions. I am in a dilemma as to which has been more impressive—I am talking not about the two contributions, which have been of equal value and very helpful, but about the friendliness or the sheer attention and intellectual firepower of your answers. In concluding, perhaps I can say that this has been a very valuable conversation, and I hope that for us and our countries it will not be the final conversation on European matters.

HE Claus Grube, HE Dan Mulhall and HE Witold Sobków—Oral Evidence (QQ 28-40)

Evidence Session No. 4

Heard in Public

Questions 28 - 40

Members present

Lord Boswell of Aynho (Chairman)

Baroness Armstrong of Hill Top

Lord Blair of Boughton

Lord Borwick

Earl of Caithness

Lord Davies of Stamford

Baroness Falkner of Margravine

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Lord Liddle

Baroness Prashar

Baroness Scott of Needham Market

Baroness Suttie

Lord Trees

Lord Tugendhat

Lord Whitty

Baroness Wilcox

Examination of Witnesses

HE Claus Grube, Ambassador of Denmark to the United Kingdom, **HE Dan Mulhall**, Ambassador of Ireland to Great Britain, and **HE Witold Sobków**, Ambassador of Poland to the United Kingdom.

Q28 The Chairman: Good afternoon, Your Excellencies, ladies and gentlemen. Welcome to this public evidence session of the Select Committee on the European Union. As you will know, Ambassadors, we have already produced one report on the reform, negotiation and referendum process, which at stage one has been very much about the architecture of the process. We are now going on to a second report, which will, I think, continue our interest in the architecture but also enable us, I hope, to find out a little more about the substance. It is therefore very much appreciated that you have taken the trouble to come and see us this afternoon.

I reflected on the fact that we have 11% of the other member states' ambassadors present with us this afternoon and I suppose it is fair to ask what the organising principle is for that. I decided on two possible tests. The first one, which I was tempted to say I hope none of you remembers, is that a very long time ago, when I was a very junior researcher, there was a piece of public policy called the British bacon market sharing agreement. I think your three countries—and I believe possibly the Netherlands—were all participants with us in that, and

I suppose we could reflect, at 50 years' duration, on whether it entirely exemplified the principles of either competition or the free market. But I pass aside from that.

The much more substantive reason why we are so pleased to see you is because we have had from you as individuals and from your staff in your embassies unstinting support, friendship and an exchange of views that we have always found very comfortable.

Therefore, this afternoon, for the Committee, I am very pleased to welcome, beginning on my right, the ambassador of Denmark, Claus Grube, in the centre Dan Mulhall, the ambassador of the Irish Republic, and on the left Witold Sobków, who is the ambassador of Poland. We do very much appreciate your presence here. Rather a lot has happened in your country over the weekend, to which I am sure you are giving attention and we shall too. Thank you. You are very welcome.

This is a public evidence session, so it is on the record from now. You will be broadcast or podcast now, and we will prepare a transcript for your correction. Please remember that if, at any stage, you have anything you wish to add or send on to us we would be very grateful. Except where there are specific semi-bilateral questions, we will not structure questions particularly for one ambassador. I will leave it to your good sense or maybe indicate as we ask the questions how you might wish to take them.

The first question—and perhaps we will ask you in the order in which I introduced you—is: do you feel that you have a clear understanding of what the United Kingdom Government are seeking to achieve in their discussions on EU reform, ahead of the promised referendum? Perhaps, Ambassador Grube, you would like to go first.

HE Claus Grube: Thank you very much, your Lordships, for inviting us and me to this evidence session. Perhaps I could start with a few words on the Danish perspective on this issue, based on some of the issues coming up in the debate. We have stated very clearly in the Danish Government that Denmark should be as close to the core of the European Union as possible. We value our membership very highly and it is in our basic national interest economically and politically. We want to exert influence to the greatest possible extent in the European Union, and we do not think we would be able to exercise the same kind of influence if we were not members of the European Union.

We came into the European Union, together with Ireland and the UK, in 1973, and since then we have always had very close co-operation with the British Government, who have also performed a very active and constructive role for many years.

As far as your question is concerned, yes, we have had a constructive dialogue with the British Government on the four areas that have been up for debate—the so-called buckets—where the British Government wish for changes. So far I can say that the dialogue has primarily been, let us say, on a general and more political level. The details still remain to be seen.

HE Dan Mulhall: Thank you very much. It is good to be here with my two colleagues. May I start by expressing our basic position? Everything I say will stem from this basic point of view, which is that we have a unique relationship with the UK and therefore it is a matter of considerable national interest to Ireland that the UK should remain a member of the European Union. We say that for three reasons.

The first is the positive impact of EU membership on British-Irish relations over the past 40 years—improvements generally. We have never had a better relationship with the UK than

we have today, and this is, at least in part, down to our membership together of the European Union for 40 years.

The second point is that we have appreciated the positive impact of EU membership on the two Governments' joint handling of the Northern Ireland peace process and we would be concerned about possible negative implications for Northern Ireland and for north-south relations were the UK to decide to leave the European Union.

The third reason is because we actually like the influence that Britain brings to bear within the European Union. On a whole range of issues we tend to be on the same wavelength, so for us it would be a loss if Britain were no longer to be around that table with us in the future. That is our basic point of view.

On the question that you raised, yes of course we follow this British debate very actively. We have had very extensive discussions with the UK on the subject of their needs and requirements for the future, and we discuss with them at official and political level. Our Prime Minister has had discussions with your Prime Minister—the Taoiseach has had discussions with Prime Minister Cameron; our Minister for Foreign Affairs and Trade has also had extensive discussions with the Foreign Secretary, and just last Friday, indeed, our Minister for European Affairs, Dara Murphy, was here to meet with David Lidington. So we have a very good understanding of Britain's position as it currently stands, but we understand this position will need to be elaborated further in the weeks and months ahead.

The Chairman: Thank you. May I ask a subordinate question, having started with a rather jocular reference to public policy 50 years ago? My recollection of that time was that in some respects the interests of Ireland were seen as different from the United Kingdom's—one is a major agricultural exporter, for example, and one is an importer—and with, I suppose still, some strong memories of the difficulties we had in the early part of the 20th century. Asking in confirmation, is it your impression that in so far as there were differences of interest or perception, those have tended to be eroded by our process of joint membership?

HE Dan Mulhall: Indeed, I can remember the period before Ireland joined the European Union. In those days we had what was called the Anglo-Irish free trade agreement, but it was a very asymmetrical relationship, I have to say. My earliest memories are of TV news footage of groups of Irish Ministers boarding an Aer Lingus plane in Dublin to fly to London seeking trade concessions from Britain. That is not a very positive basis for a relationship between two countries. I remember in the last 40 years—I have been involved for most of it myself—the way in which we have come to understand Britain more fully. For example, today in Brussels I would hazard a guess that there are probably 100 meetings going on within the European Union's structures at various levels. At each of those meetings there is an Irish and a British delegate, and probably before the meeting they have had a quiet word to compare notes. There is no substitute for that sort of dialogue, which, frankly, we did not have before we joined the European Union. It has allowed us to see the areas where we have more in common than we might have realised before we joined the Union when we had this rather intensive and awkward bilateral relationship. We would not want to go back to the situation where we had to create a new bilateral relationship with the UK outside the European Union. It is far better for us to have a partnership within the Union.

HE Witold Sobków: Thank you very much, your Lordship. I am honoured to be here, just as my colleagues are, and I am very happy to share some views of the Polish Government. Let me start by saying that, for us, the UK is a crucial partner in the European Union and one of our key allies in NATO, so we attach much importance to the relations with the

United Kingdom. I can assure you that this Government at the moment—and the future Government—will attach the same huge importance to the relations with the United Kingdom.

As far as the renegotiation is concerned, not long ago the Prime Minister visited Poland where he met our Prime Minister, and they discussed all four areas that the United Kingdom sees as requiring reform. Also, our new President visited the UK recently and had very extensive talks with the Prime Minister at No. 10 Downing Street. So, as matters stand at the moment, we have quite good knowledge about the areas that Britain would like to discuss in the renegotiation process. But, of course, some terms evolve and some names of headings change, so we would very much like to receive details about proposed reforms and we would be happy to start negotiating them. We are waiting for the letter that the Prime Minister has promised to send to President of the European Council Donald Tusk, and we hope we will have then more precise information as to what the UK would like to change in the European Union.

Lord Davies of Stamford: Briefly, could I ask Ambassador Sobków to tell us how he thinks the new Polish Government may change its European policies? Mr Kaczyński was always regarded as very anti-European, so it would be surprising if there was no change in policy at all in relation to matters concerning the European Union, including the British renegotiation.

HE Witold Sobków: It is very difficult for me to comment on the new Government since it has not been formed yet. The first sitting of the parliament will probably take place in the middle of November. Then we will have the new Government, and we will see who the Minister of Foreign Affairs and the Minister of European Affairs are. I think it is a myth that Mr Kaczyński is Eurosceptical. He just looks at certain things as a Eurorealist, I would say. Let us wait for the new Government until it presents very detailed policies regarding the European Union and other matters.

The Chairman: Thank you. That leads in very well to Lord Liddle.

Q29 Lord Liddle: Your Excellencies, two of you have spoken about having a good grasp of the Government's general aims in their renegotiation. How would you characterise these in terms of a vision for Europe's future? What is your view of the British Government's vision for the future of the European Union?

HE Claus Grube: The details still remain to be seen, but on the general approach in the four areas that we have seen until now, in some areas we broadly share the British Government's vision when it comes to enhancing competitiveness, for instance, or strengthening the internal market. We also have some concerns regarding access to welfare benefits, although our specific solutions might not be exactly the same as those the British Government seek.

Regarding the relationship between the Euro ins and the Euro outs, Denmark has its own opt-out, and it is therefore important also for us that matters that concern all 28 member states are actually discussed and decided upon by all 28 member states. On other areas we take a different approach. First, we want to achieve solutions through changes in secondary legislation, and, secondly, as I said, we want to remain as close to the core of the European Union as possible. For us, it is extremely important to remain an active and constructive member of the European Union.

Lord Liddle: Lord Chairman, could I come back on that? What I am probing for is this. I know these are the Government's objectives, but the question is: what vision of the future of the EU lays behind this? A vision of the EU cannot be defined by changes in welfare

benefits, important though those issues may be. What is its place in the world? What is your impression of the Government's vision of those big issues?

HE Dan Mulhall: As I see it, the British Government's position, as set out in public statements and indeed in consultations we have had with them, is a set of issues that they have identified that the Government believe need to be dealt with in order to enable them to argue for a vote to remain in the European Union. I hesitate to talk about the vision of the European Union. Our position is quite clear: we are staying in the European Union, we are a member, and that is that. We have a desire to make the Union more effective, to make it serve its purpose more fully and more efficiently, but the vision for Europe is contained within the covers of the European treaties. That is where the European vision is set out. Of course that vision can evolve—and it has evolved—in response to circumstances, but it can only evolve with all 28 member states having ownership of whatever new direction may be determined. We see this, in a way, as a little akin to the situation we were in after the first Lisbon treaty referendum where we needed to get accommodation for certain Irish concerns, which we succeeded in doing. It seems to me that the British Government's position, as outlined publicly, contains a set of issues of concern here that they want to have addressed, but the only way that those can be addressed is jointly by the 28 member states working together and reaching agreements.

The Chairman: I do not want to put words into your mouth—and you clearly will not want to make a qualitative judgment on what has not been negotiated yet—but from what you have seen so far, is there any sense in which what the British Government are feeling for is inimical or difficult to achieve within terms of your interest and indeed your colleagues' interests as member states? Is there anything that is a step too far, as it were? We can come to Poland in a minute.

HE Dan Mulhall: At the moment, as we understand the outline, there is nothing that we have said we could absolutely rule out, but obviously it will depend. I remember this very well because I was the head of the European division when we were negotiating our protocol following the first Lisbon treaty referendum. At that time, we had to persuade the other member states that the issues we raised were important to us and that they could be accommodated by the other member states without damaging their interests. It seems to me, from what we know at the moment, that all these things can be negotiated. If we had said at the very beginning of our process, "Can you all agree to it now?", everyone would have said, "No, we cannot", but at the end we obtained agreement and satisfaction for the issues that were of concern to us and that had emerged during the first Lisbon treaty referendum in Ireland.

HE Witold Sobków: The Prime Minister has said that he aims for a process to benefit all the members of the European Union. If this is so, we are ready to discuss anything that will be presented to us as specific proposals. On some things I think we will easily agree, such as reducing red tape, enhancing competitiveness, i.e. making Europe more competitive vis-à-vis established powers or emerging powers—things of this kind. Poland is not in the eurozone. It has a derogation, so our future is different from the future of the United Kingdom. You have an opt-out; we have a derogation. We will have to join one day, but at the moment we are not members of the eurozone, so we are interested in the discussions about the relations between eurozone and non-eurozone countries. In all those areas we are ready to talk to our British partners on condition that all the solutions are non-discriminatory, that they will be done in accordance with the EU law and if we can reach a consensus. We want to help Britain because it is in our interests to have the UK as a very active member of the

European Union. There is good will, I think, not just on the part of my country but on the part of all the countries of the EU.

Q30 Baroness Falkner of Margravine: This is particularly to the Polish ambassador, but if any of the others want to comment, they may. It is in the context of the eurozone and economic and monetary union. You will have seen the five Presidents' report and a road map until 2025 of quite significant changes that are coming down the road. Particularly in the case of Poland but also the others, in terms of the United Kingdom's vision on the question that you have just been addressing, do you see British concerns about the direction of travel envisaged in this report?

HE Witold Sobków: Yes, we see British concerns. We agree that the whole process of the reforms in the European and monetary union should be transparent and inclusive towards the non-euro countries. The integration of the eurozone should not jeopardise the integrity of the single market in any way and it should not be disadvantageous to the interests of the non-euro member states, because it is a matter of principle. We come from a different starting point because we are a "pre-in" country and it is written in our accession treaty that we will have to join the single currency, and we know that we need to be very careful not to create any divisive lines. We should have a lot of understanding for countries from outside the eurozone. We think that the judgments of the Court of Justice may be helpful in this: for example, the recent judgment dismissing the ECB location policy for central counterparties. We had a double majority solution that was supported by Poland, which was a British idea.

I would like to add that the eurozone - non-eurozone division—one that is often quoted—is oversimplified; perhaps we should rather speak about liberal and less liberal countries, because we differ inside the eurozone and outside the eurozone. Those divisions between the euro and non-euro lines are not as strict as some people think. We are also flexible inside the group.

The Chairman: I know Ambassador Grube is raring to go on this one, but I am going to move on from the eurozone for the moment because we want to squeeze the lemon a little more on the vision side, and then we will go on to other things and return to that. I assure you that you will get a chance to do that.

Q31 Baroness Prashar: In listening to you, it is clear that we are all grappling for what kind of vision we have for Europe, but from what you know and what you understand at the moment to what extent is the UK's broad vision shared by your Governments and other stakeholders in your country?

HE Witold Sobków: For example, on the first area we share almost 100% of British positions. We want to boost competitiveness in our economy. We know that there is pressure from third countries on the European Union, and unless we become more competitive we have no chance to face the competition from those countries. We need to complete the single market. We need to work on the freedom of the digital market in the European Union and so on. In this area, for example, we share the British concerns almost 100%. We could subscribe to this part of the Bloomberg speech.

On the eurozone and non-eurozone countries, I would mention the similarities and differences, but, as I have said, we understand the British concerns even if we are a "pre in" country and Britain has an opt-out.

On sovereignty, we share a lot of British concerns and the British position on the role of the national parliaments, for example, and increasing democratic legitimacy in the European Union, overseeing the actions of the Executive by the legislative chambers, et cetera. This is

what we are ready to talk about, but we think that in some areas the existing possibilities have not been used so far so much, such as the yellow card, or the orange card, which has never been used. We should use the existing possibilities more.

In the fourth area—the most difficult for us, perhaps—of free movement of people and social welfare benefits, we are ready to discuss all the detailed proposals of the British side, on condition that they are non-discriminatory. Then we are open to discuss them. Of course we agree that we should fight any abuse of the system, sham marriages, bogus colleges and things of this kind. We should work on other things in this area. We see three packages, somehow, here in this area, some requiring treaty changes, some requiring amendments in the secondary legislation and some just regarding the national legislation here. So we are open to discussions. As I have said, we want the UK to remain in the European Union.

Baroness Prashar: Does anyone else want to come in on that?

HE Dan Mulhall: From my opening statement, you can infer that we want the UK to remain within the European Union. Therefore, we would want to accommodate not the UK's demands but its requirements. As I said earlier, the headings that have been put before us are certainly all things that need to be discussed and we would approach these discussions with a sympathetic ear. Our Minister, when he was here at Chatham House last month, said that we would be supportive of the UK in helping to “achieve reasonable reform objectives”, but he also said we must be respectful of our 26 other partners.

If I take the items very quickly, on the ins and outs question we have a very strong commitment to the single market. That is something that we share very much with the UK. We have benefited enormously from the single market, as the UK has, because we are a very open economy. We want to see our economy developed further, we want to complete the single market, we want the single market to extend into the services area, we want the digital economy to be developed, we want greater flexibility, and so forth. So, on that, we fully share the UK's position.

Following on from that, naturally we do not want to do anything within the eurozone that would undermine or compromise the single market. In fact, a little while ago there was a proposal to hold a meeting of Social Affairs Ministers of the eurozone countries, and we had reservations about that, which we expressed. So you can take it that, with regard to the relationship between the eurozone ins and the non-eurozone member states, we want to see all that is relevant—

Baroness Prashar: Parity.

HE Dan Mulhall: —being done at 28 level, but, naturally, there will be things that the eurozone countries need to do together in order to improve the operation of our currency. That we will do, and I do not think the UK would have any objection to the eurozone countries doing the things that need to be done to ensure the success of the eurozone, which is our currency.

In relation to national parliaments, all my career I have been puzzling over the issue of how to give them a role. There was a certain amount of work done in the Lisbon treaty in this area and it is certainly an area that needs continuing attention, it seems to me.

As to the issue of welfare benefits, we have benefited from the four freedoms and we have a very strong belief in the value and importance of free movement of labour. We opened our labour markets in 2004 to the new member states, and Polish is now the second most widely spoken language in Ireland: 110,000 people, according to our last census, spoke Polish at home every day in Ireland. That is a remarkable transformation. I believe that we have a

slightly higher percentage of people born outside the state in our population in Ireland than you have here in the UK, but obviously while we support the principle of free movement, we do not support anything that involves abuse of welfare systems. We are quite open to discussing these things, and if these problems arise they can be dealt with and should be dealt with.

HE Claus Grube: Thank you very much. I do not have much to add. As my Irish and Polish colleagues have said, yes, we want the UK to stay in the European Union but not just for the sake of staying. We want the UK to continue to play an important role in the European Union and to be a strong and constructive partner to us, because that is important not only, we believe, for the UK but for the European Union and for my country. But on the so-called visions, or the four buckets, the level of ambition needs to be realistic. Other member states have their own legitimate concerns and they also sometimes face domestic constraints, which have to be taken into account. We should also seek solutions by 28, and all 28 member states would have to agree to it. That is why we must take into consideration that some changes will have to pass through the European Parliament. So the process in itself might lead to some discussions.

As I said, in relation to competitiveness, growth and employment, we all share that vision. It already forms part of the strategic agenda of the European Council and the Commission's work programme, and with the better regulation part of it and so on and so forth.

As to the issue of the euro, I want to be very clear that we have been leading the debate both on the meeting of the eurozone countries in the EPSCO Council, which we, formally speaking, have been very critical about—also supported by Ireland and Poland, I believe—and we think that the discussion about the use of the EFSM in the bailout of Greece was not the correct way to proceed. We share all of that.

However, as far as the five Presidents' report is concerned, we have to distinguish three different aspects. First, on the matters linked specifically to the euro, we think it is fully legitimate for the euro countries to discuss that among themselves, and we recognise and respect that, but what we would like to see is that the euro countries deal with the matters in full transparency with the non-euro countries such as Denmark, the UK and Poland. As I said at the outset, whatever concerns the 28 has to be decided by 28. That is why we do not support new euro group formations or a special eurozone committee in the European Parliament. We do not support these kinds of divisions, all of which can lead to new dividing lines or a clear-cut split between the euro countries and the non-euro countries. It is not in our interests; it is not in the Danish Government's interests. If steps are going to be taken where you will differentiate more clearly between the ins and the outs, thereby formalising a split in two in the European Union, that would not be in our interests. As to the—

Baroness Prashar: Thank you very much.

Q32 The Chairman: At this point it would be helpful to say, as I rather anticipated when we set this up, that we would start with some general questions and they have raised, obviously, issues of specific engagement. We will come back to some of those in a moment. The sensible thing is to take as read things you have said before and to concentrate on the specific.

I would like to break in at this point and ask a short question, because it is quite important to be clear on the record. To use phrases that have been used occasionally around Europe, I have two questions, the first of which is: is there any price too high, in the context of what you have said, which is supportive to the United Kingdom's interests? You have said you

would like us to be there, but is there any price too high, and, if so, is it your understanding that Her Majesty's Government are aware of that factor and will negotiate appropriately? I do not know who would like to start on that rather fast ball? Ambassador Grube?

HE Claus Grube: I cannot foresee what will come out of it, but I have based all my replies within the scope of the four things presented by the British Government. If other issues come up, we will have to take a position on them. I expect, at least for this discussion, that it would be within the scope of those four issues.

HE Dan Mulhall: In my 35 years' experience of being involved in EU affairs, the European Union is a compromise-making system and—at least in my experience, even at times when it looked as if compromise was impossible and irreconcilable positions were being expressed—the Union has a gift for finding common ground and reaching agreement, which is one of its great strengths. We have to look at this as a negotiation and as a negotiation that everyone goes into looking for a positive outcome, but that requires give and take, with not everyone getting everything they want, and that is the way the Union has always operated. That is the great beauty of it as far as I am concerned.

HE Witold Sobków: We attach much importance to the four freedoms of the European Union and it is very important for us not to have any kind of cherry-picking regarding the four basic freedoms of the European Union. But, as my colleagues have said, we are ready to negotiate with an open mind outside the box, wanting to help as much as we can, on condition that any solution is non-discriminatory, because we believe in the unity of the European Union, in the strength of the single market and in the solidarity inside the European Union.

The Chairman: We will go on to Lord Jay in a moment and perhaps in order, as we would say, to rest the bowling, we will reverse it and ask Poland to contribute first and then change from there. We will not do it on a necessarily narrow mathematical basis, but it would be a good idea if you would like to put your question.

Q33 Lord Jay of Ewelme: Thank you very much. In his Bloomberg speech in 2013, to which reference is constantly being made, including by the Polish ambassador just now, the Prime Minister said that while the “first purpose” of the EU to secure peace had been achieved, the “main, over-riding purpose” of today's EU was “not to win peace, but to secure prosperity”. Given the rather shifting geopolitical context at the moment, particularly perhaps in and around the margins of Europe, do you think that analysis is still valid, and in particular where does the ensuring of peace—the making of peace—stand in your view in the EU's core responsibilities?

HE Witold Sobków: We very much agreed with the Prime Minister when he said his aim is to boost the competitiveness of the European Union economy and when he mentioned the aim to secure prosperity, because, as I have said, we face competition from the emerging economies and we need to face it. Unlike many European countries, Poland has had a very good economic situation, but, for us, the EU was the main instrument for increasing prosperity in Poland. We recognise that this is one of the aims that is important. But securing peace is also important, and I deplore the fact that a lot of young people forget about the role of the European communities in the past. For them, this is the distant past and for us it is not, and we know why the European communities—the European Union—have managed to secure peace in Europe. This is a very important element of being a member of the European Union. For us it is not just the single market; there is also this extra element of security that we have from our membership of the European Union, despite the fact that our NATO membership is the cornerstone of our defence.

Lord Jay of Ewelme: Would you say that over the last few years this has become more important than it was perhaps four or five years ago—the sense that we should not regard the maintenance of peace as something that has been done, has been completed, and we need not worry about it any more?

HE Witold Sobków: Definitely the younger generation, in a globalised world, look at things from a slightly different perspective, and they will go wherever there is a good job. If it is in Singapore tomorrow, they will go to Singapore; if it is in Japan, they will go to Japan. We have faced a lot of changes, including different attitudes to patriotism, to the nation state, et cetera, but for us, for my generation, preserving peace after the Second World War is to a huge extent thanks to the European communities and the European Union. That is why in Poland, after 1989, we wanted so much to become a member of the EU and a member of NATO.

HE Dan Mulhall: For us, the EU has helped to transform Ireland over the past 40 years by giving us economic opportunities that did not exist before we joined the European Union. It has also, we believe, helped to amplify and develop our foreign policy, because, as a member of the European Union, we have contributed to the evolution of the common security and defence policy. I know, for example, that the two great aims behind the Lisbon treaty, as I recall them, were to make the Union more effective in its decision-making, more democratic by giving more power to the European Parliament and to national parliaments, and to give the European Union a more coherent and effective voice in world affairs. Unfortunately, after the Lisbon treaty was ratified, the focus of all of our attention switched necessarily to the grave economic crisis that we suffered. I cannot think of any regional or global challenges that are not best confronted by the European Union acting together, and indeed our recent foreign policy review—“The Global Island”—just to quote from it, says the EU “has reshaped our continent and its wider neighbourhood” through the enlargement process, for example, and, “By acting together, we are better able to navigate a fast-changing world, and to promote the interests and values we share...”. As Europeans, our values and interests are interlinked, and the EU leads in promoting these values globally and in safeguarding our collective interests.

I would add, by the way, that the European Union has played a very positive role in helping to bring peace to Northern Ireland. EU membership has encouraged and supported greater north-south co-operation as it has helped to change the context of the British-Irish relationship, which in the past was very fraught and today is in a very good condition; and the EU peace programme has provided important underpinning for the long-term work of reconciliation and economic recovery in the communities affected by the troubles.

HE Claus Grube: On this specific issue, raised in the Bloomberg speech by the Prime Minister, we do not have any official position, but could I just say that we should never forget that the original purpose of the European Union—and I agree with it—was to win peace between the EU member states, which were former enemies? I agree that the overriding objective today is not necessarily to win peace, but I still believe that an overriding purpose of the European Union is to maintain peace among the EU member states by securing prosperity and security within our group of friends and partners and for our citizens. I think, as also indicated by my Irish and Polish colleagues, that especially the presence of my Polish colleague here bears witness to the central role that the European Union has played in maintaining peace and stability and raising living standards in the European Union after the fall of the Wall and in German reunification. The European Union has been instrumental in this pan-European democratisation process, and Denmark, as a border country to Poland—there are only 24 kilometres between our two countries—and

to eastern Germany, which is also as close as Poland, is one of the first countries that highly appreciates the role being played there by the European Union. I still believe that it is an important part of our daily work.

The Chairman: We will go straight on to Lord Green, if we may.

Q34 Lord Green of Hurstpierpoint: Reverting to economics and commerce, the UK Government continue to emphasise, both in their daily business in Brussels but also as part of their strategy for renegotiation, the importance of competitiveness and flexibility. All three of you in your opening remarks referred to the importance of competitiveness and flexibility. It is interesting that in the public debate in this country, which, as you know, is very divided, even the Europhiles tend to emphasise the importance of competitiveness and flexibility, and a core part of the Eurosceptic proposition is that we would achieve greater competitiveness and flexibility if we were not in the EU. So it is fundamental to the British vision, for want of a better word—to revert to an earlier discussion—of what the EU is about: that competitiveness, flexibility and the single market are core to the proposition. It is as if the British, both Europhiles and Eurosceptics, see the European Union as essentially a trading bloc and a single market.

My question is whether in your country's thinking about the European Union—and your sense more broadly of the European Union perhaps—that priority ranks as high, or whether there are other broader and different sorts of objectives that are equally important in the minds of your Governments?

HE Claus Grube: As I indicated before, the objective of enhancing and strengthening the European Union's competitiveness and creating more jobs and growth is in the forefront of our minds as one of the main objectives for the present period in the European Union, so we are very much on that line. I also believe, as I said, that it is already inherent in the present work programme of the European Council and the Commission.

As to flexibility as such, Denmark—my country—is one of the examples of the flexibility that is already a fact in the European Union, and we confirmed in the European Council conclusions in June 2014 that, “In our Union, different degrees of cooperation and integration exist”. It is a statement of fact. In relation to this flexibility discussion, we can look into further expanding in that direction. The positions of Denmark and the UK are clear examples. We both have an opt-out from the euro. We have a referendum in Denmark on 3 December trying to change our opt-out on justice and home affairs to an opt-in, as the UK and Ireland have, and I hope we will then be able to follow the UK and Ireland in that. We are not part of the European defence policy, contrary to the UK, but we are in the Schengen area, contrary to the UK, and we are considering the possibility of acceding to the banking union as we are in the fiscal union. So there are a lot of possibilities for flexibility already.

As to the trade agreements, we strongly support the expansion of the free trade agreement. Denmark is an exporting country. We export two-thirds of our gross national product. We have never seen the European Union as any impediment to our exporting or competitiveness. On the contrary, we see it as enhancing and strengthening our possibilities of exporting and competing, when we have 500 million people behind our wishes and demands when we negotiate with important countries such as India, China, Vietnam or Japan, and whoever we are negotiating with. We see that as a clear advantage to our future.

HE Dan Mulhall: We have one of the most open economies in the world. We have a very small domestic market and our exports are greater than our GDP, so we are up there with

Singapore and Hong Kong in our openness. Also, the amount of foreign direct investment in Ireland, for the size of our country, is enormous. For us it is a total no-brainer. We absolutely need to be competitive on global markets, and therefore, within the European Union, we tend to side with those countries that focus on openness and economic flexibility, because that is a vital priority for us. That is why we tend to see eye to eye with the UK on a whole range of issues. For example, during our EU presidency a couple of years back, we prioritised the completion of a single market, in particular to develop the services sector of a single market. We launched the negotiations on TTIP, one of our big priorities. We are totally in favour. We would probably benefit from TTIP hugely because of the strong trading relationship that we have with the United States, with 1,000 US companies having bases in Ireland. We could not be more supportive of this agenda of making the Union—the EU economy—more flexible, more effective and more competitive for the future, because we understand how vital that is to our interests.

HE Witold Sobków: It is also vital to us, and Poland has received a huge amount of structural and cohesion funds from the European Union. Our membership has not only amplified our foreign policy but helped us develop to such an extent that we have not had an economic crisis recently. When it comes to flexibility, we think that a certain degree of flexibility in designing the future course of the European Union is necessary, but always taking into account the need to preserve the single institutional framework of the European Union and the integrity of the single market with its four interlinked freedoms.

On competitiveness, in this globalised world we need to ensure a suitable environment for entrepreneurship, and this is crucial for all of us. So we follow closely the British experience in this respect, the initiatives aimed at new technologies, the public/private sector collaboration, fighting against red tape and promotion of good or better legislation, et cetera. This is what we can learn from the UK. But let me add a last sentence in this respect. A lot of requirements or British views on this have been addressed by the current European Commission: for example, the call for reducing the legislative output of the EU, a greater focus on concluding trade deals, or the development of the digital single market. Commissioner Timmermans has been working very hard on this. This is also a positive reply to the British postulates.

The Chairman: We have a different question now from Lord Tugendhat.

Q35 Lord Tugendhat: It is a very different question. The preamble to the EU treaties refers to the establishment of “an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen”. Could I ask you, please, how you believe this phrase is interpreted and the meaning and the aspiration in your countries?

HE Claus Grube: Let me say straight away that the Danish Government do not have any problem with that phrase in the preamble to the Lisbon treaty, but it has been part of the treaties, I believe, since the Rome treaty from 1958. If my memory serves me correctly, I think it is also part of the accession treaty of the United Kingdom, Ireland and Denmark to the European Union. The specific wording was somewhat softened when we negotiated the constitution treaty, at which time I was permanent representative to the European Union and followed all the steps for 10 years. As far as I recall, it was also supported by the British Government at that time.

Lord Davies of Stamford: It was suggested by the British Government.

HE Claus Grube: So when we all ratified the Lisbon treaty I imagine that no one at that time thought much of the consequences. I was very happy that Lord Tugendhat actually

referred to the whole sentence, because often in the debate in the United Kingdom you only refer to the “ever closer union” and forget “among the peoples of Europe, in which decisions are taken as closely as possible to the citizen”. By the way, I also note that the “union” is spelled with a small “u” and not with a big “U”, so it is an “ever closer union” of peoples. Then you have the subsidiarity element at the end. Personally, I can say that we have never considered that particular phrase as having great importance, but it has a symbolic value, I believe, in many aspects.

HE Dan Mulhall: We have had, I think, eight or nine referendum campaigns now on European treaties of one kind and another, and, as far as I recall, the phrase “ever closer union” has never been the focus of particular attention in public debate in Ireland, but we recognise that it has different meanings and implications and raises concerns elsewhere. It seems to me that the EU concerns on this issue have already been acknowledged by the European Council in its June 2014 conclusions when it was “noted that the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not want to deepen any further”. As we see it, any deepening of integration that might facilitate the attainment of or progress toward an ever closer union would require a treaty change and a unanimous decision on the part of member states.

I should say that we are very comfortable, and have been throughout the duration of our EU membership, with the idea of the pooling of sovereignty and the enhancement of our effective sovereignty by working together within the European Union. This particular issue has never raised its head in the very many debates we have had about a succession of treaties in Ireland, but we recognise it is something that has a significance here and perhaps the European Council conclusions of 2014 may offer some kind of solution to how that issue might be dealt with.

The Chairman: When I call on Ambassador **Sobków**, I wonder if he would reflect—we have been rather reticent in encouraging you to express the views of other member states outside your three because we want your views—and share with us any sense in whether there are other countries than the United Kingdom that are worried about this sort of concept, or are we on our own really? If there were to be such a change, does it need treaty change or can it be glossed in another way?

HE Witold Sobków: For us, the “ever closer union of peoples” is crucial. It is one of the founding principles of the European Union and has not created any problems in Poland, but we understand that for countries like the UK it may be an important thing in the renegotiation process. For us, it is clear from the definition that the “ever closer union of peoples” is not tantamount to a call for the creation of a superstate in Europe. We would not be interested in such a scenario. We think that nation states should and will play a very important role in the future of our continent. In several areas we need less Europe and in several areas perhaps we need more Europe. That is why we believe in the two-way subsidiarity, and the Council conclusions from June 2014 are a useful reminder of the concept, offering us different paths for different countries. In fact, Britain is not in the Schengen zone and it is not in the eurozone. We have differences in the European Union, but I am not able to comment on the policies of any other country.

Lord Tugendhat: Can I try and put it this way, especially as two of our ambassadors come from Catholic countries? Would you agree with me that this is not so much a matter of faith and dogma? Rather, it is an aspiration open to different interpretations in different countries. It is not a matter of faith and dogma but something different countries can interpret in different ways.

HE Dan Mulhall: That is a very valid observation. I am not sure about faith and dogma and I am not sure I am able to make any comment on theological questions; I am not well qualified for that, I am afraid. I do not recall any occasion over the past 35 years when somebody said, “We must do this because it says in the treaties that we must create an ever closer union”. It has no direct operational impact, it seems to me. As I said, if we were to go down that road of actually deepening our integration, in most cases it probably would require a treaty change and, therefore, the unanimous support of all 28 member states. If anyone in Ireland has concerns about that phrase, they have not actually raised them, and if they did raise them the answer would be that our position, if you are worried about a superstate—and I do not see that as being in the offing either any time soon—is that anything you do to deepen integration to transfer more powers to the European level would have to be agreed by all 28 member states. That protects our position, as we see it, but other countries may see it differently.

The Chairman: If there are no more comments on that, we have about five more topics and five minutes each for them in your timescale, but we are hugely grateful for your efforts. If we all collaborate, we can get some thoughts quickly. One we have partially rehearsed but not completed.

Q36 Earl of Caithness: Your Excellencies, can I take you back to the eurozone, please? Can you envisage that there could be a sustainable agreement between the eurozone and non-eurozone countries in any reform process to the extent that one envisages Britain being the only country in the EU outside the eurozone? That is my first question. Another one will follow.

HE Witold Sobków: At the moment, it does not seem very likely in the near future that Britain will be the only country outside the eurozone, I think, so it is a medium- or maybe a long-term perspective.

Lord Davies of Stamford: Are Sweden going to join?

The Chairman: Let us leave that.

HE Dan Mulhall: As I said, partly because of our close economic relationship with the UK, we are very sensitive to this issue of the need to respect those who are not members of the eurozone. Everything can be negotiated, but it seems to me that, as in all these areas, it will depend on finding a level of ambition that everyone can subscribe to. Clearly, the eurozone member states need to be in a position to take decisions within their own field of interest and competence because it is about our currency, after all, and it cannot be the case that those who are outside the eurozone have a veto over what the eurozone does, but at the same time I think we have shown over the past number of years our own particular sensitivity to the concerns of those who are outside the eurozone. The last thing we would want to do is to have the eurozone do things at the eurozone level that really belong to the 28. We are very strong on that: the 28 must be the level at which issues that are within the framework of the EU treaties are discussed. The eurozone is a separate matter. It has a particular focus, and that is relevant only to the 19 member states. Where there are overlaps, it is an area where we need to be sensitive and respect each other’s prerogatives, in my view.

The Chairman: Do you want to come back on that, Ambassador Grube?

HE Claus Grube: Yes. As I said earlier, we share the British concerns in safeguarding the interests of the 28. We have an opt-out from the euro. I also stated that if somebody wants to make new dividing lines and formalise splits between the euro countries and the non-euro

countries, we would not like to go that way, because even though we have an opt-out we would always like to maintain the option of lifting it, even though it might not be tomorrow. We would like to maintain the option of lifting the opt-out at a later stage, whenever it might be possible. We are part of the fiscal compact, and, as I also said, we are considering the possibility of entering into the banking union. No decision has been taken up to now and we would like to maintain the option of moving into the eurozone at some time in the future.

Earl of Caithness: Can I follow that up? The next difficulty is the link between the eurozone and the internal market. Very recently we saw a directive on restructuring EU credit institutions. The UK obtained some substantial concessions for that which made for more bureaucracy, and therefore Britain was fighting against the whole principle of the single market or the internal market because it was taking an independent view for the pound and British banking system rather than the eurozone banking system. Surely, that is going to become much more of a problem as the eurozone integrates fiscally and monetarily. Do you perceive that as a difficulty or something that can be adapted and lived with?

HE Claus Grube: Sometimes in the public debate, and in the euro, it seems as if the euro is a precondition for the internal market, but basically speaking in my opinion it is the other way round. You cannot have a currency without having a real economy to support it, because the currency is the reflection of the real economy. It is not the other way round. Therefore, the well-functioning of the internal market is of primordial importance to the well-functioning of the European Union and of the euro for those who are participating in that. That is why we support the strengthening of that. It is true that if you have a situation whereby the euro countries can form a qualified majority and thereby present us outside the eurozone with a fait accompli when we come to the internal market or the Competitiveness Council, that would not be acceptable to us. That is why we think that the eurozone countries should deal with their issues in a more or fully transparent way. One way of doing it, in my personal opinion, is that the out countries could become observers in the eurogroup, for instance, and thereby participate in the discussions that they might have and maybe take the floor without having the right to vote on the issues. That is why we think there should be full transparency both ways in order to safeguard the well-functioning of the internal market by 28.

The Chairman: Are there any further comments on that?

HE Dan Mulhall: There is clearly an issue there. It can be discussed, I think it will be discussed, and I would hope that some reasonable set of agreements can be reached in this area, because it is important. If there are problems between ins and outs at the moment, can you imagine what it would be like if Britain was outside the European Union entirely? Then the problem would obviously be in some ways much more acute.

The Chairman: We will go on now to a question about welfare. I suggest that perhaps Baroness Wilcox directs that to Poland and the others can comment if they feel they need to.

Q37 Baroness Wilcox: Thank you very much indeed. In fact, Ambassador Mulhall and Ambassador Grube have already referred to welfare, but maybe this is a different context. The UK Government have stated that one of their priorities is to “reform welfare to reduce the incentives which have led to mass immigration from Europe”. What is the position of your Governments on this objective?

HE Claus Grube: Perhaps I can start and then you can follow up. As I said before, the issue on welfare payments is also part of the debate that we have in Denmark. On certain areas we share the views of the British Government. In relation to the revision coming up on Regulation 883/2004, which is regulating access to social benefit, a key issue for us is the entitlement to unemployment benefits. At present, EU citizens in Denmark have to work 296 hours, which is approximately three months, before they are entitled to unemployment benefit, and we want to maintain that rule. Another issue is the exportability of unemployment benefit where the Commission might want to extend it from three to six months, and we would not like to go down that road. Then we have the exportability of child benefit or family care benefits, and in Denmark we are looking at the possibility of seeing whether it would be possible to change the European rules—the actual rules—in order either to make it the country of residence of the child responsible, instead of the country where the parent is employed, or we would like to see whether we could limit the exportability of the family child benefit. So in some of these areas we share the views of the British Government, and that is also the line that we are taking in the upcoming discussions with the European Commission on the so-called mobility package, which will be put forward by the Commission shortly.

HE Dan Mulhall: We are very fully supportive of the principles of the free movement of goods, services, capital and persons. We believe that any interference with those grand principles of the European Union will be detrimental to the Union. If you interfere with one of those principles, it is clear that the others would also be vulnerable, and we have benefited, as I say, from the operation of the single market where the four principles have been at the heart of the single market, but we understand the concerns expressed by those who worry about the abuse of welfare systems. There is nothing in the treaties that entitles anyone to abuse and take advantage of welfare systems. In our country, in the 1990s, about 2% of our workforce came from outside the state. Today it is about 15%. We have had to accommodate ourselves to a totally new reality of people from different cultures and backgrounds coming into Ireland. We have had to respond in various ways to this new reality, and I have to say that in general we have responded very well. In fact, the Polish ambassador was ambassador to Ireland during the height of the Polish migration to Ireland, and it was a very substantial migration. If you look at it in proportional terms, it would be more than two million people in the UK. In general, this has gone very well, but we are completely open to moves to tighten rules in order to ensure that nobody takes advantage of the single-market principles of free movement in order to exploit welfare systems. I do not think anybody in any member state should have any difficulty with that sort of idea. The key thing is to find ways of doing this that are not discriminatory.

HE Witold Sobków: Free movement of persons, as I have said, is one of the basic four freedoms of the European Union, so we attach much importance to this. But for us it is also a foundation of the single market, to which Britain and Poland attach so much importance, and we want the single market to flourish. When it comes to labour mobility, we realise that this is also an important factor for economic growth and development in any country. In fact, the annual cross-border mobility in Europe is relatively low. But this freedom of movement is also one of the key drivers for the European economy, and we know how much immigrants here contribute to the prosperity of this country, paying taxes here, living here and creating new jobs. We are open to any discussions and negotiations as long as the British proposals do not undermine the single market and the fundamental freedoms. They should not be discriminatory. We would only be against any selective approaches to fundamental market freedoms because we think that they can lead to discrimination and they

can somehow destroy the whole structure of the fundamental freedoms. We are open to listen to very detailed British proposals.

The Chairman: We have, as it were, a total of five topics. I am going to put three together and suggest that those who question might put all three together but direct them to one ambassador each. That will give us five minutes to do the last two topics very quickly, if that is all right. I will ask Baroness Armstrong to come in, then Lord Davies and then Lord Trees just with this group of questions, and perhaps you can explain who you would like to ask.

Q38 Baroness Armstrong of Hill Top: We are going to be asking the questions on the distinctive features of your own country's response to the UK's negotiations—you have already said a lot about that—and thinking about what the impact would be if the UK was to leave the EU; Lord help us, but there we go. I particularly want to ask this of the Polish ambassador as in a sense the representative of the countries that were the latest to accede. Historically, the British Government were very encouraging of enlargement and accession. Has the perception of people in your country changed to the UK, and what effect do you think the negotiations are having on the perception of the UK?

The Chairman: We will have Lord Davies to ask the Irish ambassador his question now.

Q39 Lord Davies of Stamford: My question for the Irish ambassador follows on from what he just said about freedom of movement. Ambassador, we have had freedom of movement between our two countries since 1922, since the foundation of the state, and it has always been quite clear that any Irish citizen working alongside a British citizen earning the same amount of money in this country was entitled to exactly the same benefits and paid the same tax and national insurance contributions. Would you accept that that regime should change and that there should be some discrimination under which that Irish worker would not receive the same entitlement to benefits from his taxes and his national insurance contributions as part of a renegotiation that we might conduct with the European Union, or would you demand a special derogation from such an arrangement in favour of Irish citizens alone? Can I ask the other two ambassadors whether they would accept a situation in which there was discrimination—

The Chairman: I think we have heard—

Lord Davies of Stamford: —against their citizens but the Irish had a special derogation in their favour?

The Chairman: Okay. I am going to ask Lord Trees to ask the Danish ambassador his question.

Q40 Lord Trees: Ambassador Grube, Denmark's DNA is integrated into ours, following your invasion and settlement of much of Britain well over 1,000 years ago, so we have always had a lot in common, but you have stressed how there is a Danish priority in remaining close to the core of the EU. How do you see that sitting with the UK's negotiating position, and particularly could you consider the issue of what Denmark's particular response would be, were the UK to leave the EU?

The Chairman: Food for thought. We will start with Poland on Baroness Armstrong's question.

HE Witold Sobków: Thank you. We have always appreciated the UK's historic commitment to enlargement, and Poland is the living proof of your support. It was not just the support in the European Union but bilateral support of the UK, the Westminster Foundation for

Democracy, the Know How Fund, and twinning arrangements that we had with British experts in different Polish ministries. We have always been grateful to Britain for this kind of support. It was not only about the enlargement, including Poland, but also about working together in the neighbourhood, as we did and are still doing in the case of Ukraine, for example. Britain is our staunchest ally and partner on this in the European Union, under the circumstances. Also, with regard to the western Balkans, for example, Britain has been playing a very important role.

I would say that no EU member state is interested in the Brexit scenario, and Poland is no different from other EU states. We have always appreciated not just your attitude towards enlargement but the UK's contribution to the EU as a pillar of global stability. It is not just about trade and the single market, but you have made the EU more competitive and more secure. The common foreign and security policy is inter-governmental and Britain plays a key role in those policies. So we share interests in many areas. I am very unhappy that especially the media here concentrate on immigration, because we share so many things in different areas and our co-operation is second to none in all those areas.

The Chairman: Irish Ambassador, I should just record for the record that we have circulated Minister Flanagan's speech with its general context. It is very interesting and positive.

HE Dan Mulhall: Very good; it is a very fine summary of our position, yes. In a sense, it is a summary of our position. I am not sure whether Lord Davies's question relates to an arrangement that might be made as part of the current negotiations or a scenario where Britain had already left the European Union or both.

Lord Davies of Stamford: No, I am thinking of a renegotiation under which the British Government demand special arrangements for depriving other citizens of other EU states from the full range at least of benefits that they would currently be entitled to under the freedom of movement regime that we currently have, and whether you would accept a downgrading of the position of Irish workers in those circumstances or demand a derogation from those arrangements.

HE Dan Mulhall: We have a unique relationship with the UK and it goes across the board. Economically, we have €50 billion of trade in goods and services in both directions every year—that is £1 billion a week, a two-way trade—and 200,000 UK jobs dependent on trade with Ireland. Ireland is the fifth biggest export market for the UK and will continue to be one of the most important markets for the UK for the foreseeable future.

Lord Davies of Stamford: So what is the answer to my question?

HE Dan Mulhall: But there are other strands to the relationship. There is the political strand where the two Governments now work closely together in relation to Northern Ireland and on European issues, and then there is the people-to-people link. That, as you say, is an age-old link, because Irish people have been coming to settle in Britain and British people have been going to Ireland for centuries. In particular, in the period after the Second World War the Irish came in very large numbers and contributed hugely to the recovery of the British economy and the rebuilding of Britain.

Lord Davies of Stamford: I agree with all that, Ambassador. So what is the answer to my question?

The Chairman: I do not think we can debate that further.

HE Dan Mulhall: All I want to say is that, whatever happens, we would want that unique relationship with the UK to continue and we would want the common travel area

provisions, which predate our membership of the European Union by decades, to be respected. In my experience, our partners in Europe, all of whom have their own particular relationships and special situations, tend to respect the specificity of our situation. So I would expect that whatever happens we will seek to continue to have the same relationship with Britain economically, politically and for the Irish people living in Britain and working here or coming here to work, because they benefit both of our economies. The movement back and forth between our two countries is a huge benefit for both of our economies, and we would not want to have anything done that would turn the clock back. I do not think the European Union is in the business of turning the clock back. We will be looking to preserve those benefits for Irish people, which they have enjoyed for generations, into the future.

The Chairman: Ambassador Grube, I am looking at the time and I would like to get you in, not least because, following Lord Trees's comment, it occurs to me that your people populated the cities both of Dublin and Swansea, where my wife comes from. Perhaps we may convert this into the last word from the ambassadors, because not only do we have the time commitment of people who have been very generous with their time, but the Minister is on his feet, so we would like to get you in if we can for a last word from Denmark.

HE Claus Grube: Thank you very much. I would just say, strategic points aside, that Denmark is a free-trading country. We are always on the side of those who fight for free competition, for free trade and for the respect for international law and order and human rights. We would regret enormously seeing the UK leave the EU if that is the decision of the British electorate eventually. It would mean we would miss our biggest ally in these areas.

On a personal note, let me add to what Lord Trees said. I personally think it would be a catastrophe to see the only country with which we share the same sense of humour leave the European Union, with your great taste for sarcasm and irony. It is the only place in the world where I as a Danish diplomat can use my own sense of humour without problems. Thank you very much.

The Chairman: On which note, for the record—and it is also partly an apology to my colleagues, because this has been such an absorbing discussion—I record that there was an interest also from colleagues in talking about the extent to which HMG had shared their confidences on the reform objectives. I think that has come out implicitly. I am very conscious that Baroness Scott, who has shared much of the burden on the green card with this Committee, would like to talk about the legitimacy of national parliaments vis-à-vis both the European Parliament and the European reform process. Again, you have touched on that. Of course, Ambassadors, at any stage if you have thoughts you want to share with us on those or other matters, we would be delighted to hear from you.

It would be very remiss if, on behalf of the Committee, I did not thank you very much. You bring to this Committee a wealth of experience, a huge and impressive intellectual fire power and articulacy in developing the points, and, I might say, because it echoes the points you have all made in conclusion, a degree of sensitivity towards the British position, which is very welcome in what are bound to be trying times for everyone. I would just like, in concluding, to say how very much the Committee is indebted to you. We look forward to a continuing dialogue and we are very grateful for your contributions today. Thank you very much. The public deliberative session ends and, as I said, we will send you a transcript. I would like the Committee to stay behind, with the gallery clearing, so that we can conduct some deliberative business after this.

Dr Sara Hagemann, Professor Simon Hix and Professor Anand Menon—Oral Evidence (QQ 41-52)

Evidence Session No. 5

Heard in Public

Questions 41 - 52

Members present

Lord Boswell of Aynho (Chairman)

Baroness Armstrong of Hill Top

Lord Blair of Boughton

Lord Borwick

Lord Davies of Stamford

Baroness Falkner of Margravine

Lord Jay of Ewelme

Baroness Kennedy of The Shaws

Lord Liddle

Baroness Prashar

Baroness Scott of Needham Market

Baroness Suttie

Lord Trees

Lord Tugendhat

Lord Whitty

Baroness Wilcox

Examination of Witnesses

Dr Sara Hagemann, Assistant Professor, European Institute, London School of Economics, **Professor Anand Menon**, Professor of European Politics and Foreign Affairs, King's College London, and **Professor Simon Hix**, Harold Laski Professor of Political Science, London School of Economics

Q41 The Chairman: Good afternoon, witnesses, and thank you very much for giving up your afternoon to talk to the EU Select Committee. First, I would like to remind you that this is a formal evidence session. We will be recording. The normal rules are that we turn that into a transcript and send it to you for any factual corrections. Two understandings that I would like to make clear are, first, do not feel that you have to answer every question in extenso if your colleagues have admirably done so, but if you want to add something, we will allow a degree of self-management if you are happy to do that. Secondly, we have quite a bit of time, but I am conscious of your time, and it is important that we should try to get into it as much—not informality, because this is a formal session—cut and thrust as to the sense in which you feel issues are arising in what for us has been a voyage of discovery, with our first report being largely about the process of renegotiation, reform and referendum. This report tries to take it a little bit further to look at some of the underlying issues and visions. In that context, I am delighted that we have assembled this afternoon's panel. Many of them are known to us personally: Professor Anand Menon in the centre and then, alongside him, Professor Simon Hix and Dr Sara Hagemann—if I pronounce correctly; I have taken tuition from one of your former pupils who is, of course, now working for this committee and who

is a Danish national. We are delighted to see you all. If you have no questions to us or anything you want to say initially, we will kick off straight with the questioning. By way of context—I used to do this as a Minister—I sometimes think that if you have the same agenda, although you will have seen roughly what we are interested in, often it is quite indicative of at least a common set of interests. I will kick off, if I may, with perhaps the obvious text, which is the Prime Minister's letter to President Tusk and his separate, more detailed speech at Chatham House, both on 10 November. Do you feel that this takes you any further in your understanding of the United Kingdom's vision for EU reform?

Professor Simon Hix: I think that the four baskets, as they are described, are well flagged and well understood. There was pressure of course from the other member state Governments to put something more detailed on paper. I think that they are grateful that it is now on paper, but there was frustration that it is not in more detail than it is. The question you ask is about the Prime Minister's vision of EU reform. I think that there is a tension in what he is asking for between what is reform of the EU in general and what is reform of the UK's relationship with the EU. The other member states have also pointed that out. Certain elements, you can argue for example, clarification of the difference between the eurozone and the non-eurozone states, the national Parliaments provisions—are generalisable. But then a UK opt-out of ever closer union plus new rules to allow the UK not to pay in-work benefits to EU migrants are clearly just specific to the UK, and it is hard to make a case that these have general implications for the EU as a whole. My sense, and I have travelled quite a lot in the past few weeks and months in the EU, is that most of the other member states do not see this as a Europe-wide agenda—of course, they are busy discussing other matters. This seems like a very peculiar, particular British problem that requires a British solution. There is quite some misunderstanding of certain elements of what the Government are asking for, particularly in relation to in-work benefits.

Professor Anand Menon: I would like to underline what Simon said about the tension between EU reform and British specificity. It will be an issue that will haunt the Government both in the renegotiation and then trying to sell the deal to the British public afterwards. There are two other points that I would like to make. It struck me that there was an interesting difference between the speech and the letter when it came to benefits. The letter provided a little more wiggle room on the question of in-work benefits than the speech seemed to do. On that, I am not wholly clear which the position is: what the Prime Minister said or what he wrote. The final thing that came as a surprise to me in the speech was the emphasis on security, which struck me as being wholly new. We had had all sorts of teasers about the renegotiation process and what the Prime Minister saw the EU as being for in the months and years leading up to the letter, but the speech at Chatham House was very security-heavy compared to anything that he had said before.

The Chairman: And, for the record, that predated the horrible events in Paris, so, in a sense, it was almost a precursor of the way that things might have changed.

Dr Sara Hagemann: I fully support what has already been said. One issue is the timing with which the Government are pressing for the renegotiations to happen. In that respect, whether any coalition partner, so to speak, can be found on each of the renegotiation points is very time-sensitive. The fact that we are now looking for an important agreement or something already to happen in December is an issue that needs to be considered also with regard to whether this is a UK renegotiation or a wider reform agenda with the other European countries.

Q42 The Chairman: Thank you. Arising out of those answers, which were very helpful, are perhaps three follow-up comments. First, as you rightly recorded, there was an interest in security, which was relatively new. There is also very strong emphasis, almost to boil down to one or two words, on flexibility and diversity. Did that strike you as it struck me? Secondly, when you are looking at the issues—and I think Professor Hix talked about misunderstanding—is there a sense in which you could say more about who is misunderstanding whom? Is it that other member states or other political interests like the European Parliament are not au fait with what the Government are trying to do, or are you suggesting that there is a misunderstanding in the British political debate, or where does that lie? The third question is whether, while I appreciate your comments about this being a UK-specific set of negotiations about particular UK issues, the Prime Minister has hit on issues that might be of interest to other member states but in a UK-centred way. If I can pursue the thought with Professor Hix on this, you mentioned migration and talked about the rules for benefits for migrants, which is clearly, as you said, a UK interest. On the other hand, the issue of migration and freedom of movement, for example, goes much wider than the UK. So is there a sense in which these UK interests in the negotiation are a proxy for issues that might be of wider interest to citizens of Europe in other member states as well?

Professor Simon Hix: I think that is right. I would say that there are three areas where several other member states—I would not say all of them—have shared interests with the UK and appreciate that the UK has raised them. One is clearly access to benefits. Some member states would like even broader rules to allow them not to provide any benefits. For example, in Denmark, they think that—and Sara might be able to comment in more detail on this—in response to the Court of Justice ruling on the German case they can deny benefits. I will come back to the issue of in-work benefits in a moment. On national Parliaments, I think some member states would also like to strengthen national Parliaments, whether or not it will be exactly the red card scenario that the Government have put on the table. The Netherlands in particular has raised that issue; I think that Sweden is sympathetic too. I think that there are other member states that are worried about the growing potential split between the eurozone and non-eurozone member states. There is pressure particularly from the Benelux—not from Germany—and from France to have eurozone Ministers meetings who are not just the eurogroup of Finance Ministers but Social Affairs Ministers and what might come next—meeting of Environment Ministers and so on. That has raised a lot of concern in some other member states. They like the fact that Britain is formally putting this on the table, and there needs to be some security for non-eurozone member states in that. On the flipside, I think that there is a misunderstanding from the UK's perspective. Talking about eurozone and non-eurozone as if all the non-euro member states are in the same camp is not right. Britain is the only member state that has not signed up to either the banking union, the fiscal compact treaty or the euro plus pact. Of any of the new architecture that has been built to tackle the Eurozone, the UK is the only member state not to have signed up to at least one part. Most of the other member states, except Denmark and Sweden, are still formally signed up to the idea that they will become members of the euro at some point, even if it is now acknowledged that none of them will join in the near future. That means that they are much more sympathetic to the idea of being part of how the new eurozone is designed, because they expect to be part of it at some stage in the future. So I think that there is a bit of misunderstanding in London from that perspective. I also think there is another misunderstanding in London. I have heard the Prime Minister and officials from No. 10 and the Foreign Office say repeatedly, “We don't mind the eurozone building deeper economic and political integration. If that is what they need to do, then that will be in our interest to do that as long as we are not part of it”. I do not think that is the

view of almost any of the other non-eurozone member states. They do not want a two-tier Europe, because they see that they will be on the second tier of that Europe. If the implication of what Britain is asking for is a formalisation of a two-tier Europe, I think there is very little support for that from other non-eurozone member states.

Let me say one thing about in-work benefits. I think there is a lot of misunderstanding on the part of other member states about what that means. In central and eastern Europe in particular, it has been billed as “Britain wants to discriminate under EU law against our nationals in the UK, and that is not fair and it is illegal. We wouldn’t allow any change of the treaties”. I met an adviser to Manfred Weber, who is the leader of the EPP group in the European Parliament. He did not really realise that this was part of the British welfare state: that in-work benefits were designed to get people out of welfare and into work. All member states are allowed to design their own welfare state for their own citizens, and they all discriminate in different ways. Changing the framing on that could go quite a long way towards getting more support for that in the other member states.

The Chairman: Any more comments from the table?

Professor Anand Menon: Just a couple of points on that. I am delighted that we are not going to agree on everything absolutely. I am slightly sceptical about the idea that we can persuade some of the central and eastern European states that what we are trying to do is not discrimination for those in work. Simon is right to the extent that many member states did not really understand, and probably still do not, what working tax credits are and were meant to be, but that does not mean that they will accept a situation where in-work Poles are paid less than in-work Brits for doing the same job. I would be a little hesitant on that. Just to go back to what you said about flexibility and diversity, Chairman, I have two points. First, I absolutely agree with Simon that we should not assume that other euro “outs” share our view of how this should develop. I think that all the other euro “outs” do not want to see thick legal lines separating the “ins” and “outs”, because their future is less certain than ours. Secondly, and the referendum debate has made me think about this a lot more than I ever did previously, I wonder at what point the Government will start to explain to the British people just how flexible an EU we already have. What is staggering about the British situation is not so much what we are hoping to achieve but what we already have in the way of derogations and opt-outs from key areas of EU activity. We have a flexible Europe already. I think this will be an interesting debate, because the Government are caught between, on the one hand, saying that we have an EU that we like and, on the other hand, saying that we have an EU that we have reformed because we did not like it. How they finesse that will be quite interesting.

Dr Sara Hagemann: I support those points, but perhaps a small remark would be that, of course, the flexibility is not only with regard to eurozone co-operation; there are other areas where we have seen a need for some flexibility for either a single member state or a group of member states. I am sure that that will need to happen on a more common basis in the kind of EU that we are heading towards. That is not necessarily a bad thing. As is pointed out in Cameron’s letter, it is necessary for the co-operation to continue on a sustained level so that there is some flexibility for all the countries involved. The question, of course, is whether there should therefore be some sort of defined basis, which is of course what the treaties are supposed to be for us; that is, to have a set of obligations that set out exactly the remit of the EU core for all member states to participate in and then flexibility in a number of areas of co-operation, whether it is the eurozone, plus even defence and security issues et cetera. It is important that that is recognised as an organic process.

The Chairman: I will want to bring in other members in a moment. On the points that you have just made, do you think that that need for flexibility is a function of a Community now at 28 rather than being, for example, at the time of our last renegotiation, at nine, or a smaller number? Secondly, are you in effect feeling after a sort of approach where there are certain principles like, by analogy, the principles of the four freedoms as being core competences, then others where a degree of discretion is left to the member states?

Dr Sara Hagemann: I do not think that it is necessarily about the size of the Union at the moment, because we see some of the divisions being between old member states. It is, rather, the degree of co-operation that we have in many policy areas today. The newer member states now play their own strong role in these policy areas, but they tend to align with groupings of the old member states, not as a separate bloc. It is important not to think that it is because of enlargement that we now have a situation where we need concentric circles of co-operation. It is a function of the time and the integration that we have reached.

Q43 Lord Blair of Boughton: Thank you, Lord Chairman, and good afternoon. My question in a way goes backwards from here, in the sense that it is not about the relationships with other EU countries but those inside the United Kingdom. How would you respond to suggestions that the Government's reform proposals are disproportionately driven by an agenda from London at the expense of the interests of the other nations and regions of the United Kingdom?

Professor Anand Menon: I largely agree with that suggestion. It is interesting that the Prime Minister and other Ministers talk a lot about the need for subsidiarity but that stops in London, and the devolved regions have noticed this and ask, "Why doesn't it apply to us, too? Why don't we have more flexibility?" I would say two things on the differences in the UK. There are big regional differences. If I can simplify rather crassly: in the south of England, the narrative you hear is that the EU is some sort of socialist plot that tries to hamper the effectiveness of British business. If you go above Nottingham, the line that you will hear is that it is some sort of capitalist conspiracy that disempowers workers. Those two narratives co-exist about the same institution.

Professor Simon Hix: The truth is surely somewhere between.

Professor Anand Menon: The truth is surely somewhere between, but it is very much the former that figures in the reform agenda, which is that we need to cut red tape. There has been talk, which was not in the letter or the speech, of dealing with EU employment laws, social policies and so on. That is a London and south-east agenda in so far as these things are clear. Of course, then you have a Scottish Government who are publicly in favour of more social Europe, who are far more comfortable with membership of the European Union than the British Government and who are rather irritated at having played no role in reformulating the renegotiation agenda. I do not think that Scottish and English public opinion on the European Union is all that different, but I think that Scottish public opinion is probably more permissive; that is to say, it is not such a big issue in Scotland, which means that the Government have more freedom. The notion of permissive consensus that we used to talk about in the old days of European integration still applies in Scotland in a way that it does not in England. I would have to say that the agenda is rather London based.

Professor Simon Hix: Except migration. It is hard to make the case, Anand, that what the Government is asking for on migration is a London agenda. London is the part of the country that is most comfortable with EU migrants and a multi-ethnic, multi-religious and multinational society. That is driven by East Coast Conservative Back-Benchers in constituencies where they are threatened by UKIP. That is my reading of that.

Professor Anand Menon: But again, Scotland is different.

Professor Simon Hix: Scotland is different, but concerns about migration are not London based.

The Chairman: I wonder, to put it rather bluntly, if you think this difficulty with the regions of the United Kingdom and specifically with the devolved territories within the United Kingdom is the result of accident or design. Is this because the machinery does not exist to bring their views to Westminster and get them into the system, or are the Government not particularly anxious to do this in the initial stages at least of their renegotiation?

Professor Anand Menon: The machinery certainly exists in the sense that when you are dealing with normal legislation in the European Union, the Scots and Welsh authorities get to have an input into the policy of the British Government. There is a routine policymaking system for taking into account the views of the devolved authorities. If that is the choice you are giving me, I would have to go for the first rather than the second.

The Chairman: We are not going to be political here, but it is useful to get a steer.

Lord Davies of Stamford: My question related to in-work benefits, Chairman. Would you rather I held it back.

The Chairman: I would rather. We will assume it later, but do come back and remind us.

Q44 Lord Jay of Ewelme: I, too, go back to the Prime Minister's speech on 10 November. In it, the Prime Minister acknowledged, as Anand Menon indeed has already mentioned, that "threats to our security ... have grown enormously in the last few years", but none the less insisted that those threats reinforce the central argument of his Bloomberg speech that "the main, overriding purpose of the European Union is ... not to win peace, but to secure prosperity". Do you agree with that assessment, and do you think the Government paid enough attention to the changing geopolitical context in developing its vision for the EU's reform? As a supplementary to that, how far do you think the events in Paris may affect the climate, form and conduct of the negotiations?

Professor Anand Menon: There are several parts to an answer to that question. European integration was created to secure peace on the continent and to secure it through economic means, so peace and prosperity were very closely tied from the start. The world has obviously changed since then. Now we are preoccupied not with peace between member states but with securing the stability of the region around Europe. Most member states—we are not alone—have not invested enough effort in giving the European Union the tools to do this. The larger member states have been more at fault than the smaller member states when it comes to failing to realise the limitations of national capability. No member state has the wherewithal at the moment to ensure its own security or the security of the European neighbourhood. What is very interesting coming out of Paris is that, yes, this will mark a step change in collaboration, but interestingly enough the French have asked for bilateral collaboration and have very specifically said, "This absolutely does not mean via the European Union", because for the last 10 years they have become increasingly frustrated with attempts to collaborate over foreign and security policy in the European Union. I would maintain, for what it is worth, that only if this collaboration takes place properly multilaterally can Europe give itself the wherewithal to tackle the challenges that it so evidently faces at the moment. These bilateral initiatives might serve as a short-term fix, but they will do nothing to address the longer-term issue of capabilities.

Professor Simon Hix: I would say a couple of things. First, in response to Paris, I think we are talking about the implications for the UK and the UK's current relationship with the EU as distinct from the implications for the EU as a whole. It is having a polarising effect on the debate right now in the UK; the more pro-European, or slightly more European-sympathetic, are saying, "This is a reminder of the importance of collective European security, shared European values, solidarity with France in a dangerous world. This is why we must not leave". Those on the other side of the debate are saying, "This is why we need to pull up the drawbridge. It is open borders that have meant that terrorists could come from Molenbeek to Paris and Saint-Denis and bring weapons with them". It is having a polarising effect in the short term.

On the longer-term implications, I think it could go in two directions for Europe as a whole. You could argue that it will increase pressure for there to be another step forward in the integration of security services, the sharing of data, the strengthening of FRONTEX and external borders, and so on. It could have another implication: it could lead to the collapse of Schengen, or to a new Schengen—a mini Schengen. I heard today from a Dutch student of mine that there is discussion in the Dutch press about there being a mini Schengen of Benelux and Germany, because there is an issue with Greece: if Greece cannot police its borders, do we kick it out of Schengen, do we shrink Schengen or do we have a new Schengen that replaces the old Schengen?

The Chairman: There is a bit like the argument about the euro area as well, is it not?

Professor Simon Hix: Exactly. It is a similar kind of argument.

The Chairman: There is an interest in integration, but a worry about having the resources, or internationalising the resources, to deliver that integration. Is that your view?

Professor Simon Hix: That is right. What I found interesting about the speech was that the Prime Minister made a political case for Europe in addition to an economic case. It is too often misunderstood in the UK that from almost every other member state in the EU, European integration is primarily a political project, not an economic one. In the UK we have always argued that we want economic union, we do not want political union. That has been the mantra of so many generations of politicians. Most of the rest of Europe, possibly with the exception of Sweden and perhaps of Denmark, has said no: creating a market on a continental scale is a political project; it is about creating institutions to govern that market in the way we want to govern it in an increasingly competitive world; protecting our European values; security vis-à-vis Russia, if you are in eastern Europe; the preservation of democracy and stability, if you are in southern Europe; peace and reconciliation between France and Germany. Ultimately, it is a political project for everybody else, and I think that is often misunderstood in the UK when we assume that it is purely about economics.

The Chairman: Dr Hagemann, do you have any thoughts on this?

Dr Sara Hagemann: No, I can only support what has already been said, although I would perhaps point out that the geopolitical concerns vary across Europe as well, so it is not just about prosperity versus geopolitics. There are various kinds of geopolitical challenges that we are facing in eastern and southern Europe, and it is extremely important that that is adequately recognised in both the bilateral and the multilateral discussions at the European level. For example, certain eastern European countries have privately voiced the frustration that although what happened in Paris was a huge tragedy, it is not as though a threat is emerging all of a sudden only for some of the old, prosperous member states; there are very real challenges on the eastern and south-eastern fronts as well. Geopolitics has suddenly come heavily on to the agenda, where they feel it should have been already for a while.

Q45 Lord Jay of Ewelme: I have a short follow-up question for Professor Hix. You talked about the two reactions to Paris: the sense on one side that there are collective European values and collective European security, but on the other that this is too dangerous and we should pull up the drawbridge. Do you think there is a generational split in Britain on that?

Professor Simon Hix: I do not know, to be honest. The polling data on the response to Paris is not out yet. We will know in a few weeks when the data comes back from seeing how people responded. We know that younger people in the UK are generally more prone right now to being on the “remain” side, and older people are more prone to being on the “leave” side. The battle is for the 35 to 60 year-olds. That is the battleground. I would think that the under-35s were polarised even more in a pro-European direction and the over-60s were polarised in a more anti-European direction as a result.

The Chairman: On that point, could you give us any information or impression that you have as to whether the supposed propensity of younger people to remain is about their appreciation of Europe as a political project rather than a purely financial transactional project? Is there any loading in that judgment or not?

Professor Simon Hix: We did a survey experiment a month ago, and we are looking at the data now. We randomly gave different groups of people different arguments: a political argument for and against Europe, a cultural argument for and against Europe, an economic argument for and against Europe. There does not seem to be any age effect. The same things influence people across the age range. People are more responsive right now to anti-cultural-type arguments—the “protecting our society from immigrants” sort of argument. That seems to be the one that people respond to most.

Professor Anand Menon: I have spoken in a lot of schools over the last year about this, and the one question that has been asked at every school is, “If we leave, will we still be able to travel to other European countries?” This seems to be a burning issue among kids of that age: what it means for our ability to go to other European countries.

Lord Tugendhat: Professor Hix used the words “European values” a while ago. I wonder whether one can use those words quite as easily as he appeared to do. Until recently, I think we all had a fairly clear idea of what European values constituted; they took the form of a liberal, secular, multiracial society—a society in which one of the ultimate social sins would be racism. I think recent events have demonstrated that those are not European values but western European values. One of the consequences of the migrant crisis was, first, the Germans forcing through a measure on a qualified majority vote, overriding a matter of vital national interest, which was a serious matter, but the reaction to that from Mr Orban, the Poles and quite a number of other people on the eastern side of the European Union has been a quite explicit challenge to the values that until recently we would have regarded as common values, and a willingness to state quite openly that it is one people, one state, one religion, certainly no Muslims, and basically nobody not like us. Those feelings might have been felt beneath the surface in a number of eastern European countries for all sorts of historical reasons, but they are now being overtly stated, and this distinction between what were hitherto regarded as European values on the western side and what people on the eastern side are now willing to express is a very serious development and something that cuts across other divisions within the European Union.

Professor Anand Menon: As a bit of preamble, I would question the premise of the question. I think we need to bear in mind just how recently liberal social attitudes have prevailed in western Europe.

Lord Tugendhat: Oh sure, I agree with that.

Dr Sara Hagemann, Professor Simon Hix and Professor Anand Menon—Oral Evidence (QQ 41-52)

Professor Anand Menon: I do not think that western Europe was a particularly tolerant place in the 1970s. That tolerance has occurred relatively recently, even here.

Lord Tugendhat: The important thing is that they are being challenged by Heads of Government and by other leaders of society.

Professor Simon Hix: That is true, but I would add to what Anand said. I think we should bear in mind that in the European single market there is the general non-discrimination directive, which has had to be applied in all these member states. Some of them have found it more difficult than others to apply—Poland in particular, given the rules in that directive on non-discrimination on the grounds of sexual orientation—but they have had to apply it. There is also the race directive, non-discrimination in the workplace on the grounds of race, and they have had to apply that.

The other thing to bear in mind is that most of these societies are only recently immigrant societies. The Czech Republic is not, actually; it has quite a significant Vietnamese migrant population that is quite integrated into it. It is also quite for western Europeans to misunderstand the actual volume of migrants passing through these territories. It is very easy for us to sit in Britain and say, “We’ll take 20,000 from the region”, but when you actually look at the people walking through the Czech Republic or Romania to try to get into Germany and Sweden, it is a very different issue that is not just about racism, although there is certainly an element of it.

On the other side, you can argue that racism is growing in western Europe. We are seeing rising numbers of attacks involving Islamophobia, documented throughout western Europe; rising numbers of cases of anti-Semitism—the numbers have doubled in the UK in the last two years and increased dramatically in France, and the volume of Jews coming from France and the UK to Israel is at record levels; and a rise in support for racist parties in large parts of north-western Europe. So I do not think it can be laid just at the table of eastern Europeans.

Lord Tugendhat: But all this illustrates my point about the use of the words “European values” in the way you used them before. They are, I am obviously sorry to say, losing their validity.

The Chairman: I think we will move on from that area. We will come back to the issues of migration a little later, but there is a lot of business to get through first.

Q46 Baroness Kennedy of The Shaws: The Prime Minister is committed to securing legally binding reforms, and he cited the protocols and other instruments agreed for Denmark and Ireland as examples of how the EU has secured such reforms in the past. Were they helpful precedents? As our Dane on the panel, Dr Hagemann, perhaps you would give it a go first.

Dr Sara Hagemann: I feel compelled to answer that. You might know that there is a referendum in Denmark, next week in fact, on the Danish opt-out in security matters.

Lord Davies of Stamford: Sorry, I did not hear that.

The Chairman: Justice and home affairs.

Dr Sara Hagemann: Yes. Basically, the Danes are looking to get the UK model, which for Denmark would mean that we would go from having a full opt-out to having the possibility to opt in—the possibility to remain inside co-operation but, on a case-by-case basis, agreeing to take part in police co-operation, FRONTEX et cetera. In general, the protocols that have been negotiated and have ended up as part of the treaties have been helpful to the extent

that when there was a need for flexibility in a few specific cases, this was the way to recognise the different status of our country and to get that agreement on board. It was a big win for the Danish Government of the time to secure very broad support in the parliament. That led to all parties in parliament except for two smaller parties changing to a pro-European stance in general.

It should be said that one reason why we are having the referendum on the Danish opt-out—it has been a matter of debate for a long time—is the very difficult negotiating position of the Danish representatives and Ministers when they are in Brussels, always having outsider status and seeking to be included. It is a tool that can be used as a last resort for securing an agreement without having full-on treaty change, but it is also significant enough for the countries that have secured special provisions.

Professor Simon Hix: I will add a little to that. First, the examples of the Irish and Danish protocols could be examples in a certain sense in that if a protocol is unanimously agreed at a Heads of Government meeting, it is not legally binding. It is politically binding in the sense that when the treaty is next reformed it gets added to the treaty, and then it becomes legally binding. That does not mean that you need to have a full intergovernmental conference to reform the treaty; it can be added to the treaty next time there is enlargement. There are other ways in which you can add things to the treaty when there is treaty reform.

However, there is a problem in some of the things that the UK is asking for, which are distinct from what Denmark and Ireland got in their protocols. This was pointed out by Jean-Claude Piris, for years the legal adviser in the Council. He said that you cannot put something in a protocol if it is in contradiction to something that is already in the treaty.

You can add something in a protocol that clarifies an article in the treaty or one aspect of an article in the treaty that applies to one particular member state. He pointed in particular to the in-work benefits issue and the idea that you could not put something in a treaty that says that one of the founding principles of the EU does not apply to one of the member states, because that would contradict one of the core elements of the treaty.

Baroness Kennedy of The Shaws: So you are saying that they are only useful precedents in certain contexts but not in all.

Professor Simon Hix: My reading of it would be that you could put into a protocol that the UK is not bound by the ever-closer union article, but you could not put into a protocol that the UK is allowed to discriminate against other EU nationals. That is my reading of what he said.

The Chairman: Thank you. That is helpful. We now go straight on to ever closer union.

Lord Borwick: I wanted to ask about the interpretation of the phrase “ever closer union” and whether we are all talking about the same thing. The protocol has talked about “an ever closer union among the peoples of Europe in which decisions are taken as closely as possible to the citizen”. The Prime Minister has said that the British people do not believe in it, and the Presidents’ report seems to talk about closer union meaning political union among the people. Do you think that the British people understand what ever closer union means, or do they all have different opinions as to what it means?

Professor Anand Menon: I think the British people have been fed a load of bunkum about what the EU is and does for many years now, from both sides: the federalists are as prone to make things up as the people who would like us to leave, and there is polling evidence that levels of understanding of the European Union in this country are lower than in any other member state. So the Prime Minister is undoubtedly right that people do not understand,

and in so far as people do not understand in a certain direction they would think that the EU does too much, because that is the line they have been fed. This partly goes back to my earlier point about the degree of flexibility that we have already managed to get for ourselves in this country. People are simply unaware of this, and it has not really figured in government rhetoric that we have managed to carve out a niche for ourselves in the European Union where we can do the bits we like, we can opt out of the bits that we do not like, we can decide to do some other bits that we are not sure about, and we have the unique ability to opt in. There is a lot of explaining to do about the situation that we find ourselves in now.

I should add that in June last year the European Council made a further amendment in its conclusions on ever closer union and stressed yet again that different states might want to go at different paces and that this does not apply in the same way to all member states. That is now part of what the European Council has unanimously agreed, but, again, it was not particularly well explained to the British public after the summer.

The Chairman: Following up on that we have Baroness Suttie and then Baroness Falkner. Perhaps the two questions can be put together and then others can also ask supplementaries.

Baroness Suttie: I have a quick question. You said, and I was not aware, that polling showed that the UK has the least understanding of the European Union. Has that been differentiated by age group in the UK?

Dr Sara Hagemann: I do not know about the UK, but it has been differentiated across Europe. I do not want to tell you something incorrect. I would rather come back to you with that data, if I may.

The Chairman: If it was not an unreasonable burden on you, sending us a bit of data on that, if you have it, would be very helpful.

Professor Simon Hix: What Anand is referring to is the six-monthly Eurobarometer opinion polls, which include a batch of questions that are meant to tap into people's understanding of the EU, such as how many member states there are and where the European Parliament sits. As an index of understanding of the EU, the UK is well off the bottom of all the member states on that index.

Baroness Suttie: Of all of them?

Professor Simon Hix: Of all of them. Ten or 15 years ago, we were in the middle, and we are now way off the bottom. There are not enough observations in that data set to break it down by age group.

The Chairman: Okay. Anything that you can send us on that would be helpful.

Baroness Falkner of Margravine: I have a very quick question on ever closer union. I recall reading a story in, I think, the *FT* a couple of weeks ago that ever closer union matters to the UK because it has been used in 13 instances in rulings by the ECJ on different areas. The ECJ has used the preamble to the constitution and now in an article of the constitution to justify its judgment. Could you comment on that?

The Chairman: It is an issue about judicial activism, is it not?

Professor Simon Hix: I am not a lawyer, but my understanding is that the ECJ uses all elements of the treaty when it can and when it is necessary, and although there has been reference to this, my legal colleagues at the LSE cannot think of a single case where it has been decisive in the ECJ's ruling. The ECJ does not say, "We have to rule this way because

the treaty says ‘ever closer union’”. I do not think there is any evidence that the ECJ has ever done that. I think it has mentioned it in its opinion on 13 occasions, but I do not think it has ever been decisive in the way it has ruled.

Having said that, it is symbolically quite important. If the UK gets an opt-out from it, that is probably more significant than if it is just removed from the treaty altogether, because if it is removed from the treaty altogether it applies to everybody. If it is just the UK having an opt-out from that article in the treaty, when anything comes up in the future the issue will be, “This is a separate question for the UK. Are you involved in this? We can go ahead without the UK. We will go ahead without the UK”, and there is a presumption that the UK will not be involved. So in a sense the UK would formally recognise that we have a unique and separate associate status, if you like, of the European Union that no other member state has.

Dr Sara Hagemann: Exactly because of that point, it is very important that consideration is given to which other member states might therefore want to join in a certain opt-out if it was in a protocol, and to the kind of dynamics that would create again in terms of concentric circles of co-operation and the like.

Professor Anand Menon: I just want to add that we should not forget the political aspect of this. The “leave” campaign is going to try to centre its strategy on the argument that there is greater danger and uncertainty to being in than there is to being out. That is because if you are in you are part of the ratchet that takes us from a common market to where we are now to the European army that Juncker has talked about. Symbolically in terms of the politics of the referendum, therefore, if the Government can turn around and say, “Look, we are not part of this ever closer union, so we are in no danger of being dragged along despite ourselves as we might have been in the past, that will play a really important role in the referendum.

The Chairman: I am going to have to slightly restrict the Committee now, because these answers, although hugely interesting, are taking some time, and I want to cover the whole field if we can. Baroness Scott has a question that is closely associated with the work on green cards.

Q47 Baroness Scott of Needham Market: That is right. I wanted to come back to the question of the role of national parliaments. The Government have been very clear that they do not really see that there is such a thing as a Europe-wide demos and that democratic legitimacy is held in national parliaments and therefore Governments. The logic that follows on from that is the red card or some sort of veto by national parliaments. Could you comment on the extent to which this sense of democratic deficit and the role of national parliaments and Governments is shared elsewhere in Europe? Is there any difference between the attitudes of Governments and of the parliaments themselves? Could we end up with a situation where parliaments are given a power that they do not even particularly want?

Professor Simon Hix: Perhaps I can say some things about the democratic deficit and then Dr Hagemann can say some things about national parliaments. Again, this is an area where there seems to be some misunderstanding. In the UK, when we talk about a democratic deficit we automatically assume that everyone else understands what we mean by that. We mean the House of Commons, the House of Lords and our national parliament. Everybody else thinks it is about trying to create a European demos of some kind. It was pointed out to me by a German official how ironic it was that Cameron was writing a letter in 13 other newspapers in Europe proclaiming that there was no European demos. If he believes that there is no European demos, why is he addressing that letter in 13 other places in Europe

and making that case, because clearly by doing that he is recognising that there is a European demos. Most of the other member states do not see it in such black and white terms. That is why there was such broad support for the Spitzenkandidat model. I think people accept that the EU needs to be more accountable and more legitimate and that the public need to be engaged much more in it. That was why all the other member states bought into the idea of some kind of contest for the Commission presidency and why, at the end of the day, we were in a minority of two in the European Council in not accepting Juncker as the winner of that contest. It was far from perfect, but I think every other member state accepted that it was part of trying to open up the EU to some kind of direct, democratic contest and to engage European publics. Most of the other member states' media covered this. They were recognised candidates, and the member states saw Britain's position as part of the democratic deficit. Purely talking about national parliaments misses how a lot of the other member states see this.

The Chairman: Just on that issue, the European Parliament's turnout is still quite low, and I think this is part of the Government's argument as I judge it, in saying that there is no demos because people do not vote for it enough. Do you have a comment on that side of it?

Professor Simon Hix: Yes. Turnout went up in the member states where the campaign was quite high-profile. It went up in all the states in western Europe and went down in eastern Europe, where candidates were not campaigning and where there was no engagement in the campaign. The European Parliament has just passed a new draft regulation on electoral rules to try to formalise the Spitzenkandidat process—candidates have to be declared 12 weeks before an election and so on. That will now be on the agenda of the European Council and I think that most member states will agree to it.

Dr Sara Hagemann: I am quite sceptical about the argument that there needs to be a demos as such. I think that some of our member countries struggle with word "demos". This is about the politics and the due political interest et cetera. I am not sure that we need to talk about a demos necessarily. The point about national Parliaments and the democratic deficit more broadly is extremely important. On the proposal for a red card system, there is still some scepticism in some countries, but I think they could be won over. There is recognition generally that national Parliaments should play a greater role in European policy-making. I personally think that the red card system will have extremely little effect. There might be a couple of cases where it would end up being used. We already have a yellow card system in place. The question needs to be turned around and we should ask, "It's not about when Parliaments can veto legislation; what are the possibilities for influencing legislation in the first place?" A lot of work has been done on improving the accountability of policy-making in Brussels vis-à-vis the national Parliaments. I know that House of Lords and your Committee have also produced important work on this. A lot of options are still on the table for making real reforms for enhancing the democratic accountability of policy-making in the EU. I am sceptical whether the red card system as such could make a significant difference. I would foresee such a red card system being agreeable to most of the member states and being brought about without a treaty change—as secondary legislation, for example. So as a renegotiation point, the Government could potentially be successful on this specific issue, but, in some respects, others would think it to be a missed opportunity for not making more far-reaching changes to the democratic chains of delegation.

The Chairman: I think that we will go on now to the euro area, to ask Baroness Falkner, who chairs our finance and economic Sub-Committee, to lead. I think that Lord Davies of Stamford has a supplementary on this, too.

Q48 Baroness Falkner of Margravine: Again, the question is about the “asks” in the renegotiation. The Prime Minister has made a lot of legally binding principles and safeguarding the UK’s interests in terms of eurozone “ins” and “outs”. How do you see that? Do you think that it can be achieved and, if so, what would be the mechanism for achieving it in terms of financial services legislation?

Professor Anand Menon: It depends on exactly what we are trying to achieve. It strikes me that Lord Lawson was absolutely right in saying that there is a danger for euro “outs” if the eurozone integrates further that the eurozone will start to caucus and that, as Simon said, it will start to have Eurogroup meetings across different sectors. One relatively simple way of addressing this is for non-euro states to have automatic observer status in all those meetings, so you do not end up with situations where decisions are discussed without the knowledge of non-euro states. If what we mean is, “We want to be able to stop anyone passing regulations that we do not like about the City”, that is a whole different ball game and I am afraid that I cannot come up with an easy solution that will be acceptable to other member states.

Professor Simon Hix: Anand stole my line on the observer status; I was going to say the same thing—I think that a lot of people are saying that as one of the things. I can imagine a couple of others. One would be a protocol that generally reasserts a principle that is already in the treaties, that says that nothing can happen in the eurozone that undermines the coherence and governance of the single market. That is an easy win that reminds people of this and could be invoked at certain points if the eurozone seemed to be doing that. A second thing that might be more difficult is something that harks back to a European Council conclusion two years ago, which said that if rules are being passed in the single market that undermine a particular sector of the economy that is heavily concentrated in one member state, it will endeavour to reach consensus. This was the sort of phrasing used in a European Council conclusion meeting that could be reinforced in some sort of protocol, which essentially said that, with the financial services industry concentrated in the UK, for anything that is passed by QMV, the British Government could use that to ask for it to be kicked up to the European Council summit meeting for it to be resolved.

The Chairman: There are precedents for the double-majority approach.

Professor Simon Hix: The double majority is not really practical in this sense. The eurozone would not allow a double majority. In a sense, what you are doing is allowing non-eurozone member states to have some veto over what is going on. There was some discussion of the banking union principle and the double majority. Banking union has generalised; I do not think that that is possible and I do not think that there is any appetite for it.

Baroness Falkner of Margravine: How does that sit with your view of how the financial transaction tax was dealt with—enhanced co-operation in other words?

Professor Simon Hix: I think that nobody really minds if there is enhanced co-operation and the eurozone wants to do something that adds to costs of business. Let us say that they wanted to harmonise corporation tax or tax bases within the eurozone. I think that there would be less opposition to that. If you had a protocol that said, “Nothing can happen in the eurozone that would undermine the single market”, that would provide a legal basis to say, “If enhanced co-operation looks like it is then threatening something in the single market, that would in the minimum be kicked up to the European Council for discussion and, at a maximum, be challengeable before the Court of Justice”.

The Chairman: Dr Hagemann, it was not your comment initially, but one of you mentioned different approaches to the eurozone. It happens that Denmark and the UK are

the two countries with the permanent, enshrined opt-outs, and others have de facto opt-outs. How does this sort of debate engage in other countries that are not currently members of the euro area?

Dr Sara Hagemann: There is great concern along the same lines about simply being left out with further co-operation on the table. I think that these views are shared between other non-euro member states.

The Chairman: So there is potential for some constructive alliances there.

Dr Sara Hagemann: Absolutely, but I also think that within the eurozone group a number of countries would welcome such an arrangement, because the views of the UK are shared by some of these “insiders”.

Lord Davies of Stamford: That is a very helpful answer, with which I agree. Given the nature of the time constraint, I think we should move on.

The Chairman: I think we will go straight to Lord Whitty, on competitiveness.

Q49 Lord Whitty: One of the Prime Minister’s points is competitiveness, but it is slightly ambiguous what is meant by that. On the one hand, you could argue that there have been developments which move down what one presumes the Prime Minister means by competitiveness in Europe—indeed, he acknowledges that to some extent. The Juncker commission appears to be on the same page. On the other hand, some would suspect that what the Prime Minister really means is getting rid of particular regulations or opting out of them, particularly on the labour market, for example. How far would it be seen by the other member states as a bit of a contradiction in the British position in that it stresses the completion of the single market on the one hand but wants to opt out of some of the regulations that are key to that single market on the other?

Professor Anand Menon: There are several things there. On opting out of certain pieces of legislation, it is not just about the member states but the European Parliament as well. That strikes me as being very difficult to do. On the broader question of competitiveness, I would say three things. First, we underestimate in this country the degree to which Britain has been fundamental to both creating and driving forward the single market since its inception. When the French speak about “une Europe anglo-saxon”, they mean it in a bad way and are trying to say, “We have done something to them that they don’t like”. That notion would be alien to many Brits, but, across a lot of Europe, there is a notion that we have foisted this single market on them which is liberal, British and horrible, and they are slightly perplexed that we are now complaining that it is not quite right. Secondly, on the competitiveness agenda, I wonder whether the way that we are going about achieving this, in terms of the renegotiation and the referendum, is as effective as would have been a strategy of saying, “Let’s put our shoulder to the wheel and use the Brussels system like we always have and be the leading player on capital markets union and the digital single market”. I suspect that we could have achieved what we are going to achieve and more just by playing the game. We have slightly left Brussels. We have taken our eye off the ball on day-to-day policy-making in Brussels, because we are obsessed with this referendum renegotiation issue. Thirdly, the big thing that is missing from the competitiveness agenda is services.

Professor Simon Hix: I was going to make that last point. On the competitiveness agenda and what is being put on the table by the Commission and the Timmermans Commission is exactly along the lines of the refit agenda, less-but-better regulation, the digital single market and the TTIP negotiations. There is a lot of interest in a lot of member states which are opposed to these types of things and see this a very British agenda, as Anand said. I cannot

help but think that we could have got an even better agenda from a British point of view had we worked at the centre to try to negotiate it. One thing missing from this that was in some of the early drafts of the first Commission work programme was a new services directive. The Commission was committed to a new services directive. Everyone expected this Commission to put it on the table. At the behest of Germany, it has been withdrawn. Small businesses in the services sector are creating most new jobs in the modern economy in Europe. We do not have an integrated services market. We have an integrated goods market, but we do not have an integrated services market.

The Chairman: Perhaps if I might interpose. This is not even being considered by Lord Whitty's Sub-Committee yet, but the new Commission communication on the internal market seems to be beginning to pick some of these issues up. If you want to make an input now rather ahead of that debate, feel free to do so.

Professor Simon Hix: I would say that the digital single market is important, but it is only one bit of the modern services economy in Europe. We have the services sector in London—not just financial services but the creative industries. In some ways it is easier for those creative industries to be trading in other parts of the world than it is in other parts of the single market, given the non-tariff barriers to services sector integration in Europe. I agree with Anand that, had we been front and centre in the debate on that, we could have seen an even more ambitious Commission than we currently see.

Lord Whitty: Would that position be compatible with pressure on creating a genuine single market in practically all areas of service, except the most important? We still argue British exceptionalism or City of London exceptionalism on the financial services side.

Professor Simon Hix: I am not sure, in that we have gained enormously from the fact that the financial services sector is one of the sectors in the service economy that is more integrated than the others, and we have benefited enormously from that. There are other types of services—whether it is art, architecture, design, fashion and media; all the other things that we excel in—where we do not have a European single market. Largely, it has been France and Germany resisting that. That is absent from the current Commission's agenda.

The Chairman: Let us sweep on then to the question of migration. Perhaps I could preface it by saying that you could almost encapsulate the Prime Minister's speech and letter as saying, in relation to the four freedoms, freedom of movement of goods, capital and services is okay, but freedom of movement of people seems to be questionable. I put that as a context, because clearly this is an area of some political sensitivity, as you have already said. I would like Baroness Prashar, who heads our relevant Sub-Committee to lead on this area, which I think will probably exercise most of the rest of the time we have.

Q50 Baroness Prashar: Thank you, Lord Chairman. As you have seen from the letter, the Prime Minister makes an argument that we have to cope with the pressures of free movement. He also argues that, because there is an expanding population in the UK compared to other European nations, there have to be proposals to deal with some of the pull factors, which have been alluded to. Against that background, do you think that it is peculiarly a UK preoccupation or something which challenges the EU as a whole? What is your assessment of the proposals and what will be the challenges of achieving them?

Dr Sara Hagemann: If I can start off with a broad point. I was struck by how the letter did not just point out the costs to the UK but acknowledged that there is a cost to the sender countries of having people migrate—the able workforce, the often well-educated part of the

population. I thought that that was a way of opening up a debate or negotiations, with this acknowledgement that there seem to be direct costs. There are costs in the UK, but the costs are different but very real in other countries. We had a debate yesterday where it was suggested that we should perhaps think about Europe in terms of receiving countries, exchange countries and then sender countries. Of course, in that respect, the UK's challenge is different from that of some other countries. There are countries that perceive—I do not know whether the numbers always add up—that there are similar problems for their welfare states. It is very much part of the debate in the Scandinavian countries, the Netherlands et cetera. They are very much following what is being proposed by the Government here. There is a clear interest in finding solutions. On the specific proposal for rather strict constraints on in-work benefits, that is the trickiest of all the negotiation points that have been presented by the Government. It will be difficult to find a compromise that everyone can agree to, because of the very specific focus here. As Simon has pointed out, other countries have wanted to go further, but with regard to other benefits. The proposal on in-work benefit claims is a difficult position for the Government to have put up so squarely in the negotiations.

Professor Anand Menon: I very much agree. I think that we are pretty much there when it comes to benefit tourism. The ECJ has laid the groundwork for saying, “You can't just come here to claim benefits”, but for people in work it is very hard to see how you can come up with a solution that in practice discriminates between Brits and other EU nationals in the workplace.

Lord Tugendhat: Can you speak up?

Professor Anand Menon: It is very hard to see what solution can be found to a situation where you try to limit in-work benefits on the basis of nationality. The suggestion from EU lawyers is that, even if you try to find a clever way around this by saying, “Let's make it residence”, the danger is that you will fall foul on the basis of indirect discrimination, because the court knows who that is going to hit primarily, and it will be non-British nationals.

The Chairman: The reality of the situation would be, in a factory, with two people operating the same machine, one might be a British national and one might be an Irish national—this could be in Belfast, for the sake of argument—and they would effectively be on different terms and conditions. That is what the gravamen was about, or the sensitivity of this.

Baroness Prashar: When you say “fall foul” of indirect discrimination, is that the UK?

Professor Anand Menon: No, the EU.

Professor Simon Hix: Let me say a bit about the politics of this. Britain, by accepting a lot of central and eastern Europeans, was very popular among central and eastern European Governments and was seen in a very positive light. I think, historically, Britain as an open, multi-ethnic and multiracial society has been seen with a sense of envy by a lot of other member states in Europe and has a sort of credit with them. Since the debate has happened inside the UK, and since we had the British Government's response to the fear of being swamped by Romanians and Bulgarians, it has completely changed the politics of this and the relations to Britain in central and eastern Europe. I was in Bucharest three weeks ago and was told by an adviser there that Britain is poisonous in the Romanian debate because of the way that the British Government basically said to Romanians, “Do not come to Britain. We don't want you”. This was splashed all over the pages in the Romanian press. There is a sense of: why would they want to do anything to help Britain on this very difficult issue? Having said that, I am a bit more optimistic than my colleagues here about whether a

compromise is possible. This is largely to do with the fact that, if it is framed around the idea that we just do not want people to come here, then we do not have a hope in winning it. Rather, it should be framed around the idea that we all have our own welfare states. Through our own welfare states, we all discriminate against nationals from other member states in different ways. For example, in pensions provision, we discriminate. In healthcare, in certain contexts, we discriminate. In support for higher education, we discriminate. We say that, at the point of paying fees for higher education, we do not discriminate, but we give grants only to British citizens below a certain income. We do not give grants to other EU nationals. So in many elements of our welfare state, we discriminate in terms of what benefits are available to our citizens and not available to those from other member states. That is the same in every other member state. If it is framed like that and if it is explained that this is an integral part of the British welfare state and, by the way, it has been pretty successful in getting people out of poverty, that resonates far more with a lot of other member states, which also face issues with trying to use instruments within their welfare states to get people out of poverty and into work.

Q51 Lord Davies of Stamford: I have two brief questions. First of all, I agree that it will be very difficult for the continentals to concede anything that looks as though it compromises the principle of the freedom of movement—I personally do not think that they should—but residence is possibly the way forward if you want to find some solution. We already use that for out-of-work benefits, and that affects British citizens coming in from abroad. My two questions are these: first of all, presumably if there is some decision to discriminate against other EU citizens for the purpose of in-work benefits in this country there will be similar discrimination imposed by other EU member states against British workers in their countries. It would surely be politically impossible for British workers to go on receiving exactly the same benefits in other EU countries when that concession has been made to the British Government in relation to their nationals in this market. Secondly, would it not be contrary to the Belfast agreement to discriminate in any way in this country against people who are citizens of the Irish Republic while being resident and working here?

Professor Simon Hix: I do not know about the Irish legal issue, but you can argue that there is already discrimination in the way that welfare states in other member states work. A lot of them work on the basis that you get benefits only after you have accrued a certain amount of time paying in. So, for example, if you are a British worker going to Belgium, you are not entitled immediately—

Lord Davies of Stamford: You are answering a different point. For reasons that we need not go into, and which I personally regret, we are talking about a renegotiation that is seen as a big political negotiation between the United Kingdom and the rest of the European Union. If we receive what would seem to be a benefit to us and a cost to the others in terms of a right to discriminate in this area which up till now does not exist, will they not say, “Well, you can’t have British citizens working in our countries getting off scot-free. We will not give all the benefits that we are currently giving to British subjects working in our country if our citizens do not get the same benefits as they have been receiving up till now in the United Kingdom”.

Professor Anand Menon: But surely the prior question is why they would agree to that. They are not going to agree to a unanimous decision that they then have to retaliate against. It is far easier just to block the original decision surely.

Lord Davies of Stamford: As I say, the likelihood is that they will, but in the event that they agree to this, will there not be a corresponding cost for British workers elsewhere in the EU?

Professor Anand Menon: I also think that you still have to go through the European Court of Justice.

The Chairman: Clearly, we are not going to resolve this tonight. It is a very difficult issue, as I think everyone on the Committee and our witnesses agree. But in a sense, the messages that I am getting are that full-frontal discrimination between two people in identical circumstances with differing nationalities but who are both citizens of member states will be very difficult. On the other hand, if you can define the class of persons either by contribution record or residence or whatever the test is, providing that that is not tantamount to indirect discrimination, you may have some chance of negotiating. You are nodding, Professor Hix. Is that the sort of way we are feeling our way through this?

Professor Simon Hix: I am not a lawyer, but that is my reading of the various discussions that I have witnessed both here in London and in some of the other member states in the last few weeks. That is how I would frame it.

The Chairman: Thank you for that. We have five or 10 minutes before we need to get on to our deliberative session. This has been very fruitful. We have a clutch of questions about the response to the Government's proposals and how it seems from the other side of the continent. I was going to suggest that my colleagues might put those three together for a collective answer. I will ask them each to pose their questions and then we will put it together and then wrap up. Baroness Armstrong, first.

Q52 Baroness Armstrong of Hill Top: As you have gone on, you have sort of answered this question, but we wondered how both the EU institutions and other European states were responding to the letter, the documents, and the speech and so on.

Lord Liddle: Do you think that the British Government are taking sufficiently into account the institutional dynamics in Brussels and particularly the European Parliament and its role?

Lord Trees: Could I broaden it a little to take that further and look at it from the outside? It seems that the elephant in the room in these discussions, and we have not heard it from you today or in previous evidence sessions, is the geopolitical and economic balance in Europe and the effect that a UK exit would have on that. Is that not an issue of concern to the other 25 member states, excluding the Franco-German axis, which would be completely dominant within an EU without the UK? Is it of concern to the populace in the remaining 25 states, and might that influence their Governments' response to the British negotiating position?

Professor Anand Menon: Can I take that final question first? I think there is a balance-of-power issue. The way the European Union works is that people look for allies and friends, and the fact is that the French do not want to be left alone in the EU with the Germans, the Germans do not want to be left alone in the EU with the French, and the others do not want to be left in an EU alone with the French and the Germans. From wherever you look, we play a sort of balancing role. But there is a political dynamic as well; if we leave, all those countries with significant Eurosceptic parties will start to face political problems of their own. The first thing that would happen in France in the event that we left would be Marine Le Pen saying, "They can do it. Why can't we?" I think there would be political contagion as well as balance-of-forces contagion. Some member states genuinely like us and want us to

stay in, but it is not simply because of that that they are all opposed to the notion of us leaving; it will lead to very difficult situations.

Lord Davies of Stamford: Are you saying that if we left, others would want to leave, or that if we got derogations, others would want the same derogations?

Professor Anand Menon: On a political level, it would strengthen Euroscepticism in other member states, which sitting Governments do not want to happen.

Lord Davies of Stamford: Would it lead more people to say, “We want to leave”, or “We want the same derogations”?

Professor Anand Menon: I will limit myself to saying that it would strengthen the weight of the political forces in member states in favour of leaving or of renegotiating—so, either.

Lord Davies of Stamford: Which?

Professor Anand Menon: There are a variety of political forces in Europe. Some are in favour of questioning membership, some are in favour of questioning certain bits of the EU such as the euro. It would strengthen those broadly Eurosceptic voices in the short term if we were seen to have left.

The Chairman: I think we can summarise the point by saying that it would not quite end with us, in that sense.

Professor Anand Menon: No. I have one final point on how this is viewed in other member states. One of the issues for me is what people now refer to as bandwidth, which is the political attention span in the light of what has happened in Paris. There is a very well reported quotation from an EU official at the June Council, who said in effect that we discussed migration in the morning, we discussed the eurozone in the afternoon, and David Cameron provided a commercial break for 10 minutes in the middle. He was basically saying that we have such massive issues on our agenda at the moment that we do not have time to talk about these rather parochial concerns. It seems to me that that has become a rather more serious problem in the wake of what happened in Paris, and getting the time and space for a discussion of our reform agenda will prove more difficult than it did before.

Professor Simon Hix: The only thing that I would add is on the European Parliament, which is one of my areas of expertise. The European Parliament comes into play only if an agreement with the UK requires secondary legislation, which would have to be passed, whether that is reform of the free movement directive, something to do with the competitiveness agenda or TTIP. In that sense, the European Parliament comes into play at that point. There is generally an ongoing discussion in the European Parliament about reform of free movement and what that means, both in the social affairs committee and in the justice and home affairs committee, where there are voices that are sympathetic to what the UK is asking for.

Dr Sara Hagemann: I fully agree with what has already been said. It has been stressed a number of times that the UK Government and their representation have had consultations for quite a long time, so what was finally in the letter was no big surprise. As such, the reactions have been okay. That is it. Let us look at what is hitting Europe at the moment: the refugee situation, the economic situation and Paris. I completely agree with what has already been said about the reactions not having been strong right now, but December is a crucial time, of course, and, more than anything, the time pressure that is on the UK to secure something in relation to these negotiation points is an irritant, if you want, for other member states. That is an issue to be very sensitive about.

The Chairman: In conclusion, you will already be very aware, witnesses, that in our first report on this subject we indicated the degree of precariousness of the negotiating timetable if it is displaced by immediate activities or, because of some of the political pressures that might centre around migration, it becomes increasingly difficult to get a decision that is congenial to the Government before the end of 2017. I think we can agree that that is an area of continuing concern.

For this evening, all I would like to say is that the whole Committee would like to express its gratitude to you. It has been hugely intellectually challenging. It has also been, in a strange and perhaps rather macabre way, quite enjoyable, because we have had the interaction of the various consequences and cross-currents of your excellent information, and the Committee is very grateful to you.

In concluding in thanking you, I should remind you of the form. First, we will send you a transcript from this evening. Please feel free to correct that. Also, to borrow the language of TTIP, we could perhaps call this a living discussion. We have already picked up the issue about some of the Eurobarometer data that might be useful to the Committee, but if at any stage, either jointly or severally, you feel that there is anything else that it would be helpful to share with us as we pursue these interesting inquiries together, we would be grateful to hear about them. For tonight, we are most grateful. We will call the public evidence session to a close, and will stay behind for a short deliberative session, if we may.

Brian Hayes MEP and Manfred Weber MEP—Oral Evidence (QQ 140-150)

Evidence Session No. 14

Heard in Public

Questions 140 - 150

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Lord Liddle

Baroness Scott of Needham Market

Examination of Witnesses

Mr Manfred Weber MEP, Head of the European People’s Party, European Parliament, and **Mr Brian Hayes MEP**, European People’s Party, European Parliament

Q140 The Chairman: Let me just say as guests in the European Parliament building how delighted we are to be your guests, but also how delighted we are that you, two distinguished members of the EPP, have found the time to give us evidence. The background to this is that, obviously, we have a continuing involvement with European affairs as a Select Committee in both detailed studies and some of the strategic issues as they unfold. We did some work that I think you will know about on the role of national parliaments some time ago. I think we need a sensible understanding of that to advance better outcomes and European accountability, rather than fighting each other about turf.

We have also already had an early look into the process of this somewhat unusual British procedure for negotiations and a referendum. In this report, we are continuing to look at some of the process issues: how it is working, who is talking to whom and who has failed to talk to whom. We have gone from that to look at some of the more important issues of substance, particularly now that we have Prime Minister Cameron’s proposals for four baskets of reform, in the context of the attitudes of other member states and the various political groups as to what would be a common understanding of reform. I think we all understand that Europe has to make some changes and is being very much challenged on the euro and, in the aftermath of the immediate euro crisis, migration and terrorism. That is before the Brits came along and said, “We want some changes”.

At about this point we are going on to the record. If you are happy to give us evidence on the record, that will be very helpful to us: we can build it into our report. Unless there is anything you want to say initially, we will, in recording our thanks to you, which are sincere, get on with the first question. I would not want to make it too formal, but we have some prepared questions and we tend to go through those, but between you and your colleague, please feel that you can intervene where it is helpful.

I want to ask a simple opening question, possibly not without overtones or different ways of reading it. Do you feel, either individually or as a group, that the UK Government have presented a clear and coherent vision for EU reform? Is this a collection of negotiating demands or is it the beginning of a common position? To what extent does it fit in with how you see the world?

Manfred Weber MEP: First of all, a warm welcome to Brussels, to the European Parliament and, in our case, to the EPP group. It is good to have you here and, together with my colleague and friend, Brian Hayes, we will try to answer your questions as best we can so that you come out at the end with a good report and a good overview of the current situation.

Reflecting on your first question, I would say that the approach of the British Government, the four baskets, mainly has in mind the British perspective on the future of the European Union. It is normal that a Government mainly reflects the national perspective. If you ask me as group leader of the biggest group in the House, I would tell you that, for the moment, our biggest concern for the long-term of the European Union is how we can develop our common currency in the European Union, the euro. That is not the main concern for Britain, but it is the main concern for the European Union, for us in Brussels, because we know exactly that we need a deepening of the currency union. The currency, the euro, is for the moment rescued, but it is not stable for the long run. That is the main topic on the agenda for us from a European point of view.

That is not so much the interest of Great Britain. I met David Cameron last week for breakfast. I understand that he is asking about getting better influence from a British point of view on what we are deciding in the eurozone, because Britain is touched when the eurozone is making decisions. The deepening of the eurozone, the stabilising of the currency union for the long run, is, from my understanding, the most important thing for the future of Europe, but not one of the topics for Britain. I understand the four baskets in a positive way for Britain, and a lot of things are warmly welcomed here on a Brussels level but, from a European point of view, other important things are on the table as well.

The Chairman: Perhaps I could come back on that point, before I ask Brian to continue. We discussed this with academics this morning and some of our MEP colleagues from different groups within the United Kingdom delegation, and I think that there is an understanding in Whitehall and the Government that, while it is important that the British role as a non-euro member should not be inhibited or challenged by decisions taken within the euro group, equally, we have got the message from David Cameron—I am not here as his messenger—that there is a strong British interest in the success of the eurozone, and you as the eurozone have to do what you have to do.

I sometimes put it myself for shorthand as being, if you will allow this phrase, which is not always a happy one, a non-aggression pact: we do not prevent you doing the things you need to do if you do not intrude on some of our essential interests in relation to the single market, for example. As a matter of record, my colleagues, who are more expert in finance than I am, will confirm that the City of London is an asset, because of the capital market, for the European Union. We have to think about balancing that relationship. That is not to disagree with what you say; it is just establishing a basis on which one can look at it.

It would be helpful, as we have started on that, and more generally, if I could ask Brian to contribute, not least because I know his island and its interesting experience, which is not always clear to a Great Britain-based politician. You operate two currencies in one island. How does it work, and what is your take on things?

Brian Hayes MEP: First, as Manfred said, you are welcome to our group. It is very interesting for a German-Irish coalition to speak to a British audience like this, especially to a Select Committee in the House of Lords. As a country, we are so intertwined with the United Kingdom, not only because we share a land border in Northern Ireland, but also because of the €1 billion of trade that goes east and west across the Irish Sea each week. So, this is a very fundamental issue for us. We are also a very committed member of the eurozone. At the height of our own crisis, which was an offshoot of the financial crisis—from the start of Lehman Brothers, to the end point which we are, hopefully, beyond—we obtained great solidarity from our European partners in terms of the bailout programme and from bilateral loan facilities from the United Kingdom Government. George Osborne was the first Minister to support Ireland with financial assistance, and he brought a proposal to the House of Commons on that occasion. We are, therefore, very well equipped to comment on this issue.

As to your question on the coherence of the British message, I have one point to make. It is not a critical remark, but an observation made by the former Prime Minister, Tony Blair. Too often, the British argument on reform is too narrowly focused on British concerns rather than on wider EU ones. Some of those concerns are reflected within our own group, and the EPP, in terms of the competitiveness agenda, especially making sure that Europe grows strongly, that we have the right environment for business and that decisions are taken closest to member states where they can be effective. Too often, the debate is narrowly focused on the context of British concerns rather than EU-wide ones. For instance, from Prime Minister Cameron's Bloomberg speech to where we are now, we have a clear view of where Britain stands on the four baskets of issues that Manfred spoke about. In three of those four groups of issues, I think—and I hope we can—make progress.

You asked about the question of being in or out of the euro. There are many things we can do, irrespective of whether we are in the eurozone or not. The 19 member states who are part of the eurozone want to make it work and be effective. We want to see more integration. However, with things such as the capital markets union, which is a major theme of the Commission right now, it does not matter whether you are in the eurozone or out of it. It is about developing a wider, deeper, more diverse financial market system across the 28 member states. Too often we accentuate the differences between euro and non-euro, rather than trying to move forward on the positive areas such as CMU, which is now such a priority issue for the Juncker Commission and, I hope, for all of us. We have to take a balanced approach, but I am very clear in my mind about what the Prime Minister wants to obtain from these negotiations. There is much commonality in what we want to do together on three of those four issues.

The Chairman: That is really helpful as a start. Those of us who sit around the House of Lords are sometimes quite happy to agree with one another where it is possible to do so and we should take that as a starting point for the discussion. I will ask Baroness Scott to contribute first.

Q141 Baroness Scott of Needham Market: Yes, thank you. We have picked up two sets of views here, held at the same time by the same people. On the one hand, there is an irritation that the long-standing “Brits as an awkward partner” has now resulted in what looks like a “Do as we say or we're off” kind of position, given a time when Europe is facing the most difficult and existential problems. We get that on the one hand, but on the other we pick up a desire to keep us in, for all that, and a desire to really get this job done in February. It is possible to foresee deals and arrangements of some sort being done in February that will make Mr Cameron happy, but I wonder what your thoughts are on what

impact that has on other states. Is there likely to be a sense of asking why it should be British exceptionalism all the time? Does this start us moving to something that used to be called Europe à la carte—I do not know whether it is still called that? Has it, in any way, acted as a catalyst for some more introspective questions about whether it should be business as usual for the EU? We have heard what is in it for Britain. How does that play out in the way the Union develops?

Manfred Weber MEP: First, I underline that at the moment we are discussing the British thing. You are asking for a referendum, you will do the referendum, but there are 27 partners at the table who are saying every day: “Sorry, but we are not talking about my problems. I probably have different problems with Europe than Britain”. Normally the procedure is that 28 partners sit together and discuss things equally and it is a positive thing—after the history—that we sit together as friends. Everybody has to contribute to the future of our family approach and for the moment we are only discussing the British thing. That is creating a little bit of anger among the others, because there are big problems on the table which are really intense all over Europe, not only in Britain.

That is one thing; on the second, which is the question of what we can achieve in the next four weeks, from what I understood from other Prime Ministers and Chancellors, the atmosphere of the December Council was very positive and constructive.

The Chairman: Is that felt across all groups and all member states?

Manfred Weber MEP: Yes. I cannot talk for other groups but, from my group and partners in the Council, what Britain presented in the Council in December with the Tusk letter was well received. There was a clear position on the questions of competitiveness, bureaucracy, national parliaments and so on. It was presented in a way that said: “Let’s make a deal. Let’s try it. Let’s do it”. It was not a confrontational approach but a bridge-building one and was very well received. As Brian said, a lot of things are totally well received by our group because we are trying to do something on things like less bureaucracy and less burden to the economy every day here in the Parliament. That is our idea too. Jean-Claude Juncker and Frans Timmermans are already doing a lot in this regard. They are trying to limit all the initiatives of this huge bureaucratic institution. They are trying to do their best to reduce it. Juncker is my Commission President, an EPP Commission President. He campaigned on less bureaucracy. In Bavaria we have the same problem you have in Britain: explaining to the people the crazy things they are doing in Brussels. We have a common understanding of what we have to do. That was why it was well received: it was positive. Now for the detail. Jonathan Faull, the authorities and the Commission, together with others—Berlin and so on—are dealing with the details every day. Everybody knows that the devil is in the details but we are trying to build up a common understanding on what to do now to get a better deal for Britain in February.

Brian Hayes MEP: I will make one very brief remark. There is good will now—since the December Council meeting, as Manfred said—to get this deal done, but people should not underestimate the degree to which this debate is causing continuing instability in Europe. Across all of the committees, across all of our work and across the very important files that need to be brought to a conclusion by the end of this year, I would be very concerned if a deal was not resolved in February. It is broadly the ambition of all parties to bring this to a conclusion at the February Council meeting. Under your legal system there must be a minimum time—16 weeks I think—from the conclusion of that to the referendum. I know you have mid-term elections coming up for Northern Ireland, Wales, Scotland and the London mayor in May. There is an opportunity now. If this was allowed to continue, it might change the atmosphere. That is a political observation that I would make about the necessity

to get this done one way or the other, both in terms of negotiation and a result, because it is quite a consistent source of instability, and people should not underestimate that.

QI42 The Chairman: Thank you for that. I was going to take up an earlier exchange. You could take this as a flippant comment, but I hope there is a substantial point. You said it is difficult sometimes to persuade people in Bavaria what Brussels is doing for them, which I was inclined to comment on, as it may also be quite difficult to explain to people in Bavaria what Berlin is doing for their benefit. I use that as a platform for asking a question which I have always been meaning to ask but have not asked. Coming from a federal state, in your case as representative of the Freistaat, do you see a structural difficulty in understanding in the United Kingdom when it comes to the European Union? You have a defined set of powers and competences. We have looked—and then have apparently ceased to look—at the balance of competences within the European Union, but you are working in this sort of area where you have to look at who is responsible for what and at brokerage between the Länder and the federal Government all the time. You have a constitutional court which will oversee the process. Do you think it makes a difference to British political debate that, first, we do not have a formal, written constitution and that, secondly, we have some interesting anomalies in relation to the devolved Administrations, which have arisen for a variety of historical reasons? Do you think this is part of the reason for the way the British tend to put their argument? It is fairly early on in the debate but I thought you might like to think on that.

Manfred Weber MEP: You talked about historical development in Europe. A country like Great Britain can be very proud of its history and its development of democratic structures. I always understood Great Britain as a federal state, because there is Wales, Northern Ireland, Scotland and so on. My understanding always was that independent parts had formed the United Kingdom. That is why I compare it a little in terms of competences to our Länder in Germany, which are very powerful, as you know. There are Prime Ministers on the Länder level; the Bavarian Prime Minister, in my case, is a pretty powerful person in Germany. Maybe in this regard that is not so comparable, but the fundamental thinking is the same. If the model for the future is to respect different identities, that is not a problem for my country. I define myself first of all as a Bavarian. Then I am a German citizen—that is my nation and my country—then I am, in some of the fields we are dealing with politically, a European. These different identities are part of our history in Germany: it is not a problem to define ourselves in different ways. In smaller countries, like Slovenia or the Czech Republic for example, the regional identity is the same as the national identity, because they are small countries. They have more problems understanding this idea of multiple identities at different levels. We do not need to make a problem out of different identities in the future. It is normal to have them.

The Chairman: Thank you for that. We should perhaps leave this philosophical level and come to the immediate issues, but I would just comment that our Committee has taken quite a close interest in the workings of devolved Administrations in the other parts of the United Kingdom. We visited Wales and Scotland with the Committee, and I myself have had an extended session in Northern Ireland, partly because we have consultation machinery across the devolved Administrations with the two Houses of Parliament in London, which rotates. We are fairly close for example, as I have said to Brian Hayes already, to an understanding of the Irish concern, on both sides of that border, about the nature of the 499 kilometres of land border. I met at least one EU ambassador who said to me, “I think your land border is bigger than ours”. We are aware of the issue, but it is useful to have that

content from your experience. Having said that, let us move on to the immediate and ask Lord Liddle to come in with his question.

QI43 Lord Liddle: You have spoken about how the British question is not the focus of most of our partners. How much momentum do you think there is towards getting it sorted out quickly at the February Council? The Prime Minister says he is well on the way to sorting it out. I noticed that Mr Hayes referred to three of the four issues. Does that mean that he thinks the fourth—by which I presume he means migration—cannot be sorted out by February?

The Chairman: Can I add a subtext? There is also the question about getting something which is legally watertight in terms of being able to satisfy the PM and the British public that it is not all going to unstitch.

Manfred Weber MEP: More time does not make the problem any smaller. There is a chance now and there is momentum at the moment. There was a positive outcome at the December Council and there is a strong will to do it. There are thousands of other problems on the table, so nobody on the Council wants to have a year of debate only about Great Britain, frankly, as there are so many other things to do. That is why there is momentum at the moment to finalise this. We need such momentum so we can say, “Let’s do it now, let’s do the deal”. That is why I would say that it is the time for experts, working on the legal details of the deal, because the political background and what is on the table is totally clear to everybody. Cameron is travelling all over Europe and investing a lot in this topic. There is a chance to finalise it in February in the Council meeting, and then it is up to Britain to decide. Europe is a voluntary union and countries are voluntary members. For the first time, the Lisbon treaty included the possibility of leaving. That is the system, and nobody is forced to stay in; it is up to the people to decide. But I have to say, from the point of view of Brussels, from a European point of view and from a partner’s point of view, that when you leave, you leave. For example, today there is a question on the table about Denmark and Europol after we lost that referendum. Usually the people would say that it is logical to work together and support these organisations to fight against organised crime on a European level. It is logical for everybody: even Great Britain is a strong partner on all these things—we have data exchange and so on—because it is really important. But the people decided to leave. I am sorry, but now the people in Denmark have decided to leave, I am no longer ready to have any further negotiations with the Danish Prime Minister on the specific relationship with Europol. The people said, “We do not care about Europol” and the politicians in Denmark were obviously not able to explain to them how important it is. If that is the case, I respect the outcome fully—which means great damage for the security situation in Denmark. The PM got together with Juncker and asked about special treatment. I advised that my position was that there should be no special treatment. Out means out, which is what we also have to make very clear in the negotiations for the next month. We are doing whatever we can do. When I say “we”, I mean the partners, not Brussels, which is viewed negatively. We do everything we can do, but leaving means leaving. That is that.

QI44 The Chairman: I am going to ask you a simple hypothetical question. Say Britain achieves success in the negotiations and the Prime Minister then puts the situation to a referendum, whose question, in simple terms, will be, “Do we remain or do we leave?” As you say, you would respect a decision taken by the British people to leave. In any complicated negotiations—in which the European Parliament would be required to be involved, through Article 50—do you think that there would be a strong wish to play hard ball, if I can use that phrase, in terms of the British position? You said that your advice on the

Europol issue in relation to Denmark was that there should be no special deal. I think there are some people in Britain who are in favour of leaving, although not all, who would say, “Well, we would reach an arrangement”. I want to put this as neutrally as I can: how realistic is it to expect there to be an arrangement which would be welcome or acceptable to the British Government?

Brian Hayes MEP: I might just come in on that point. This is a fundamental issue that has not been properly assessed in the UK. The day after a decision to leave happens, you then enter a negotiation, but that negotiation is coloured by the decision to leave. We have a flexible approach to membership of the European Union, because we have a multicurrency union and some parts in Schengen. Britain and Ireland are not members of Schengen; we cannot join until you join. We have this kind of approach. We often have had protocols inserted in various treaties, but it ultimately changes the negotiation and circumstance after leaving. There have to be downsides and negative impacts to leaving. As Mario Draghi said recently about joining the European single currency, people have to see a benefit in joining it. That same principle applies to the European Union. That is why people in the United Kingdom—this is a debate for your own population and political system—need to think about what exactly will happen in that post-leaving environment. It will colour the negotiations because people will want to ensure that, for those who remain, the benefits are there in terms of industry, finance and capital.

I will make one remark on the last of the four areas—the whole question of labour, migration and the rights of people to work. There will be very strong views among our Polish, Latvian and Lithuanian colleagues about this issue, because the British position is playing out very poorly. I was in Warsaw recently. I spoke to many people in their political system about the way the issue is playing out. I fully understand the issue in the UK of the question of migrant labour, but the fundamental starting point is that this is a fundamental principle of the European Union: the right of labour to travel to work. If you are a European Union citizen, you are entitled to work across the 28 member states. There can be no diminution of that principle; it is a foundation principle of the European Union. From an Irish perspective, we know it when we go to work in the UK and elsewhere. How you construct the solution to that will be crucial. The Prime Minister has put that out there into the mix. He needs to have some solution on that. That is where we have to work quickly to find a solution to this issue of labour mobility, which I know is a concern for the British public. The concern is as to what benefits people are entitled when they land in the UK and work within your system. Whether a recent ruling of the court will help in this matter is another matter entirely, but a solution has to be found. But I would not underestimate the difficulty of a negotiation in a circumstance where Britain decided to leave.

The Chairman: Just on the in-principle issue, while you are there, Brian, I notice that the Prime Minister’s letter to President Tusk refers explicitly in a single sentence that the EU should also “do more to fulfil its commitment to the free flow of capital, goods and services”—that is three of the four freedoms. Does it seem odd to you, or to other member states here, that the British Government can hold that position and at the same time say, “We have a problem with the fourth”?

Brian Hayes MEP: Yes, quite frankly. If you were to listen to our EPP discussions on this issue, that is reflected, certainly from eastern European colleagues, in their understanding of the rights and freedoms attached to being a European Union citizen. So “yes” is my straight answer to that.

The Chairman: I am going to ask Lord Jay to tidy up on the process issues and we will come back to migration, if we may.

Q145 Lord Jay of Ewelme: It would be helpful if you can say a little bit about what you see the role of the European Parliament being in the negotiations between now and February, and whether you think that, in the way they have put forward their proposals and the discussions that they have had, the United Kingdom Government appear to understand the role of the European Parliament and take into account the interrelationship between the institutions here. If you are sitting in London, you do not always get the impression that the complexity of the Brussels institutional mechanisms are fully taken into account. I wondered whether that was how it was seen here and how you see the role of the European Parliament.

Manfred Weber MEP: I understand that the complexity is not easy to understand from an outside point of view, but since the last elections it is very easy. We define ourselves today as the EPP, the biggest group in the House, as the ruling group, together with Jean-Claude Juncker. On Monday I had a one-day meeting with Jean-Claude Juncker and Martin Schulz. We discussed the priorities of the European Commission for 2016. We had a kind of coalition meeting, let me say, where we decided about our priorities, Brussels' priorities and our responsibilities, not intervening in others, but what the treaty is telling us we have to do. That defined our strategy for 2016. I went today to inform my group about the priorities we discussed and we came up with a common plan for the next G5—the coalition meeting inside this body. We are coming to a normal governmental system. Europe is not a state at all—there is no doubt about that—but we have responsibilities. The member states gave Brussels clear responsibilities for the environment, for the single market and so on. We are trying to do it in a way that normal citizens can understand. This is a democratic way: the Parliament is deciding on things that we present as a coalition. The Greens are against; we are in favour. You have an opposition; you have alternatives. The people vote and thence they can decide on the future of Europe in the responsibility of Europe. That is clear. There is a road.

On the one hand, there is the political dimension behind this. We are discussing things. I go to Angela Merkel and to Rajoy as group leader, to my Prime Ministers, to Orbán. I talk with them about the issues, so there is a political dimension behind this. There is also a legal dimension behind this. On the one hand, in the protocol procedures the Council will guarantee to David Cameron and to Britain some future changes to the treaty. That is one part. We are involved in that; Parliament is involved in a normal treaty change. On the legislative part, when we think about freedom of movement and misuse of the social welfare systems, we come to changes of legislation. Thinking about child benefits, for example, we need regulation at the European level for more fairness in this regard. If we do this and the Commission makes an initiative, we need a majority in the European Parliament. When we agree on the package in February, part of it will be normal legislative procedures. That is fully in the hand of the European Parliament. I commit that we are ready to do the job if it is needed, if the Prime Ministers and chancellors in the Council come to a common understanding.

The Chairman: I think we will go back to the issue of migration.

Q146 Lord Davies of Stamford: Thank you, Lord Chairman. Brian, since 1922 citizens of the Free State and then the Republic continued to work in the six counties, or would come to England, Wales or Scotland to work alongside their colleagues, paying the same taxes and national insurance contributions, and receiving the same benefits. Can you imagine an Irish Government accepting that, from now on, those Irish citizens should be discriminated against and should not receive the same benefits as their British colleagues working alongside

them and paying the same taxes and national insurance contributions? Would not such a discrimination, if applied in the six counties, be contrary to the Belfast agreement?

Brian Hayes MEP: You raise a fundamental question. It would not only be against the spirit of the co-operation between Britain and Ireland over that period of time, but it would also be a violation of the Good Friday agreement. I am absolutely clear on that. Equally, to deny British citizens living in the Republic of Ireland the rights and benefits that apply to Irish citizens would be a violation of the Belfast agreement on the other argument, so it works both ways. I am very clear in my mind that, were Britain to leave, this could have potentially knock-on effects on the interinstitutional relationship that we now have as two sovereign Governments—the British Government in London and the Irish Government in Dublin—in terms of our constitutional responsibilities to Northern Ireland post the Good Friday agreement. I do not believe that people have properly thought through the implications of that for British citizens in Northern Ireland in that environment. It is part of the debate.

As a side quip, when Britain voted to join in the early 1970s, the only region of the UK which voted against it was, I understand, Northern Ireland at the time, which is extraordinary given the financial transfers that have gone into Northern Ireland since that period—peace funding and the like. I think it is one of the downstream effects that we have not given due regard to.

The Chairman: Thank you for that. Just to be clear and for the record, I think you have identified two problems. One is in the negotiations and the question of whether discrimination should be applicable between member states, particularly in the workplace. The second question is on the assumption, for this purpose, of a British exit, and that there would then be further and continuing issues which would apply to the nationals of those states. In practical terms, there would be pensions to tidy up and all that, as well as in terms of the constitutional arrangements made through the Good Friday agreement. There are two levels of concern; one is immediate and one is potentially not very far off.

Brian Hayes MEP: Correct.

The Chairman: That is really helpful. Working through these, I think it would be sensible if I could perhaps ask Lord Green to ask about some of the economic concerns.

Q147 Lord Green of Hurstpierpoint: Thank you. I have two sets of questions; one is about the eurozone and the in-out question—I think it is Mr Cameron’s third basket—and one about his fourth basket, if I have the order right, on the single market and trade, and so forth. On the basis of what we have heard over the last 36 hours, there seems to be quite broad recognition of the importance of defining how the eurozone governance works in such a way that it does not undermine the single market. That is clearly a British demand for obvious reasons. Do you think it is recognised that that demand is not just there in a defensive mode but also there in order to protect what is an EU interest; namely, the importance of the London capital market, which is of course a European capital market and not just a London capital market?

My second question is about the single market trade and all the rest of it. The Prime Minister has called for, in effect, a broadening and deepening of the single market, active pursuit of trade agreements and general competitive flexibility all together under a single mantra of “competitive DNA throughout the EU”. What in practice might that mean in terms of specifics that he could take home when he wants to declare victory and say, “The negotiations have been successful—I can now recommend to the British that they should stay in”? What specifics under that heading does he need to be able to offer? At the

moment, it looks like rhetoric to which anyone can subscribe from any member state across the political spectrum?

Brian Hayes MEP: May I take the first question because I have some knowledge of this from when I was working in the Irish Government? As Deputy Finance Minister, I would attend the eurogroup meeting on a Monday if my senior colleague, Michael Noonan, was not there. On a Tuesday I would attend the ECOFIN meeting. I have practical experience of how this works. It is not the optimum solution that you have 19 member states at a Monday meeting dealing with the eurozone and then 28 member states the next day.

However, any institutional change which could bring greater clarity about the rights of non-eurozone member states—this would be strong within our group and among Polish colleagues in terms of what issues they would raise—has to be an issue of concern. At an ECOFIN meeting, it is normal for the first item to be the presidency putting forward, through the chairperson of the eurogroup, what was discussed the previous evening. It would certainly help if we could have a better mechanism of information and outcomes.

However, it is interesting to note that, even in the midst of the crisis of the eurozone when people thought that it would divide north-south, east-west or among big member states, we now have one extra member of the eurozone. That takes the number to 19 and there remain nine member states which are not members. Of those nine member states, seven have said that they would like to join the eurozone in the future if the circumstances are right—Britain not being one of them.

For non-eurozone countries, there needs to be a recognition that the eurozone is here to stay. It will obtain more integration and become deeper, and is stronger as a consequence of the changes we made to the structure of the eurozone over the last number of years. That has downstream effects. If one looks, for instance, at the single supervisory mechanism, which is open to all member states of the eurozone to join, the new regulation we have now in terms of the capital adequacy of banks is a very exacting gold standard of what is required. The British moved first when the crisis happened and much of what we have in the SSM flows from what the British did.

However, there are cases where, in the SSM membership, using that standard can apply to the 28. Too often we extenuate the differences between eurozone and non-eurozone states, as I said in my opening remarks about the capital markets union. You are absolutely right. We will be greatly diminished with the City of London not being part of the 28 in terms of the expertise, the knowledge, the know-how and the specialisation of the capital markets union. It would be an enormous loss to the 28. If we are trying to develop these large, liquid, deep markets for alternative sources of non-bank lending, it is crucial that the British are part of that endeavour if they so choose to be. Too often we extenuate the differences and not the positives. If a mechanism can be found to have better communications and better dialogue between the eurozone and the non-eurozone, those of us who come from eurozone countries would be delighted and would support it.

Manfred Weber MEP: I fully share what Brian said. In this regard, I cannot fully understand why Britain is so strongly insisting on this definition of the multicurrency union. Why? First, for Britain the legal situation is totally clear. For your country, you have an opt-out which is guaranteed by all the other partners. No one will ever force you to join the eurozone. This is totally clear for your country.

If the definition of a multicurrency union and the current legal base is changed, you are forcing others to accept it. I cannot understand why you are doing the job for others. Frankly speaking, if Europe is defining itself as a multicurrency union, that would lead, for

example, to a debate on why British MEPs are deciding here in the European Parliament on the euro when we are defining ourselves as a multicurrency union. From what I understand from Hammond and Cameron, the interest of Britain was to get more influence in what was going on inside the eurozone because the decision-making process in Frankfurt and in Brussels is important to the City of London. Having this in mind, I think that the idea is to strengthen the influence of Britain in the decision-making process in the eurozone. The idea of a multicurrency union is leading to a splitting and a deepening of the split of the decision-making process.

That is why I would say, reflect on this. On the idea of the mechanism, we are totally ready to understand that London is the most important financial centre in the European Union, which is why we have to find a way to get a strong involvement in the decision-making process in the eurozone. We should be totally open but not insist any more on the idea of multicurrency.

The Chairman: Do you want to say something about competitiveness?

Brian Hayes MEP: The EPP group is very much the same. This is the battle that we have with the socialists every day. I say this to a multiparty Committee. This is exactly our agenda. Much of this work is outstanding. We gave commitments over 10 years ago about the competitiveness agenda. Unfortunately, much of the work in the last number of years was fighting the crisis. It took us a long time to respond. We made mistakes. But now that the currency is resolved and there is much better governance and supervision around that currency, I am very confident about the future. The competitiveness agenda is the same agenda as we have. As an EPP group, we are very much on the same page as Prime Minister Cameron.

Lord Green of Hurstpierpoint: I have two quick observations. On the eurozone, I think there are many people who be inclined to agree that making a big issue of multicurrency is a matter of, shall we say, theology. But the thing that raised the hackles of the British was the ECB attempt to force euro clearing to take place within the geographical area of the eurozone, which cuts straight across single-market principles. When that kind of thing happens, you can understand the nervousness that was created in London. Moving forwards, rather than dwelling on what has happened in the past, it is important to find ways of assuring London that its role as the capital market centre for the European Union is not going to be trammelled by efforts to boost capital markets activity within the geographic bounds of the eurozone. It is important not to forget that. That is an observation.

Manfred Weber MEP: I understand that fully, but bear in mind that the forces that are doing this thinking in the eurozone internally, being strong, will not be weaker if Britain leaves. That is for sure. When Britain leaves, you will have the forces inside who are looking only to defend their own capital market—probably in the future against London.

Brian Hayes MEP: That is why I mentioned at the start the opportunity this year of CMU—we now have a Council agreement on securitisation on the prospectus. We also have a British Commissioner leading the Capital Markets Union. That was a very clever decision of President Juncker to do that. The other point that I am somewhat frustrated about, which does not get any attention and to which Manfred referred, is that the better regulation agenda—making sure that we do less but better—which is the initiative of Commissioner Timmermans, has not got any attention in the UK. We now have less legislation than before—I think it is better; there is more consultation and more impact assessment, which is exactly what the City of London would want—but there is no recognition in the UK that this is the space that Juncker's Commission is now in.

Timmermans is very much leading an agenda that Prime Minister Cameron could argue for in his own country, but there seems to be no recognition in the UK of that new impetus that is there in this Commission.

Q148 The Chairman: Just commenting on that, something that may be for political reflection is the extent to which the Prime Minister, if he achieves his full negotiating basket, may also want in the context of the campaign to start to refer to some of the other developments that are happening in Europe which are positive. I noticed stuff coming through on the digital single market which seemed to me to be almost entirely good news as far as Britain is concerned. However, we may leave that if we may; I am conscious that we are moving towards the end of our time. In wrapping up I would like to ask you a question on the remaining basket that we have not touched on, which is what the British Government calls sovereignty, and which involves two issues—and then I will ask you a more general question which may affect the negotiations and the immediate outcome.

One is the familiar aspiration in the basket to do something about an ever closer union among the peoples of Europe in which decisions are taken as closely as possible to the citizen. The Prime Minister does not want to be associated with that. Do you gentlemen feel that there is any likely long-term consequence from either removing this aspiration from the treaties altogether or disapplying it in respect of one or more member states? Is this a kind of demonstration activity or is there some matter of substance—and, if so, is that substance disturbing or something you could live with?

Brian Hayes MEP: You are the leader of the group—this is a very theological question.

The Chairman: It is an easy one.

Manfred Weber MEP: It is a very easy one. When I described the multi-identities before, you talked about a more philosophical dimension. I have to say that the debate about ever closer union is also very philosophical, because we are not a state. I can repeat that—we do not have the right to say on our own what we want to decide. It is up to the member states, including the House of Commons and the German Bundestag, to decide what issues we should do together: what we discuss as the European Parliament and what we discuss as national Parliaments. That is why the idea of stopping this process of ever closer union, which is the political message behind this, is purely in the hands of the member states. Great Britain already had a lot of opt-outs from previous treaty debates, so there were a lot of possibilities where Britain did not join the ever closer union, in a way. So it is a very philosophical question for me.

But it is an important one, because the political debate in Britain is, “We must stop the train of ever more Brussels”. When I read the text, it is, “ever closer union of peoples”, not of Brussels—not of institutions and competences in Brussels. “Ever closer union of peoples” is a great description of the idea after the Second World War: that the people should stay together and should know each other, should think about partners and friends and not any more about enemies. That is a great formulation of what Europe is for me—of peoples. That is why I want first of all to defend it, explain it and to talk about the issue and the idea behind it. That is my political wish first of all.

Then, frankly speaking, if it is so important for David Cameron and Britain to make their special formulation on this, so that Cameron can go home to London and say, “I had a big success in changing this for Britain”, okay, then we will do it, because it is not a substance debate but an idea debate. However, I, personally, am not ready at the moment to give this

up without any debate. I would say, please have a look at the meaning of this sentence. That would be my answer.

Brian Hayes MEP: I listen closely to the debate in the UK, which is on the first part of the sentence “ever closer union of the peoples”. It very rarely goes on to the second part of the sentence, which is, “in which decisions are taken as closely as possible to the citizen”. How people can be against that—

Manfred Weber MEP: It’s a great statement.

Brian Hayes MEP: A former EPP Prime Minister, John Bruton, who will be known to some of you, was in Parliament last night launching his book, and he made the point that our problem in Europe is that we do not have enough emotional attachment to it. It is not just about the head or indeed one’s wallet but about an emotional attachment. If one looks back at, say, Churchill’s famous speech in 1946 in Zurich where he spoke about the potential for a United States of Europe, the British have never fully understood why Europe is so important to many member states—and even to small member states such as mine, because it dramatically changed our relationship with Britain when we joined at the same time as the UK. One of the arguments about how we managed to come to an agreement in Northern Ireland is that it was because of our European joint sovereignty and our joint commitment as European partners. So it is how we obtain that emotional attachment. I would not like to see us giving up on this. As Manfred said, if this is part of a deal it will be part of a deal, but we all need to have some emotional attachment to this thing. It is not about wallets or heads or logic; it is about an emotional belief that we are British, Irish or German while at the same time being European. That has to be reflected somewhere. Whether the place to do this is in these treaties is another matter, but we need to give due regard to it.

Q149 The Chairman: One more immediate question is that of national parliaments and their role vis-à-vis the European Parliament and other European institutions. You know that within the basket the British Government are seeking “a new arrangement whereby groups of national parliaments, acting together, can stop unwanted legislative proposals”. That is the red card signal. You know that in parallel, after quite a degree of consultation with the European Parliament—your colleagues—the House of Lords in particular has pioneered the idea of a green card. We do not see this as a pistol at your heart and we do not wish it to be. Do you see this as an important part of the debate? Is it something you can help Britain on?

Brian Hayes MEP: One of our vice-presidents is delegated with the task of having proper roles for national parliaments. We see this is a very important. The British position is that a number of countries could come together with a red card. We already have existing provisions there under the Lisbon treaty. There is no opposition within our group to having better relations with parliaments. We were the party arguing for having engagement on economic issues, the Semester and country-specific recommendations on a quarterly basis with all member state parliaments. We will have to wait to see the detail and how it applies.

Where we would absolutely disagree—and I think I speak on behalf of the entire group on this—is at the end of the process. Whatever the Commission proposes at the start, we could not have a situation where the British or anyone else, having gone through this House and having co-decision-making powers with the Council, arrived at a result that would not then be EU legislation. There is some logic to the proposal of Prime Minister Cameron. We will have to wait to see the final detail of it but there has to be some equality between holding up a red card and preventing the single market. We are in favour of having a proper single market that works, an internal market that can create the kind of jobs and growth for

people that delivers for ordinary European citizens. If that red card is not used to prevent that, for protectionism, we would have an open mind about it.

Manfred Weber MEP: Everything that strengthens parliaments is welcome, because we need more parliamentarianism in Europe.

Q150 The Chairman: Our final question concerns recent events, particularly the terrorist outrages, which may have reminded people that there are some very high issues at stake immediately in relation to a cross-European response to terrorism. As we have seen recently, there are military and security threats in the neighbourhood that are also of considerable concern. Beyond those, there are economic and reputational threats to the European Union, or the European continent, concerning its relative size and ability to exercise its influence. Do you think that those factors have been overlooked by the British Government in their reform proposals? Are they worth further study, and could they indeed form the basis of the development of a future programme that could be mutually agreed?

Manfred Weber MEP: Frankly, when we agree on commitments from the European partners to the current British wishes on the table, then for sure after 2017—there are the French and German elections, and we need a deepening of the eurozone and our internal links—we will have a debate about the treaty. There is the chance to include other items as well, to strengthen our family approach to foreign policy, having Putin and Russia in mind. Strengthening our common capacity in this regard will be on the table for sure. If it is not in one of the buckets today, it is not a problem, I would say.

Brian Hayes MEP: I agree with that approach. I think it is open for discussion and negotiation.

The Chairman: In conclusion, our warmest thanks to you, Manfred Weber and Brian Hayes, for an extremely interesting and thought-provoking session. The atmosphere of moderation and if not consensus then at least an ability to define and look for solutions to the various problems are very welcome. I have a feeling that this is something that has now begun that should not be concluded too early. We are very grateful. Thank you very much.

Danuta Hübner MEP and Elmar Brok MEP—Oral Evidence (QQ 120-125)

Danuta Hübner MEP and Elmar Brok MEP—Oral Evidence (QQ 120-125)

[Transcript to be found under Elmar Brok MEP.](#)

Dr Kirsty Hughes—Written Evidence (VEU0011)

Dr Kirsty Hughes, Associate Fellow, Friends of Europe, Brussels

Introductory comment

1. Today's European Union is facing a set of deep crises and challenges, any one of which would be difficult to deal with on its own. Taken together the EU is at a watershed, where the decisions taken today – across crises ranging from refugee flows, and differences amongst the Member States on how to handle this, to the crisis in Ukraine and in EU relations with Russia; the continuing impacts of the Euro crisis on Greece and other countries and on the eurozone as a whole; terrorism; and climate change – will determine the future shape, role and relevance of the EU. These are the major challenges. The UK Government's vision for the EU, and its decision to hold a referendum on the UK's EU membership, does not seem to bear much direct relationship to these challenges.

The UK Government's vision for the EU

Is the Prime Minister right that the over-riding priority for today's EU should be “to secure prosperity”?

2. Creating prosperity has always been one of the EU's objectives but this has always gone along with a commitment to solidarity and to encouraging convergence towards best performance in countries and regions that are lagging. The need for convergence and assistance to those with problems in economic performance is particularly acute today, not only in terms of competitiveness and productivity but especially when so many member states, including Greece, Italy, Spain and Portugal, face critically high levels of youth unemployment.

3. It is not clear that the Prime Minister's vision encompasses issues of urgently tackling youth unemployment, reducing inequality or ensuring means to promote more solidarity in the EU. Nor does it relate to the critical issues outlined in paragraph one. Consequently, his proposal that prosperity should be the over-riding priority is not right.

Does the UK Government's vision for the EU adequately take account of the changing geo-political context?

4. The UK government's goals for the EU do not appear to take account of the changing geo-political context. They appear to be principally focused on competitiveness and on subsidiarity. The most immediate challenges facing the EU – as explained in paragraph one – are much wider than this.

5. The UK in the last five to eight years appears to have reduced its strategic input, role and influence in EU decision-making. This may relate, in part, to its opt-outs from the euro,

Schengen and Justice and Home Affairs. However, the UK's opt-outs do not fully explain the relative decline in UK influence and the apparent lack of interest in playing a strategic role in decision-making around many of the key challenges the EU is facing. Germany has led on the Ukraine crisis, with France also inputting more than the UK. Germany has also led on the refugee crisis. For now, France is leading on the anti-terrorism agenda.

6. The UK, like the rest of the EU, faced an economic crisis, in the context of the global economic crisis of the last eight years. Yet the government – and successive governments – has not engaged strongly with the economic impacts of that crisis across the EU, notably on European unemployment, including youth unemployment, and loss of capacity nor on some of the deeply problematic political and democratic issues that have arisen in terms of how the euro group and the so-called troika have dealt with Greece in particular. Despite not being in the Euro, the UK could have chosen to engage more and play a role of more influence during these challenging years.

7. The UK has also withdrawn, in terms of no longer being so active, from areas where it used to have a clear strategy such as supporting enlargement to Turkey and the western Balkans. The withdrawal – both the UK's and EU's – from strategic engagement around Turkey has clearly not helped the current intertwined crises of refugee flows and conflict in Syria and in the wider Middle East. The renewed engagement with Turkey evident in the last few weeks appears to be once again mostly led by Germany.

8. Overall, the UK has become a much less influential player in the last eight years in the EU, and is no longer referred to, as it was a decade ago, as one of the 'big three' (along with France and Germany) in the EU. Consequently, once again, the Franco-German relationship is the dominant strategic relationship in the EU.

What does the commitment of the Member States of the EU to create “an ever closer union among the peoples of Europe” mean? Is this aim any longer relevant or achievable?

9. There is no one agreed definition of what this phrase means. It is a symbolic commitment to work together towards the EU's main aims in cooperation, partnership and solidarity. As such, it does not involve or invoke any legal commitments but is an important part of the EU's founding vision. The UK Government's aims with regard to its role in the EU appear to be focused on entrenching further the UK's rather semi-detached position in the EU – semi-detached both in its formal opt-outs and in terms of the disengagement referred to in paragraphs five to seven. As such, any opt-out for the UK from this aim would be symbolic of its detachment from a strategic role in the EU.

What are the main sources of democratic accountability and legitimacy within the EU?

10. The main sources of democratic accountability and legitimacy come from the EU being composed of democratically-elected governments, with their strategic and legal roles in the European Council and Council of Ministers, and from the democratically-elected European Parliament. National Parliaments have a role, especially in holding their own governments and ministers to account, and the Lisbon Treaty also allows for National Parliaments,

working together, to question the European Commission's decisions through the so-called 'yellow card' system.

11. Given that the EU is in part an inter-governmental body and in part has the characteristics of a transnational or federal body, the current institutional structures are a relatively good way of ensuring democratic accountability. However, more clarity on executive and legislative roles would make the EU more democratic. Moves in the last decade and longer to open up law-making in the Council of Ministers to the public have been important but more still needs to be done.

12. Where there is real democratic and accountability weaknesses is in many of the treaty commitments and decision-making structures for the Euro and Eurozone. The most important democratic priority in the EU today must be to tackle these Eurozone issues. However this is not an area where the UK makes a direct contribution to debate, and in recent years it has chosen not to engage even indirectly with these issues (rather vetoing, in 2011, the other Member States' goal of keeping their Euro commitments within the EU treaties).

Is there consensus on EU reform within the UK?

Is the UK Government's vision for the EU achievable, and how has it been translated into specific reform objectives?

13. As argued above, the UK Government's goals do not relate to the key challenges facing the EU today. Consequently, an EU that reflects the Prime Minister's vision seems unlikely. In terms of the Government's more specific aims, it is the case that many of these aims already are incorporated into current policy and strategy or EU treaties, and so it is unclear what additionally the Government hopes to achieve.

14. Thus, the EU already has made both strategic and specific commitments towards promoting competitiveness, so this is not a new goal and continues to exist. The Lisbon Strategy established at the Lisbon Summit in 2000 set out a particularly broad vision for competitiveness (now developed as the EU 2020 strategy), and the UK government had considerable influence at that summit, including in the broadening out of the so-called 'open method of coordination' as a way to promote good practice without always needing new legislation. The current treaties also allow for new laws that could, in theory, complete the Single Market in services. Whether that can be achieved depends on getting agreement across Member States, mostly through qualified majority voting. It is not something the Government can achieve simply by more declarations from the EU's heads of government.

15. The EU already has flexibility in the sense that there is differentiation across member states – as evidenced in the UK's own opt-outs. However, the EU has never wanted to be a 'pick and mix' body, so the issue as to whether more flexibility can be achieved depends on what the detailed aims are. Subsidiarity as a principle and goal already exists, as does the aim of getting rid of unnecessary or excessive regulation. It is therefore not clear what more can or needs to be achieved on this. Democratic accountability does exist as set out in

paragraphs ten to twelve above. The new powers given to National Parliaments to challenge legislation have been little used, so it is not clear there is any need for, or agreement on, extending them.

16. The increasing integration of the Eurozone does raise some difficult challenges for the EU as a whole, not least in ensuring there is still sufficient commonality and unity across all Member States whether in or outside of the Euro. However, until now there have been no serious cases of the Eurozone Member States driving the EU in a direction that the non-Euro Member States do not want to go in. Politically, however, the Euro and especially the Euro crisis, has certainly meant that more intense political interaction and relationships have been built within the Eurozone. Since most non-members of the Euro are committed to eventually joining it, the EU Member States will be reluctant to agree to any set-up whereby a potentially very small group of Member States who are not in the Euro have an effective veto over EU decisions as a whole.

To what extent is the UK Government's vision shared by the devolved administrations and other stakeholders within the UK?

17. There is rather little consensus on the UK's future role in the EU – in terms of vision, goals and specific policies. The political parties have differing approaches and priorities (such as on social policy issues, participation in Justice and Home Affairs, free movement of people and so forth). Trade Unions have different goals, in many ways, with respect to competitiveness and social policy (as do various civil society groups) compared to business. Overall, it is striking that, as and when the UK's EU referendum campaigning begins, there is likely to be a wide range of voices and arguments making the pro-EU case, without common agreement on what that case is (while there may be less differentiation on the anti-EU side).

18. The Scottish Government has emphasised regulatory reform and competitiveness in its strategy documents. However, whether in any detailed sense these goals are complementary or similar to the Prime Minister's is rather unclear. Given that the Scottish Government also emphasises solidarity, promotes an anti-austerity approach to economic policy, and has made different and contrasting statements to the UK Government on refugees, and on free movement of people, the areas of agreement would appear to be limited.

19. Public opinion varies considerably across the UK. It is currently considerably more pro-EU in Scotland than in England. It is possible that a majority vote to leave the EU in England, could be out-weighed by a vote to remain in Scotland (if the England majority is around 51%). It is also possible that a vote to leave in England could result in the UK exiting the EU, even if, as current polls suggest, two-thirds of Scottish voters were in favour. If the UK stays in the EU, after its referendum, due to a different vote in Scotland to England, this may mean that the referendum, rather than resolving differences of view on the EU across the UK, may reinforce them and create further debate, including of a constitutional nature. Such debates will obviously be even more intense if the UK votes to leave the EU.

Has the UK Government taken the views of other key stakeholders within the UK, including the devolved administrations, sufficiently into account?

20. Given that the UK Government has only recently made public its specific goals for its negotiation of a new relationship for the UK in the EU, it is hard to assert that there has been sufficient consultation. The Scottish Parliament's European and External Affairs Committee is currently holding an Inquiry into EU Reform and the EU Referendum. When it invited the Europe Minister David Liddington to give evidence, this September, he initially refused, although when the Committee repeated their request, he then responded that this might be possible at a later date. This does not seem an appropriate way to respond to such a request, where a positive response and interaction with the Committee was surely the appropriate route.

21. Given that it is possible that the UK could leave the EU, if the referendum vote results in a majority for that route, there appears currently to be a serious lack of contingency planning for this possible scenario. There is a range of ways that the UK could disengage from its EU membership and then establish new relations with the EU. The UK Government has given no indication of what its preferred approach would be in this scenario. It is quite possible that Scotland would wish to remain more engaged with the EU than the rest of the UK. That could lead to demands for a second independence referendum (in order to then remain in the EU). It could also, alternatively, lead to demands for the devolved administration in Scotland to be allowed to negotiate a closer relationship with the EU after the UK's exit, than the rest of the UK (there is no prior example in the EU of this (for a state that is outside the EU) but differentiated approaches have been observed for instance with Cyprus, or for Denmark and Greenland). Such issues need detailed consideration and some contingency planning now.

Is the UK Government's vision shared by others in Europe?

To what extent is the UK Government's vision for the future of the EU shared by the EU institutions, and by other Member States?

22. As the above paragraphs indicate, the UK Government's vision for the future of the EU bears little relationship to the main challenges and crises the EU currently faces. Nor does it compare to the broader vision and goals set out in the EU treaties, which most Member States, the European Parliament, and the European Commission would broadly or fully endorse. Clearly, many of the differences across Member States depend on the political complexion of the current government in each – so solidarity may be emphasised more by certain governments than others, or free trade as a goal may be more fully supported by some than others. But since the majority of EU Member States are in the Euro, and most others are committed to joining it, and given that most Member States are in the Schengen border-free zone, are committed to remaining signed up to the European Convention on Human Rights, support the EU's social policies and so forth, then it is hard to see much similarity between the UK Government's vision and that of other EU Member States. The Czech Republic is one of the newer Member States which has tended towards a more sceptical approach, perhaps similar in some ways to that of the Conservative Government in

the UK, but in general the UK is relatively isolated in its oft-expressed wish to interpret the EU as essentially a free trade area.

Insofar as there is a lack of consensus on the long-term future of the EU, is a two speed (or multi-speed) Europe feasible?

23. A multi-speed Europe already exists – the UK has more opt-outs across different policy areas than any other Member State, but there are a number of countries such as Denmark and Ireland (particularly with respect to Schengen to keep its Common Travel Area with the UK), that also have opt-outs. The real challenge for the long-term future of the EU, as briefly set out in paragraph one, is whether and in what ways, it rises to the multiple challenges of the moment. Given the tensions and divisions over handling refugee flows, the currently precarious state of the Schengen Agreement, and the continuing Eurozone challenges, the EU's future will be determined by how such major issues are dealt with – and whether and to what extent a differentiated approach is taken, as is emerging on refugees. These issues however seem to have rather little to do with the UK Government's currently stated concerns.

What conclusions can be drawn from the areas of either agreement or disagreement for the UK's future place within the EU?

24. The UK in the past four decades has often played an important role in the EU's strategic approach to its neighbourhood and in the EU's internal development. It championed the eastward enlargement of the EU, alongside Germany, and has long been seen along with France as one of the most important foreign policy players. However, in the last 5-8 years the UK has disengaged from the strategic, highly influential role it used to play. If the UK chooses in the future to contribute mainly on Single Market and trade issues, then this decline in influence is likely to remain. However, there is no reason why the UK's influence could not be rebuilt if the UK started to engage with the major challenges of the day. However, if the result of the negotiations the UK Prime Minister is currently engaged in is that the UK obtains further opt-outs, then this rebuilding of British influence would be more challenging.

30 November 2015

Professor Simon Hix, Dr Sara Hagemann and Professor Anand Menon—Oral Evidence (QQ 41-52)

Professor Simon Hix, Dr Sara Hagemann and Professor Anand Menon—Oral Evidence (QQ 41-52)

[Transcript to be found under Dr Sara Hagemann](#)

Professor Simon Hix— Supplementary Written Evidence (VEU0015)

As requested at the public evidence session yesterday, I have looked at the latest Eurobarometer public opinion data on “knowledge of the EU”. The most recent survey for which the data is publicly available is from the “standard” Eurobarometer survey (EB83.3) that was conducted in May 2015 ([link](#)). The survey interviewed approximately 1,000 citizens in each member state, properly sampled, including 1,306 in the UK.

To test “knowledge” of the EU amongst the public, the survey included the following question:

"For each of the following statements about the EU could you please tell me whether you think it is true or false [Options: True / False / Don't Know]

1. The EU currently consists of 28 Member States
2. The members of the European Parliament are directly elected by the citizens of each Member State
3. Switzerland is a Member State of the EU"

Two simple ways of analysing the responses to this question are to look at: (1) the percentage of citizens in each member state who answered *at least one question correctly*; and (2) the percentage of citizens in each member state who answered *all three questions correctly*. The results are shown in Table 1 (weighted by the appropriate statistical sample weights).

Table 1. Knowledge of the EU in May 2015, by Member State

Member state	At least 1 correct answer (%)	Rank 1	All 3 correct answers (%)	Rank 2	Overall Rank
Luxembourg	98	1	54	3	1
Slovenia	95	5	66	1	2
Croatia	95	6	55	2	3
Greece	97	3	51	5	4
Czech Republic	95	8	49	6	5
Malta	94	10	54	4	6
Austria	98	2	44	13	7
Slovakia	94	9	48	9	8
Germany	96	4	39	16	9
Sweden	95	7	42	14	10
Bulgaria	93	14	48	8	11
Denmark	93	12	46	10	12
Hungary	94	11	45	11	13
Lithuania	92	18	48	7	14
Portugal	91	19	45	12	15
Finland	93	15	38	17	16
Cyprus	93	16	38	18	17
Belgium	92	17	37	19	18
The Netherlands	93	13	30	25	19
Romania	88	24	40	15	20
Poland	90	21	35	22	21
Italy	89	23	35	21	22
Ireland	87	25	36	20	23
Estonia	89	22	31	24	24
France	90	20	29	26	25
Spain	81	28	31	23	26
Latvia	86	26	25	28	27
United Kingdom	84	27	29	27	28

In short, the latest opinion poll data suggest that, averaged across these two ways of measuring knowledge of the EU, UK citizens are less knowledgeable about the EU than the citizens of any other member state: 84% of the UK public could answer only 1 of the three questions correctly, and only 27% could answer all three questions correctly.

We can also look breakdown the sample by age group, which results in the following percentages for UK citizens (Table 2).

Table 2. Knowledge of the EU in May 2015, by Age Group in the UK

Age group	At least 1 correct answer (%)	All 3 correct answers (%)
15-24 years	80	18
25-39 years	80	22
40-54 years	89	33
55 years and older	87	33

In other words, these numbers suggest that older people in the UK are more knowledgeable about the EU than younger people. For example, only 18% of 15-24 years olds could answer all three questions correctly as compared to 33% of people over the age of 40.

But, will providing more information about the EU make people more pro-European, as many Eurosceptics fear? The evidence from this survey does not support that assumption. Another question in the May 2015 Eurobarometer survey asked people about whether they had a positive or negative image of the EU:

“In general, does the EU conjure up for you a very positive, fairly positive, neutral, fairly negative or very negative image? [Options: Very positive / Fairly positive / Neutral / Fairly negative / Very negative / Don’t Know]”

Table 3. Knowledge of the EU in May 2015, by image of the EU

Image of the EU	At least 1 correct answer (%)	All 3 correct answers (%)
Very positive EU image	86	41
Fairly positive EU image	88	36
Neutral EU image	83	22
Fairly negative EU image	89	31
Very negative EU image	92	33

It is not possible with these data to clearly identify whether providing more information about the EU leads people to be more pro-EU or anti-EU, or whether having strong views on the positive or negative side leads people to be better informed. Nevertheless, as Table 3 shows, there is suggestive evidence that British people who have a more negative image of

the EU are just as likely to be as well informed about the EU as people who have a more positive image of the EU: 86% of British people who have a 'very positive EU image' answered at least 1 question correctly, compared to 92% of people who have a 'very negative EU image'. Also, 41% who have a 'very positive EU image' answered all three questions correctly, compared to 33% who have a 'very negative EU image'. In other words, learning more about the EU may be just as likely to lead people to have a negative view of the EU as a positive view.

1 December 2015

Dr Joanna Hunt and Dr Hywel Ceri Jones—Oral Evidence (QQ 1-9)

Evidence Session No. 1

Heard in Public

Questions 1 - 9

Members present

Lord Boswell of Aynho (Chairman)
Lord Davies of Stamford
Baroness Falkner of Margravine
Baroness Prashar
Baroness Wilcox

Examination of Witnesses

Dr Hywel Ceri Jones, EU Funding Ambassador for Wales, and **Dr Joanna Hunt**, Reader in Law, Cardiff University

Q1 The Chairman: This is a meeting of the Lords Select Committee on the European Union. It is a public evidence session. I would like to do two things in setting it off. The first one is to thank the Welsh Assembly for their facilities and help with this. It is important to us to be able to come to Cardiff and get the minds of people as to this important issue for the United Kingdom as well as for the European Union. The second is very warmly to welcome our two witnesses. Dr Hywel Ceri Jones is former chairman of the Wales Governance Centre and currently EU funding ambassador for Wales—I gather it does not extend to your own salary, which does not exist—appointed by the Welsh Government, and with a very strong track record as an insider in matters European. We very much welcome your participation. Then there is Dr Joanna Hunt, who indeed I recall seeing on the last occasion I was in Cardiff talking about matters European. We appreciate very much your engagement as an academic in this area involved, for example, with the ESRC and the new UK in a Changing Europe project.

My colleagues are all members of the Committee: Lord Davies of Stamford, Baroness Falkner, Baroness Wilcox and Baroness Prashar. I hope it is by way of reassurance to say that we have a fairly strong tradition of impartiality and non-partisanship, which I am sure we will want to reflect this morning. Equally, we have about an hour, if you have, and we would like to make this as reasonably free-flowing as we can. There is a structure with some questions, but I would encourage my colleagues but also you to participate in any point that seems of interest to you.

We are putting this in the context, and the inquiry that we are now conducting is in the context, of the United Kingdom's wish for European reform, its entrance into a process of renegotiation with colleagues in the European Union, and the eventual outcome into a referendum resulting in a decision whether to stay or leave. In this process, perhaps I could ask Dr Jones this question first. Do you feel you have a clear understanding on the one hand of what the UK Government are seeking to achieve in their discussions on reform ahead of the referendum? Equally, do you have any sense from contacts with colleagues of how Her Majesty's Government's efforts are perceived elsewhere in Europe?

Dr Jones: Diolch yn fawr am y cyfle i fod yma bore 'ma, a diolch yn arbening am gyfle i drafod cwestiwn mor strategol a phwysig am berthynas Cymru ac Ewrop yn y dyfodol. I wanted to thank you very warmly for the opportunity to be here this morning and to discuss with you and your colleagues the very important question of the future of Wales and the UK in the future reformed EU. The first question is quite clear to me. One learns mostly about the developing agenda—the so-called Cameron agenda—through the media. I am aware of potential agenda items and the broad thrust of them. I wanted to refer to the fact that a couple of months ago I read the very interesting report of the Irish Institute of International and European Affairs, *Britain and Europe: The Endgame*, an analysis of the whole ball game, which rehearsed the issues and dealt with them. I thought that was a very interesting contribution.

But you know, as I know, that the devil is in the detail. We are all waiting now for the Prime Minister not just to table the agenda items but to flesh out what is intended or what is desired. That is the beginning of a process that engages 27 member states in reacting. Some of the areas will be already well known and well rehearsed in the corridors in Brussels and in the bilateral conversations the Prime Minister is having, but we have a long way to go. There is undoubtedly a will on the part of all member states to successfully conclude some arrangements that can retain the UK's membership. It is vital to the EU, as I believe it is to the UK, to remain in the EU.

On the second question, my sense of the reactions around Europe, I am not a big expert, frankly, but it is that some of the media discussion around the potential agenda items gives people on the continent a sense of shadow-boxing and probably some concessions in the political situation here to the Eurosceptic popular opinion in the country. I feel that that opinion will be widely held across Europe, although I recognise that we are not the only member state in the European Union that has popular movements on the right and the left raising all kinds of issues.

Q2 The Chairman: In terms of the structure of this process—you will have long experience—do you sense that in a way there is an analogy with the 1975 referendum process with Harold Wilson, where there was a renegotiation perhaps of a rather small nature then leading to a referendum? Is it that kind of thing on which the Government are embarked at the moment?

Dr Jones: I have been thinking about that over the last year. I do not think it is very helpful to refer back to that period. The whole situation, the perspectives and the degree of experience of the United Kingdom in the whole process have changed and moved. I like to remind people that the United Kingdom at all levels, every minute of every day of every year, is involved in negotiations on some aspect or other of EU business, so it is very irritating—we suffer it daily in the media in Britain—to refer to Brussels as if Brussels is somewhere where these magical decisions on everything are taken to standardise the idea of, the super-state, and all this. It is absolutely not like that.

I sat in for the Commission for about eight years on COREPER. You know very well that the UK has always been a very important member state in the configuration of member states, working in the corridors and around the table. I feel really that most of the reform agenda that the Prime Minister has tabled could have been dealt with successfully within the framework of the EU as it is. I am for reform. By the way, I am even more for reform of the United Kingdom. That is a more urgent issue than some of the items now on the agenda with Brussels.

The Chairman: On that note, perhaps Dr Hunt would like to join in.

Dr Hunt: The point Dr Jones made at the end that a lot of what seems to be on the agenda could be accommodated within the current treaty set-up is clear. My take-home from what seems to be the agenda is very much that the UK Government are seeking an acknowledgement that the commitment to ever closer union that we have within the preamble of the treaties is counterbalanced by an acknowledgement of the multiple geometry—the term that is used—that is also at work within the European integration process: that we are not looking at all the states being on the same path but just going at different speeds, but that there are alternative paths available and that they are permissible.

Lord Davies of Stamford: It is ever closer union of peoples.

Dr Hunt: It is absolutely. It is ever closer union of peoples, and then that centralising notion is immediately counterbalanced by the emphasis on subsidiarity. The full phrase that is used in the Treaty on European Union is, “an ever closer union among the peoples of Europe, in which decisions are taken as ... closely as possible to the citizen”. It is quite telling that we tend to hear in the UK, from various sources, only that first part of the statement rather than the second, more decentralising aspect.

Perhaps there is a desire to have a treaty commitment—something within the preamble—that confirms that multiple geometry is part of the set-up, but it has been part of the set-up for over 20 years. It is not a temporary aberration. We have clear areas of opt-outs. We have enhanced co-operation written into the treaty. We have a European Council presidency conclusion from 2014 that notes, “The concept of ever closer union allows for different paths of integration for different countries”. We have this as a fact of life, but there is that desire to have that commitment explicitly acknowledged.

Following on from that, when we look at the headlines that we have seen so far to do with the agenda and fairness, at how we manage differentiated integration, at how those decision-making processes take place and how protections are within the system to ensure that interests are not side-lined in areas where a state may have opted out—things like double majority—there is that institutional desire to have those things formally within a system, but we are there already with the Council presidency and with the fact of life that these things happen. That could be achieved with the rules on decision-making; perhaps we could get there with something like the Luxembourg compromise. There is scope for those things to be accommodated, but there seems to be a very real desire to have these explicitly set out within the treaty.

The Chairman: That is an interesting analysis of the position of Her Majesty’s Government. Would you say that that is shared, or at least acquiesced in, by the other European countries? You may want to come in on this too, Dr Jones. Are we asking for something that people are minded to concede as a principle because they do not think it is derogatory of other parts of the principles of the European Union, or is it going to be difficult?

Dr Jones: I do not think it is difficult in the big sense, because what was in the preamble to the treaty originally was an aspiration. It was a commitment to a sense of partnership between peoples. It was more about the spirit. It was never intended to be code language for a super-state or a federal Europe. I worked over the whole period of the great days of Jacques Delors as President. Not once did I hear him use or refer to these words. It was always a Europe of the member states. Later in that period, when the principle of subsidiarity was first raised—by the way, by Jacques Delors and a member of his cabinet—and the idea introduced, that was widely welcomed.

A number of member states are extremely sensitive about respect for diversity of their positions, their cultures and the way their rules are organised. That is why you have seen a progressive move away from the first phase of simply harmonising directives towards a long phase now of framework directives that permit flexible implementation and monitoring according to who is in the ball game.

Dr Hunt: I would agree. There is a sense that generally states are comfortable with this idea of multiple geometry. The concerns are that we simply do not know the detail and we do not know across the piece what is part of the renegotiation requests. We will no doubt come to the position of national parliaments. We can no doubt see that there could be general support for a development of that role, but we do not know specifically what Her Majesty's Government wish to achieve with the development of the role of national parliaments. At what point is this "red card" going to be played? Is it going to be played collectively or unilaterally? Is it going to be ex ante or ex post the adoption of legislation? How fundamental a challenge to the principle of primacy of EU law is that going to be? As yet, we do not know. The package as a whole needs to be seen.

Q3 Baroness Prashar: Dr Jones, in response to the Chairman you said there are reforms that you would like to see. Is it possible for you to spell out for us the reforms that you would like to see, given your inside knowledge of the European Union? Related to that, is there a distinctive Welsh view of the UK's EU membership?

Dr Jones: I do not have any issues that I would like to put up for a referendum. If you are asking me whether I have a number of concerns that I would like to see handled within the continuing reform process that is happening all the time—

Baroness Prashar: That is what I am after.

Dr Jones: In particular, I am not happy with a very narrow definition of the concept of competitiveness, which seems to be propagated, perhaps naturally, by the Prime Minister. There are many ingredients in trying to achieve economic competitiveness: the quality of our education and training systems; the manner in which we look after the interests of vulnerable groups and demonstrate the relationship between self-improvement, work, prosperity and social justice. There are many elements in such a definition. In a way, that is about the balance between economic and social policy. For my mind, those two go hand in hand.

That takes me to the second question. It is profoundly against the interests of Wales and Welsh people for there to be any suggestion even of leaving the European Union. The coherence of the fit of European strategy and Welsh government strategy is absolutely perfect. It is surprising, perhaps, but there it is. You can look across the whole policy agenda of the Welsh Government—and I have had to do it in this work I have been doing over the last year—whether it is in relation to agriculture, rural development, innovation, research, development or training and education, and across the piece you can see the added value of the linkage between the developing European policies and what we want to do in Wales. The centrepiece of that for me is that we are struggling hard with our special history in Wales, which you will know a lot about, to develop a really strong knowledge-based economy when we have a real problem here of low skills and low pay in quite a lot of the society. A lot of the stuff that is going on is centrally important. I would like to talk at some point about the importance of young people in that context and the education and training side, but I do not want to divert into that at this stage.

Last week, Jane Hutt, the Minister for Finance, echoed the words of the First Minister here that it would be devastatingly traumatic to envisage anything that would pull the plug on the relationship. It would pull the plug in particular on Wales's view of itself in Europe and in the world.

Baroness Prashar: Do you have anything to add, Dr Hunt?

Dr Hunt: Picking up on a couple of points from Dr Jones, we can agree about certain principles and concepts. Something like competitiveness is not necessarily problematic, in itself, from a Welsh perspective, but it is how we define competitiveness, and particularly what the place of social rights is within this. We still do not know whether they are on the reform agenda or not. We have had President Juncker's state of the union address. He talks about a "pillar of social rights" on which focus will be placed next year; they are going to return to the position of social rights. That might underpin a model of competitiveness that might be more comfortable from a Welsh perspective, given the tradition of centre-left Governments that we have had in Wales, but might not fit with the broader UK Government's position on what competitiveness might be.

Speaking about whether there is a Welsh view, we have the context that Wales remains within the UK a net beneficiary of EU funding—that part of the context is quite clear—but it will not always be. We can imagine that that is going to shift at some point.

The Chairman: This reflects the pattern of structural funding, presumably.

Dr Hunt: Absolutely, yes, as well as common agricultural funding, which is so critical in Wales. We have that tradition of having the support from Europe and the connections—

Lord Davies of Stamford: Your assumption that Wales will not continue to be a net recipient is based on an assumption that the Welsh rate of economic growth will be faster than the average in the EU. Is that right?

Dr Jones: Yes.

Dr Hunt: Yes.

Lord Davies of Stamford: Yes. That is logical. I understand that.

Dr Jones: That takes us back to another question, which is the insistence by the Prime Minister on the importance of the internal market as if that is the only thing that matters in the whole EU strategic concept. I place alongside that the principle of economic and social cohesion: the idea, invented by Delors and in the treaties, that the internal market and its fruits and benefits should be shared in a way that enables all regions of the European Union to be pulled up to the standard of the best, hence the investment in cohesion and structural policies and structural funds. Wales has been a beneficiary now since 2000, when the Assembly came into existence, and has benefited considerably.

Now, as I said earlier too, the fit between the Europe 2020 strategy and targets and our own targets here in Wales is almost identical. We have been very comfortable with that. That is why any notion of restricting the definition of "internal market" would be very difficult and challenging for us, and probably unacceptable to most Welsh people. But the devil is in the detail. What does it mean?

Dr Hunt: If I may just make one more point on a Welsh vision of EU membership, it is important to stress that although we have a very clear commitment from the current Welsh Government that remaining in is essential to Wales's interests—and you made reference to the fact that we have Ministers and the First Minister referring to anything less being a "catastrophe" or a "disaster" for Wales—this does not necessarily play out as far as the

Welsh public are concerned. A colleague of mine, Professor Roger Scully from the Wales Governance Centre, is part of a project along with Edinburgh University charting public opinion on these matters. We see there that there is not a majority view that membership is in Wales's best interests. Also, looking at the polling data that comes out on where Wales sits, it is closer to the English view in terms of whether membership is in the best interests of the country.

The Chairman: You said the Welsh public opinion was closer to the English position. Closer than whose?

Dr Hunt: Than Scotland's. I have figures here. Most recently, we have Wales saying 42% or 43% to remain, 38% to leave, and then a large number of undecided, which is just in favour of remain, whereas the English position is the other way round, but again only slightly. In Scotland, we are looking at a quite considerably higher proportion of people saying that they would vote to remain.

The Chairman: Do you have any view as to why that might be? Is this income related? Is it structurally related? Is it institutionally relevant, or what?

Dr Jones: It is entirely media related. We have a poverty of media coverage in Wales. You can have a look at the Institute of Welsh Affairs report last week on the audit of the media in Wales. You will see the diminution of the number of newspapers in Wales. The *Western Mail*, the so-called national newspaper of Wales, is now down to 16,000-odd. There are other indicators in that report. We know that in the Valleys, which have been huge recipients of structural funding over the years, many of them are readers of the *Daily Mail* and the *Sun*, where they get a lot of distortion and headline news that often is just unfounded. People do read those newspapers. That is part of it. I have been involved recently in the other side of that. I am sceptical about some of that polling, I have to tell you, Jo. Some of it was some time ago, if I understand it correctly.

Dr Hunt: We have some very recent data from the end of September.

Dr Jones: Okay. Fine.

Q4 Baroness Wilcox: It might be worth saying at this stage that newspaper sales in Great Britain, certainly in England, are dropping out because of all the technology that everybody has. Therefore, the ones that do sell are the ones that are putting a sensation on the front page, because that is what sends them flying out. We have four of them: the *Mirror*, the *Sun*, and so on. Local papers always struggle, but without doubt they are finding it very difficult and therefore it is only the sensational that sells the papers at the moment. We all sat with the paper and read grown-up stuff—pink papers, et cetera—but that is not what the general public is buying. It is the same for you as it is for us in that regard.

Dr Jones: I would like to see a different kind of polling. I would like to see women in Wales polled. I would like to see the people working in small and medium-sized firms in Wales polled. I would like to see the students polled. As I told you, I am sceptical about the particular polling exercise that has been done here.

The Chairman: Can I just ask one question on this, to give us a sense? Is there any regional distinction within Wales? Is there, for example, a different response from people whose home language is Welsh compared with those who are native English speakers?

Dr Hunt: I am not aware of anything.

Dr Jones: I am a fluent Welsh speaker. It is hard to generalise, but I would think that historically Welsh-speaking people have always been extremely comfortable with the

European dimension. I am a Swansea Valley boy, I am Welsh, I am British and I am European. I like that multiple sense of identity; it is a richness to my life. I think that view would be shared widely in the Welsh-speaking communities across Wales. I come across a lot of other people who feel the same. I come across some people who have a narrow sense of this and a different sense of the definition of Britishness, and there is a lot of good work which the Wales Governance Centre has done on that.

Q5 Baroness Falkner of Margravine: I was wondering whether I might take you back to some earlier comments both of you made on variable geometry and on the internal market. I will start with the internal market, if I might, Dr Jones. You were saying that you felt that the Prime Minister's emphasis on the internal market was not shared by people in Wales, where they look for very different things. I wonder if you are aware of the level to which the emphasis on the internal market is very much a European thing, not just a Conservative party, No. 10 Downing Street thing.

I remind you, if I might, of Angela Merkel's famous speech of 2012, where she talked about the population of the EU accounting for 7% of the world's population, 25% of the world's GDP and 50% of the world's welfare spending. I think what she was trying to say at the time was that Europe had to become more competitive if it was going to afford that level of welfare spending. Many other countries—including the UK—particularly in the context of the Greek crisis, have lamented their failure to maximise productivity and things like that. It seems to me that really, looking across Europe, that the people I find who have the greatest objections to the internal market and describe it as a liberal free market club are the French. I would just suggest that, from where I sit on the Economic and Financial Affairs Sub-Committee, the internal market is capable of delivering huge benefits, and I would imagine the people of Wales feel those, too.

I wonder if I might take you, Dr Hunt, to your comments on variable geometry and the onset of variable geometry, as you rightly say, from the Maastricht treaty onwards. Again, looking at the financial services sector, there are genuine and well-founded—well-founded in judgments of the European Court—concerns about the level of integration required, first of all, to make economic and monetary union work. If the level of political integration required to make it work will result in a very distinct two-speed Europe when one of the countries in the “outs”, the United Kingdom, has such a huge investment in the financial services sector, do you see that variable geometry in itself has the potential to be terribly harmful to UK interests in that regard? As we saw with EFSI, qualified majority voting was used to do the Greek bridging loan.

Dr Jones: I want to be quite clear. I did not wish in any way to challenge the central importance of fully achieving the internal market. That is a bedrock of economic and social success for the European Union. It is critically important. What I was commenting on was the need to complement that with certain other principles and strategic concerns—what I call the economic and social cohesion that runs alongside that—so that you have a really thoughtful definition of what the Prime Minister calls securing prosperity. It is a more all-embracing approach to that. Is he going to spell all this out in what he is coming out with in a few days' time? I do not know. We will have to see that.

Dr Hunt: If I could just pick up immediately on the internal market point, you will be hearing from the First Minister later this afternoon but it is very clear in statements that we have seen from the First Minister that, as far as Wales's priorities and interests are concerned, there is an interest in those areas that are devolved to Wales and the impact there, but at

the heart of this is the internal market, what the internal market brings for businesses in Wales and the magnet of inward investment into Wales that the internal market brings. The point is: what do we mean by the internal market? How narrow a concept might that be? To what extent is that a market underpinned by a commitment to social justice—the pillar of rights that is being spoken about?

The Chairman: And, if I can interpose, some suggestion that these two are not mutually exclusive but have to be pursued simultaneously.

Dr Hunt: Yes.

Baroness Falkner of Margravine: If I could just come back briefly on that, you are right to say that President Juncker mentioned that in his speech, but the five Presidents' report—I do not know if you are cognisant of that—is hugely, deeply integrationist in terms of European and monetary union and talks only in very limited terms about labour rights and so on. Its emphasis is on integration at economic and fiscal level.

Dr Hunt: Absolutely.

Baroness Falkner of Margravine: On the variable geometry, I wonder what you would say.

Dr Hunt: Qualitatively we are seeing something new in variable geometry, with the integration of the eurozone, and I can understand the concerns that may be felt about where this leaves the “outs”. We have already seen it with the financial transaction tax. We were not able to get unanimity that was still required under the treaty for the adoption of the financial transaction tax, so we turned to enhanced co-operation. The UK, although not participating in that, still had concerns that there would be extraterritorial effects. We have seen legal actions to try to challenge that, seeking some way of containing those. That looks to the quality of the legislation itself.

More generally, whether or not we move to something like the double majority that we have seen in the European Banking Authority, in terms of protecting interests generally across the European Union so that we are not in a position where the eurozone votes en bloc and then can dominate—

Baroness Falkner of Margravine: Impose its will.

Dr Hunt: That is the very clear concern that seems to be lying behind that. In terms of how we achieve that, whether that is something that requires treaty change or, as I said, could be achieved through an agreement like the Luxembourg compromise, for some, and perhaps for the Government, treaty change would be the only satisfactory outcome here. What we do not know is, if we did shift to something like a double majority, how far that would extend. The comments we are hearing at the moment are in terms of protecting the single market. Is this going to operate only in relation to single market measures? If so, what do we mean by the single market? How extensively do we interpret that notion? There are issues that are raised by that.

Baroness Falkner of Margravine: That system of the EBA double majority would of course lose credibility if more and more of the “outs” became “ins”, because then it would look odd if only two countries—or potentially, three, with Sweden as well—had the right to vote, given they were such a small part of the overall system.

Dr Hunt: Yes. It is seeking some sort of institutional accommodation for that that, as you say, holds credibility.

Q6 Lord Davies of Stamford: Let me say how I see the problem. The issue before us is presented by the Government, for reasons we can understand, as being a way of trying to reconcile the national interest with our membership of the European Union. It is nothing of the kind; this whole exercise is entirely bogus. The balance of competences review, which was a very thorough document and went on for thousands of pages—none of us has read it all, of course—did not come up with one instance where a renegotiation was required in the national interest or for functional reasons. We all know that Mr Cameron in the first two years of the last Parliament was against having a referendum at all and that he simply changed his mind under pressure from his Eurosceptics. The whole of this is just a party-political exercise designed to buy off the Eurosceptics. Unfortunately, that means that people like myself, who do not want to leave the European Union but loathe the Eurosceptics, have signed up to that particular agenda, because, in order to win this referendum, it is going to be desirable that as many as possible of the Eurosceptics do not break off from the Prime Minister and support the campaign to remain in the European Union. That is just a brutal fact. For obvious reasons I do not say that to the media, but I say that to you who are intelligent, specialised observers of the scene.

It seems to me, however, that Mr Cameron has a real problem, because in order to provide red meat for the Eurosceptics you require treaty change. If you want to do something about the phrase that is in Article 1 of the treaty about “ever closer union” of peoples, that is treaty change. If you want to do something about freedom of movement, that is treaty change. If you want to do something about changing the qualified majority voting system, that is treaty change. Other than treaty change of that kind, what can you do about caucusing? You cannot. All human beings caucus. I bet you do it in the Assembly here. All democratic assemblies work on that basis. You have people who get together; they agree to all vote together or they have a meeting beforehand, they resolve the problem themselves and they find they are in the majority when they come into the larger gathering—the plenary session. You cannot stop that any more than you can stop human nature.

If you want to stop it by treaty change, you have to change the treaty, but you cannot change the treaty in time for the British referendum. That is something that the Government have recognised. How do you produce the red meat that is required for the Eurosceptics and, unfortunately, for us all if we are going to win this—I agree—enormously important referendum, which, if we lose it, will have enormous economic and other consequences for us all, which is the nightmare of withdrawal? We were talking on the train this morning about some of the complications of Article 50 and how many years it would take to go through that process and the uncertainty that would be created. If we want to avoid all that, we have, objectively, to find ourselves in the position of supporting the Prime Minister, and we want some red meat. Where is the red meat coming from if treaty change is not a practicable possibility?

The Chairman: My colleague has asked a very controversial question and made one really controversial remark, which I must put right for the record immediately. I am one of those no doubt very sad minority who has actually read every word of the balance of competences review.

Lord Davies of Stamford: I am sorry. I apologise.

The Chairman: I say that to soften it. Clearly, we need to keep to our remit of not being partisan, but there are some challenging issues that we should ask our witnesses to alight on, and then I would like to move on to some other subjects that I think we should tidy up

during this session—so perhaps they would like to give a single-shot response to that challenging argument.

Dr Jones: I would more or less echo word for word what Lord Davies has just said. The difficulty is that we cannot see the red meat. They are issues and they need to be discussed. On the sovereignty issue—Dr Hunt has given some of the answer to it—why do we not have more discussion around the advantages of pooling sovereignty? It is not conceding sovereignty; it is demonstrating why pooling sovereignty is in our interest. I heard last week the chief of the police in the launch of the “yes” campaign speak about the views of the police forces across the United Kingdom on the value of the common European Arrest Warrant and many other related issues.

Take what is under discussion at the moment on migration and refugees. No country can solve these problems on its own. That is classically a case that requires a European-level and a global-level system of response. The UK will never be able to handle issues like that—there are many others—on its own, so to shut ourselves off from the European processes of discussion and decision-making would be pretty not be in our interest.

Baroness Falkner of Margravine: The Prime Minister has announced that the UK will take 20,000 refugees over the next five years. To what extent is that a devolved matter for Wales? Do you just get told by Whitehall how many would be coming to Wales? How does that work?

Dr Jones: The First Minister here was one of the very first to pick up the challenge—in fact, he might have been the first, in fairness to him—and say that we would be willing to take a greater share than was being proposed by the Prime Minister. I have been involved recently, in the last week even, in discussions about how some of the European Social Fund might be taken to help with the reception and integration of refugees in Wales.

Baroness Falkner of Margravine: Is there negotiation between Wales and Whitehall on how many Wales wants?

Dr Jones: It takes us into another area of discussion, which is the relationship between Wales, Scotland and Northern Ireland, and the UK in the intergovernmental machinery that addresses European issues. There was a meeting last Monday—

Q7 The Chairman: You have happened very conveniently on my very next question. We need to get some handle on how much you in Wales and the Welsh Government have been consulted in the formulation of the United Kingdom Government’s position and how much you are being kept informed, at least at official level, as to the process. Dr Hunt has not had an opportunity of responding to Lord Davies, meanwhile.

Dr Hunt: To try to bring those together, Lord Davies mentioned the balance of competences review. I saw evidence from the Minister for Europe recently that said that the balance of competences review was being used as a source for the renegotiation requests. That struck me as rather surprising. We do not know the process by which the reform agenda has emerged. We do know that Scotland and Wales were involved in the balance of competences review and will have put forward views as part of that, but in terms of formal engagement in any discussions around that, there did not seem to be discussions post the balance of competences review.

As far as how involved the Welsh Government and other stakeholders in Wales may have been, we know now that it is a standing item on the agenda of the Joint Ministerial Committee. I think it appeared for the first time in June. We know that the First Ministers have access to the Foreign Secretary, but beyond that we know very little. We know more

from Scotland. There has been more said publicly in Scotland. We know that the Scottish inquiry that has been ongoing invited the Minister for Europe twice and was turned down twice. We also know that Secretary Fiona Hyslop has recently said that there needs to be direct engagement.

Given Scotland's history, particularly in the context of the referendum last year, a debate is taking place of a different quality in Scotland at the moment, so we are having more explicit statements coming from there about that absolute necessity to be involved. We hear slightly less about what is happening in terms of Wales's involvement.

Dr Jones: I agree 100%. What is difficult for us in Wales, in answer to your question, is that what happens in the intergovernmental machinery is very little known to the Welsh public. The coverage of that is quite inadequate, and it is inadequate across the United Kingdom as a whole. It should be an important part, so people can see what is being discussed and the relationship of what is being discussed on the European agenda to domestic policy. The public are much more intelligent than it is often assumed, and I think that they are looking to understand some of these complex interactions.

Baroness Prashar: You quite rightly said that the definition of competitiveness by the Prime Minister is rather narrow, and he is due to publish what he intends to do. Can I assume that there has been no discussion on those broad concepts in terms of what this means? There is the detail in terms of what happens at these meetings, but in terms of the vision of what competitiveness means, do you know if there has been any discussion on those sorts of concepts?

Dr Jones: You will ask the First Minister that question this afternoon, undoubtedly. I cannot answer it other than as citizen here in Wales in a private capacity, but, if I sense the world around me, I do not think so. By the way, when I read that the Prime Minister's overriding priority is not to win peace, that is another thing I disagree with fundamentally. Peace and reconciliation in the world we are in now is critically important. The EU role in that, whether it is in the Middle East or in other parts of the world, is vital, let alone the historic contribution of the EU with NATO to stabilising and achieving security between European partners who were in the past often at war with each other. In that context, I wanted just to underline to you the importance of the European Union peace and reconciliation initiative underpinning the peace process in Northern Ireland. It is an internal point as well as an external point that needs to be underlined.

It is a very unfortunate formulation by the Prime Minister to put it in that way. It invites criticism from anybody who has any thoughts about the world we are in, and is very damaging to the notion—which he is also saying in other contexts—that we need a more secure world.

Q8 The Chairman: As we move towards the close of the session, we might move on to the wider issue of democratic legitimacy, which you have touched on a number of times. As you know, one of the tiers of the emerging Her Majesty's Government position in the negotiations is in relation to the powers of national Parliaments. That is one thing and we could have a separate debate, which I do not intend to enter into, about the balance domestically between the Westminster Parliament and those devolved Administrations. I realise that those are always still difficult issues. In terms of the EU, clearly there is a locus for the Welsh Assembly and, indeed, we meet regularly, as I think you will know, with the devolved Administrations and the two Houses of Parliament in London—and we rotate that; we have met, indeed, in this room—to discuss matters European.

Do you feel that, if you are looking at the relevance and democratic mandate of national Parliaments, you need to factor into this the devolved Administrations, both in terms of your operating, as it were, vertically with HMG, but also horizontally, possibly, in terms of other regional administrations or places where you may have an interest—with, say, the steel industry, where you may have other counterparts you deal with? Can you enhance this process within the EU and is anyone within sight of doing so?

Dr Hunt: To pick up on the development of the principle of subsidiarity and the consecration of the principle within the treaty and how it has developed over time, by the time of the Lisbon treaty reforms that came into the treaty framework, there was a specific focus on subsidiarity itself being defined in a way that recognises the local and the regional. This is something the importance of which is recognised within the treaties themselves. From a devolution perspective and from a Welsh perspective, that is seen as particularly significant. Welsh politics and a Welsh perspective—a local perspective—is something that needs to be written into the process.

We know that there is the formal machinery for the engagement of regional assemblies and parliaments with the UK Parliament. There is scope for that to be improved. We know that, and there were inquiries run by the House of Lords Select Committee last year on the role of national Parliaments. We know there are certain improvements that could be made to the current yellow and orange card procedure—extending the time somewhat to permit a better opportunity for that sort of engagement. There is a necessity that the devolved Parliaments and Assemblies should be read into this process.

Lord Davies of Stamford: When you say “read into” the process, do you mean they should be directly involved in the process or they should be involved only through the national Parliament?

Dr Hunt: I think the machinery of involvement through the national Parliaments is the appropriate way to proceed. We know there is a soft diplomacy—

Baroness Falkner of Margravine: So Members of Parliament at Westminster would be the ones who would—

Dr Hunt: But also through the machinery of the UK-EU forum—

The Chairman: As I said, you either have, as it were—and there is no qualitative judgment—a vertical relationship in which you consult with and report up to the national Parliaments who then carry your standard and/or you operate horizontally and you are in touch with, say, the region of Charleroi because of industrial closures or whatever.

Dr Hunt: Both those things are going to be going on, and there is the opportunity for that, but formally, in terms of ensuring that takes place within the machinery of European governance, when we look across the piece, with 28 member states and various regional assemblies at play, if we were going to break it open in that way it would be a huge task to ensure that they were all being heard at a European level, so the vertical connection is the one where formally that machinery needs to be embedded.

Lord Davies of Stamford: In that case, if the formalisation is going to be at national level, it is nothing whatever to do with renegotiation with the Union; it is entirely a domestic matter. We can do that any day of the week we want to—or not, as the case may be.

Dr Hunt: Yes. Involvement of national Parliaments is a matter to be addressed at the national level, absolutely.

Q9 The Chairman: I have a final question, if I may, and then perhaps we can close on a more general thought if you have comments to share with us. Dr Jones, you offered us some thoughts on young people. I am going to brigade those with the wider issue about democratic legitimacy within the European Union and a question about whether there is a demos and where it would be. If it were, for example, to be among young people, if there were to be a problem it would be in the very high youth unemployment, which has concerned one of our component sub-committees and we have reported on in the recent past.

Perhaps more widely, if the European Union was conceived to carry people's hopes and aspirations forward, it may be that, particularly with younger people not getting a job, they may feel that they have been left out or let down on this. Can you give us some thoughts about whether there is a degree of democratic legitimacy at the EU level, or whether it will engage effectively in that, and whether there is any particular way in which one can bring in younger people? We do, for example, occasionally experiment at our parliamentary level with involving young people's fora. We did, for example, on youth unemployment. Can we make this process a bit more real to people?

Dr Jones: I personally am in favour for the referendum of extending the vote to 16 and 17 year-olds. I am particularly in favour of doing that because of my experience here in Wales. Over the last period now, the European Union, through the European Social Fund, has given massive additional opportunities for apprenticeship schemes linked into the European Alliance for Apprenticeships, work experience schemes, entrepreneurship initiatives for start-ups, and new funding, two weeks ago, to redesign and strengthen the careers development service in Wales, engaging, incidentally, a lot of the voluntary bodies right across the country that are very actively engaged and concerned to help on the spot with joblessness and social exclusion. There is a huge groundswell of support for that in Wales and perplexity about the impact of public sector cuts, which also undermines what the third sector can do.

That is coupled with the whole exciting impact in Wales of Erasmus and now Erasmus+. It is quite clear that, if you have been an Erasmus student, you are going to get a good job somewhere—all over the world. I am very interested to see now how we can mobilise that and give people an opportunity when they are young to see that Europe is a land of opportunity. This was the original concept of the internal market as well. It was not just the four freedoms on which it was founded. We have to spell that message out. I recognise that it is very difficult with all the youth unemployment, but that is linked to other ways that Europe is trying to address those issues.

Nobody has mentioned yet the importance of the recent Juncker package, the European Fund for Strategic Investments (EFSI). The second campus at the University of Swansea was funded partly through the EIB, and is remarkable as a hub of development affecting the whole of South Wales, with job creation, new opportunities for young people and apprenticeships built in. What has been happening is enough critical mass through additional strategic European funding creating opportunities not only for young people but for people of all ages, and the young people seeing that and often finding jobs where they want to, at home, because they cannot get on their bike and go somewhere else. I am encouraged by all that.

Young people have a crucial stake in the future of the European Union. It is a point of principle. The Scots had it in the Scottish referendum. It was a very interesting experience. It

was not as simple in its result as some people might have imagined, but I am sure it is right and proper that that should be part of the rules of the game for the referendum.

Dr Hunt: On the “no demos” point, the context simply has not been there for the development of the demos in terms of having that pan-European political engagement. People do not know who their MEPs sit with. There is no recognition of that broader party-political process that is taking place at a European level. No matter how much additional power the European Parliament has gained—and we know that it has become a significant co-legislative body within the Union, from its starting point—it does not have popular support, so the role of national Parliaments as a complement to that is important.

We see other initiatives too, such as the European Citizens’ Initiative, which, again, has had a varied response so far, and so we come back to national and regional Parliaments as being our fundamental building blocks there. I pick up on the role that 16 and 17 year-olds could play within this in the referendum, as you say—how important it is to their future and to have a stake in this. As we know, the Second Reading of the Bill is currently before the House of Lords, and that is a motion that has been advanced.

The Chairman: Indeed. We have reached the end of our time. I am just wondering whether any of my colleagues wants to come in on anything before we close.

Baroness Falkner of Margravine: I just wanted to reassure Dr Jones in his comments about the Prime Minister’s speech and prosperity rather than peace being the focus—I think it is us who have been rather sloppy; you obviously have not read the whole speech—that the Prime Minister spent five paragraphs talking about peace in Europe. If you do not mind, it is important to say it for the record. He said: “While we must never take this for granted, the first purpose of the European Union—to secure peace—has been achieved and we should pay tribute to all those in the EU, alongside NATO, who made that happen”. He was very clear. It was a coalition Government speech and I thought it was important to look it up because I was a bit surprised at the representation of it in the documentation.

The Chairman: We need to conclude now. We have the First Minister shortly and a short break before that. I would very much like to thank our two witnesses, Dr Hunt and Dr Jones. It has been fascinating, it has been reflective and it will be immensely helpful to our inquiry. In conclusion, simply diolch yn fawr.

Dr Jones: Diolch yn fawr i chi.

Fiona Hyslop MSP and Craig Egner—Oral Evidence (QQ 65-78)

Fiona Hyslop MSP and Craig Egner—Oral Evidence (QQ 65-78)

[Transcript to be found under Craig Egner](#)

Dr Davor Jancic—Written Evidence (VEU0012)

The UK Government's Vision for the EU

a) Ever Closer Union

1. The EU Member States' commitment to creating an 'ever closer union' among the peoples of Europe is one of the UK Government's key targets for EU reform, which is aimed at persuading the British electorate to vote, in a 2017 referendum, in favour of the UK remaining a Member State of the EU. However, there are three important aspects of this Treaty provision that need to be elucidated.⁴⁰

2. First, this provision is of a symbolic nature. As such, it has thus far proven incapable of precluding differentiated European integration. According to this, requests for derogations or exemptions by certain Member States – such as Denmark, Poland, Ireland and the UK – have indeed been granted without this objective being called into question.

3. Second, 'ever closer union' is not an enforceable provision. It is an expression of general intent that does not give rise to legally binding rights and duties that can be invoked in judicial proceedings in national courts or before the Court of Justice of the European Union. It is one of the cornerstone principles of EU law that Treaty provisions are capable of having direct effect only when the duties laid down therein are clear, precise and unconditional.⁴¹ This is certainly not the case with 'ever closer union', which is vague and unspecific. For the same reason, it is not conceivable that a Member State could be brought before Court of Justice – by the Commission or another Member State – for failure to fulfill obligations flowing from the Treaties.⁴² This programmatic provision is therefore of a declaratory nature. While 'ever closer union' might be used politically to advocate further integration, any legally binding consequences of this would have to be spelled out by means of more concrete provisions. Should this be the case, the Member States would have a final say through Treaty ratification procedures or through the usual legislative procedures that guarantee Member State involvement to the extent that is not determined by reference to 'ever closer union' but by lawmaking provisions that they agreed to abide by when they ratified the Treaties. Reference to an 'ever closer union' has thus virtually no impact on the functioning of the EU, it does not imply the creation of any form of federal European Union, and it does not require a specific opt-out.⁴³

4. Third, it would be erroneous and unconscientious to separate this part of the provision from the remainder of it, which states its ultimate purpose and which is of paramount importance for its interpretation and assessment of its normative value. In this respect, two caveats are in order.

⁴⁰ Article 1(2) TEU. See: Dinan, Desmond. *Ever Closer Union: An Introduction to European Integration* (Boulder: Lynne Rienner, 2010).

⁴¹ See e.g. Case 26/62, *NV Algemene Transport- en Expeditie Onderneming van Gend en Loos v Nederlandse Administratie der Belastingen* [1963] ECR I.

⁴² Articles 258 and 259 TFEU.

⁴³ See also: Liddle, Roger. "Britain No Longer Part of 'Ever-Closer' Union?," Policy Network, 6 November 2015.

5. On the one hand, ‘ever closer union’ is of the peoples of Europe. The Treaty strikes a fine balance by avoiding to designate both states as well as a unified European people as the object of ‘ever closer union’.⁴⁴ Most other regional integration projects have a much narrower focus and promote the pursuit of much less ambitious goals than the EU, but they nonetheless promulgate similar intentions. Reference in the EU to an ‘ever closer union’ is hence *a fortiori* less surprising, more logical and more in the spirit of European integration. For instance, MERCOSUR – the Southern Common Market established in 1991 between Argentina, Brazil, Paraguay and Uruguay – reaffirms the political will of the Member States to lay the bases for ‘increasingly close ties between their peoples’, even though they seek to achieve solely economic objectives.⁴⁵ This similarity of the declaratory statements of intent by widely different organisations beyond the state indicates that symbolism should not be conflated with the underlying substantive goals of integration.

6. On the other hand, the most important element of ‘ever closer union’ in the EU is one that the UK Government fails to highlight sufficiently and it is precisely this element that provides most advantages for the UK and all other EU citizens. One of the explicitly stated corollaries and objectives of ‘ever closer union’ is greater openness and greater proximity of EU decision making to the citizen. Adherence to the principle that EU decisions ‘shall be taken as openly and as closely as possible to the citizen’ is further confirmed in Article 10(3) TEU. Democratic decision making hence constitutes the core content of ‘ever closer union’.

7. This principle is what inspires the enshrinement of subsidiarity as one of the two founding principles that regulate the manner in which EU competences should be exercised.⁴⁶ Subsidiarity is indeed a central point on which the UK Government insists in its pursuit of EU reform and this is explicitly emphasised in Prime Minister David Cameron’s letter to European Council President Donald Tusk.⁴⁷

8. From this perspective, therefore, retaining ‘ever closer union’ in the Treaties could in fact be relied upon to seek a higher degree of the participation of citizens, and their elected representatives, in the creation of EU policies. Instead of challenging this declaratory statement, the UK Government and Parliament could use it to their advantage to request more effective safeguards in terms of democratic legitimacy and accountability. In this way, the UK’s approach would be seen elsewhere in Europe as constructive and forward-looking more than as obstructive and Eurosceptic.

b) Democratic Legitimacy and Accountability

9. The EU possesses multiple sources of democratic accountability and legitimacy. They consist of elected officials, appointed officials and the EU electorate as such. Because the Treaty on European Union establishes that the EU is founded on the principle of representative democracy,⁴⁸ excessive recourse to practices of direct democracy through

⁴⁴ See a defence of this middle ground position in: Bellamy, Richard and Castiglione, Dario. “Building the Union: The Nature of Sovereignty in the Political Architecture of Europe,” *Law and Philosophy*, Vol. 16, No. 4, 1997: 421-445.

⁴⁵ See Preamble to the Treaty of Asunción of 26 March 1991.

⁴⁶ The other is proportionality.

⁴⁷ Letter ‘A New Settlement for the United Kingdom in a Reformed European Union’, p. 4.

⁴⁸ Article 10(1) TEU.

referendums should be viewed as constitutionally undesirable from the point of view of EU law. Accordingly, the EU electorate has a comparatively small role compared to that of legislative and executive branches. Despite this, the adoption of provisions on the Citizens' Initiative represents an attempt by the EU to encourage a greater implication of the electorate in EU policy making.⁴⁹ This mechanism, requiring one million certified signatures from at least seven EU Member States collected within a year, has thus far not been a practicable and successful mode of direct popular involvement in the EU policy-formulation process.

10. The principal sources of democratic legitimacy and accountability in the EU are national governments, national parliaments, and the European Parliament.⁵⁰ With the exception of directly elected Heads of State, democratically appointed governments ensure the representation of the Member States in the Council and the European Council. In turn, the political accountability of governments for both domestic policy in EU affairs and the EU's collectively made policy is ensured by individual national parliaments. It is important to note that no other EU institution can and does perform this role. The citizens are directly represented in the European Parliament.

11. The actual representative capacities of the European Parliament and national parliaments are determined not only by legal provisions but also by political conditions, such as the existence of a public sphere, media coverage, and the possibility for citizens to identify themselves with their representatives. On the one hand, the European Parliament's representative capacity has grown following the Lisbon Treaty but fails to generate the same kind of popular mobilisation as national parliaments do.⁵¹ On the other hand, national parliaments continue to be excluded from EU decision making proper and may only block draft EU legislation through the early warning mechanism if very high thresholds are reached and, where they are not reached, if the Commission agrees to listen to national parliaments. In light of this, there is a strong case for strengthening the practices of EU-wide interparliamentary cooperation.

12. Both in his Bloomberg speech of 23 January 2013 and in his Chatham House speech of 10 November 2015, UK Prime Minister David Cameron underlined the need to enhance the position of national parliaments in EU integration. He proposes a version of the so-called 'red card', according to which a group of national parliaments could stop unwanted EU legislative proposals 'which are not in their national interest'. This is tantamount to the Commission agreeing to treat yellow cards within the early warning mechanism as red cards. However, the drawback of this solution is that it highlights the obstructive role of national parliaments as opposed to a more constructive role.

13. The experience of the early warning mechanism to date has shown that the Commission is not overwhelmingly enthusiastic about engaging with national parliaments within this mechanism, because this would put additional fetters on its right of legislative initiative.

⁴⁹ Article 11(4) TEU and Regulation (EU) No. 211/2011 of the European Parliament and of the Council 16 February 2011 on the citizens' initiative.

⁵⁰ Article 10(2) TEU.

⁵¹ Chalmers, Damian. "The Reconstitution of European Public Spheres," *European Law Journal*, Vol. 9, No. 2, 2003: 146.

Even though the Commission withdrew the Monti II proposal following the issuance of the first yellow card, this was not done because the Commission was persuaded by national parliaments, but because it could not garner support for the proposal in the Council. This reveals the underlying motivation of the Commission and the fact that even within the early warning mechanism its true interlocutors are the Member States in the Council rather than national parliaments.

14. This, however, is not the only problem with the red card. Even more important is the fact that it does not allow national parliaments a say on the substance of EU legislation and it is precisely the authority over the substance of legislation that they have relinquished by transferring a portion of national sovereignty to the EU level. Rather than investing all parliamentary resources to weighing out a response to the largely technical question of whether the EU or the Member States should act in a certain matter, scrutinising the substance of EU policy would to a certain extent be capable of remedying the notorious and oft-cited EU democratic deficit.

15. Insistence on a red card is understandable from the perspective of satisfying Eurosceptic Tory MPs, but this does not achieve the long-term goal of a more meaningful national parliamentary involvement in EU policy-making processes. Only by focusing on substantive scrutiny can it be achieved that debates on EU political choices are genuinely repatriated and rekindled in domestic political and parliamentary arenas.

16. I am therefore a supporter of a more constructive role for national parliaments.⁵² Such a role is currently being pursued through the 'green card' initiative, which seeks to enable national parliaments to propose to the Commission to initiate legislative proposals or to amend or repeal existing EU legislation.

17. The first green card was successfully issued to the Commission by 16 national parliaments on 22 July 2015. They invited the Commission, when it decides to table its circular economy package, to adopt a strategic approach to reducing food waste within the EU. Concrete proposals included the formulation of EU food donation guidelines, the establishment of an EU coordination mechanism for the exchange of best practices, the Commission's monitoring of the business-to-business crossborder food supply chain, the definition of food waste and data collection, and the creation of a horizontal working group to oversee food waste policy making within the Commission.

18. On behalf of the Commission, its First Vice-President Frans Timmermans replied reassuring national parliaments that 'particular attention' will be paid to their suggestions for policy development concerning food donation, data collection and monitoring. Importantly, the Commission pledged to build on this in 2016 with 'further steps to ensure that national parliaments have a strong voice' in EU policy making.⁵³ This concrete informal undertaking by the Commission could be utilised by national parliaments to put pressure on

⁵² Jancic, Davor. "The Game of Cards: National Parliaments in the EU and the Future of the Early Warning Mechanism and the Political Dialogue," *Common Market Law Review*, Vol. 52, No. 4, 2015: 939-976.

⁵³ Letter of 17 November 2015, C(2015) 7982, available at: <http://www.parliament.uk/documents/lords-committees/eu-select/green-card/EUCommission-response-to-HoL.PDF>.

the Commission to accept a more substantial and consequential policy discussion with national political forces.

19. The green card initiative represents a second enhancement of the political dialogue between the Commission and national parliaments, which the former Commission President José Manuel Barroso started in 2006. The first enhancement was made in the context of the reform of the economic and financial governance of the EU, when the Commission undertook to engage in an intensified dialogue with national parliaments during the European Semester. This economic dimension of the political dialogue was further accentuated by the incumbent Commission President Jean-Claude Juncker in the Five Presidents' Report of June 2015 on the completion of the Economic and Monetary Union. This Report calls for 'more systematic interactions' between the Commission and national parliaments on country-specific recommendations and national budgets.⁵⁴

20. The case in favour of a mechanism that would be oriented towards the substance of EU policies is also supported by the fact that both the European Parliament and the citizens have procedural mechanisms at their disposal to propose EU legislation to the Commission. Only national parliaments have no such opportunity. The green card represents an initial step in the right direction, because it focuses on the contents of EU policy making as opposed to promoting the role of national parliaments as content-neutral legislative dispatchers within the early warning mechanism, which is conducive to parliamentary activation but not to parliamentary influence.

21. I would argue in favour of formalising the political dialogue. This could be carried out in two ways. One way would be through a Treaty change by transforming it into a formal mechanism of political consultation akin to that operated by the European Economic and Social Committee, which performs essentially the same advisory function when it comes to facilitating the input of civil society organisations and interest groups at the EU level. An advisory role of national parliaments would be complementary to that of subsidiarity monitoring through the early warning mechanism. Another way would be to have the Commission and national parliaments sign an interinstitutional agreement in which mutual commitments would be thrashed out, notably regarding the effect that the Commission undertakes to give to parliamentary reactions in different legislative situations depending on the nature of the advice provided by national parliaments.

22. It is important to continue the culture of direct dialogue between the Commission and national parliaments. In this respect, personal or online contacts through videoconferences between Commissioners and individual parliaments or groups of parliaments are strongly encouraged in order to nurture an EU policy-making environment where domestic politics matters for EU politics. Such an inclusive environment that promotes interest pluralism, participation and political exchange could create further benefits for the politicization of the EU if it produces palpable outcomes or at least viable and durable consultation processes. Spillover and path-dependency have been the key ingredients of the European Parliament's empowerment throughout European integration thanks to both formal and informal developments and there is reason to believe that a similar approach to a greater

⁵⁴ Jean-Claude Juncker in close cooperation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz, Report 'Completing Europe's Economic and Monetary Union', 22 June 2015, p. 20.

involvement of national parliaments could yield the desired results in terms of EU democratic legitimacy and accountability.

23. A final proposal of fundamental importance for the democratic legitimacy of European integration is to devise a method that would permit national parliaments to appraise the principle of conferral beyond the ratification of the Treaties. This would enable them politically to ascertain the existence and scope of EU competence and not only the manner in which EU competence is used, which is afforded by the early warning mechanism. Competence review by national parliaments goes back to the transfer of sovereignty and addresses this basic act of EU empowerment. It is this original act of sovereignty delegation that vindicates domestic parliamentary vigilance over the boundaries of European integration. This is what would substantially address the concerns of the electorate about the reach of EU powers. The UK's Review of the Balance of Competences provides an example *par excellence* for this. Yet in this case, opportunity was missed to feed the results thereof into the political process.

24. The reason why political competence review is necessary is twofold. First, static competence review would empower national parliaments to reopen debates on the desirability of European integration in different policy fields without setting in motion the intergovernmental channels for Treaty amendment. This is requisite to ensure that the 'social contract' on European integration given at one point in time during the ratification of the Treaties is still valid and that there is socio-political consensus over its continuation. Second, dynamic competence review would ensure that EU competence classification into the categories of exclusive competence and shared competence is not violated. An example of this is the European Central Bank's adoption of the Outright Monetary Transactions programme which was suspected by the German Federal Constitutional Court to have had implications not only for monetary policy (which is an exclusive EU competence) but also for national economic policies (which are a national competence where the EU only has coordinating powers).

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30 November 2015

Rt Hon Carwyn Jones AM and Dr Robert Parry—Oral Evidence (QQ 10-21)

Evidence Session No. 2

Heard in Public

Questions 10 - 21

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Baroness Falkner of Margravine

Baroness Prashar

Baroness Wilcox

Examination of Witnesses

Rt Hon Carwyn Jones AM, First Minister for Wales and **Dr Robert Parry**, Head of European Affairs, Welsh Government

Q10 The Chairman: I would like, very warmly, on behalf of the Committee, to welcome the First Minister. You have many commitments. We are delighted you have been prepared to spend time with this inquiry. We regard it as very important that we should work with the devolved Administrations and get a view across the United Kingdom of what will be, inevitably, a United Kingdom-wide reform and referendum process. If we may, we will kick straight off and I will ask the first question, but we are not scripting this too tightly; we very much want to have a conversation with you.

The first question is: do you feel you have a clear understanding of what the United Kingdom Government are seeking to achieve in their discussions on EU reform ahead of the referendum and are these objectives achievable?

Carwyn Jones: I cannot say that I do know what the plan is as far as the UK Government are concerned. I am not sure the UK Government quite know that yet. Certainly, nothing has been shared with us. We do not know what the final objective will be. I am prepared to understand the Prime Minister wants to see the referendum take place on favourable terms. I suspect he will want to campaign for a vote to remain in the European Union. Beyond that, we do not know. The discussions are not being shared with us. We would share a very different view, I suspect, in terms of the future of the EU and the UK's place in it, but it is very difficult to understand how much common ground there is, for example, if we do not know really what the UK's position is in terms of the negotiations or, indeed, of what would be an acceptable solution.

Lord Davies of Stamford: Are you satisfied by the degree of consultation that you have had and by the extent to which you have been able to make your own points known to the national Government in advance of their determining on their strategy for negotiation?

Carwyn Jones: No, is the answer to that. There is the mechanism of the Joint Ministerial Committee on Europe, which the Finance Minister attends from the Welsh Government. That tends to look at broader European issues. Certainly, we have not been part of the

process of establishing a UK position nor, indeed, of understanding what an acceptable outcome would be.

Lord Davies of Stamford: Would you like to be part of that process?

Carwyn Jones: Yes, we would like to be part of that process. For example, we learned of the UK's position recently through the pages of the *Sunday Telegraph*. We were not informed formally. The UK Government, I have no doubt, would argue this is a non-devolved matter. It is and it is not. It is right to say that relationships with the EU are per se non-devolved, but the reality is that much of what is devolved would be affected by what the UK's final position is prior to the referendum.

Lord Davies of Stamford: Yes, but the reserved and devolved distinction would not prevent consultation. Have you made any representations and felt that they have not been taken account of properly? Have you asked to see Ministers and been declined? Has anything of that kind occurred?

Carwyn Jones: Via the Joint Ministerial Committee—discussions have taken place there, but what we have found is there is no real understanding, and certainly it has not been shared with us, of what the UK's position is.

Lord Davies of Stamford: But you have not had any initiatives of yours actually rejected.

Carwyn Jones: Not to my knowledge personally. I am still waiting for a meeting with the Prime Minister on this and other matters. I have not had a response yet. That is quite normal.

Lord Davies of Stamford: You have asked for one, but you have not yet had a positive acceptance of a meeting.

Carwyn Jones: It is quite rare for there to be bilaterals between the Prime Minister—it is not our choice—and First Ministers, but, from our point of view, we would prefer to be involved in the UK's negotiating position rather than be told about it afterwards or through the pages of the press.

Baroness Falkner of Margravine: So your office has requested a meeting with the Prime Minister and that request is extant now, is it?

Carwyn Jones: There is a request for a meeting with the Prime Minister on a number of issues—primarily, I have to say, with regard to the Wales Bill that will be published tomorrow. We are still waiting for a response.

Baroness Falkner of Margravine: Can I just take you back to the Joint Ministerial Committee? I think you said that Wales was represented by the Finance Minister. Is there not meant to be a meeting of the Joint Ministerial Committee that involves the First Ministers of the four countries?

Carwyn Jones: Yes.

Baroness Falkner of Margravine: Surely there has been some discussion there, has there not?

Carwyn Jones: There is a meeting of the plenary of the JMC, which has had to be postponed because no date has yet been found where all the heads of Government are available. It was due next month, but, as far as I am aware, no date has yet been found for that discussion. I have no doubt that this issue would be part of the discussion at that plenary session.

Lord Davies of Stamford: How much contact have you had specifically on the renegotiation and preparations for it with the Minister for Europe, Mr Lidington?

Carwyn Jones: Personally, very little. These matters are dealt with primarily through the Finance Minister, who holds the portfolio of European Minister as far as we are concerned.

Lord Davies of Stamford: She has had considerable contact with Mr Lidington, has she?

Carwyn Jones: There has been formal contact, but, in terms of there being regular contact to establish the UK's negotiating position, the answer to that would be no.

Baroness Falkner of Margravine: Mr Lidington told us last Monday that he had just had a meeting of the Joint Ministerial Committee that afternoon.

Carwyn Jones: *Europe, yes.*

Baroness Falkner of Margravine: Yes, the EU section—and she was there?

Carwyn Jones: *Yes.*

Baroness Prashar: You said you had not been consulted, but have you made your views known of what you and Wales would like to see as part of the negotiations?

Carwyn Jones: Yes. I have been very public in saying that I want to see Wales remain as a member of the EU, as I want to see Wales remain a member of the other union, the UK. That is not to say that there is no scope for reform within the Union itself; that would be wrong, as there is much wrong with the UK's machinery and that is not a reason to leave the UK. There is a need for reform in the EU. It is obscure.

Baroness Prashar: What would be on your reform agenda?

Carwyn Jones: There needs to be more thought given to increasing the powers of the Parliament and making the Parliament more effective, probably streamlined as well.

The Chairman: The European Parliament?

Carwyn Jones: The European Parliament, yes, I beg your pardon. The Council of Ministers is obscure to most people and I think the major problem is that the Commission is not seen as accountable properly to any one organisation and, unfortunately, of course, it issues directives, which makes it look as if it is something that everyone has to follow without there being any kind of democratic input. There is scope there for reforming the way that the Commission operates and there is scope there in terms of making it more accountable to the Parliament in a stronger way than is the case at the moment.

Lord Davies of Stamford: How? What concrete proposals have you made for making the Commission more accountable?

Carwyn Jones: It is a matter for the UK Government to decide what they wish to do, but, from our point of view, I would prefer if the Commission had more regular contact with the Parliament.

Lord Davies of Stamford: With the European Parliament?

Carwyn Jones: Yes, the European Parliament. I would prefer it if there was a more robust system of scrutinising directives particularly, because at the moment the impression is given that they appear without any real scrutiny. I think we have to accept that the European Union is not as democratic as most people would want it to be because of the existence of the Council of Ministers—it is the way member states want it; I understand

that—and because of the way that the Commission operates in terms of issuing directives without there being any kind of vote.

Lord Davies of Stamford: What you have in mind is not the co-decision procedure; it is the lack of consultation before the legislative procedure starts, when the Commission is first conceiving legislative proposals or beginning to decide on its priorities. Is that what you are talking about?

Carwyn Jones: That is right.

The Chairman: For the record, it sounds as if it is the upstream problem about policy formulation and the downstream problem about accountability after the event, and you are worried about both.

Carwyn Jones: Yes.

The Chairman: Can I follow that? It would be fair to say what you have said is, as it were, neutral as to place; fundamentally, you have been talking about issues of democratic accountability generally. If you are looking at the economy of Wales, it is characterised by some interesting and pretty deep-seated structural problems, high levels of unemployment certainly in some areas—in the valleys or whatever—problems of youth unemployment and maybe some problems in the educational sector. We were hearing evidence this morning suggesting that the European initiatives, whether it is ESF or other programmes, such as Erasmus+, for example, were particularly helpful in dealing with some of these. Do you have a view, driven by the Welsh constituency, if I may put it that way, as to the reform agenda maybe, for example, leading on a little wider to the balance between what you might call social and economic policy and how that should gel? Is that a vision you can share with us and, indeed, will be arguing with the UK Government as well?

Carwyn Jones: We would not want the funding stream that currently exists from Brussels to be transferred to London, because we do not believe we would see it, bluntly. Brussels is a better friend to us in terms of funding at the moment. There are two issues for us. First of all, access to the market is critically important for the Welsh economy. We have almost 500 companies from other EU Member States based here that are here because of access to the single market. Anything that interferes with that or fetters that is not in our interest. Secondly, of course, we have benefited not just from the structural funds but from other sources of funding as well: access, for example, to funding from the European Investment Bank, which has helped to build a brand new campus at Swansea University, which I opened last week. There is no guarantee that those funds would be made available via the Treasury.

For us, anything that interferes with that is a problem. It has worked, because our unemployment rate is 6.2%; it is not much above the UK average, and we are seeing some of the inherent structural problems that have existed since the 1980s being addressed, in terms of training and connectivity, particularly broadband and, in the future, a metro system for this part of Wales. All this is dependent upon European funding. We cannot do it otherwise.

Q11 The Chairman: Thank you. That is very clear. We ought perhaps to move on to the issues the Prime Minister raised some time ago in the famous Bloomberg speech. There will be slightly different interpretations as to his analysis of the European Union being founded in terms of the need to win peace, but he then goes on to say “secure prosperity”. As you know, the United Kingdom Government puts a quite strong emphasis on the internal market, but more particularly on external competitiveness and the ability to compete in world markets. We have had some evidence this morning and I would like to take a little

more note of your views on the balance between economic efficiency and what you might call social justice, if I can put it in that way, given the distinctive problems and issues in Wales and whether you see those better addressed by European reform, and, if so, the kinds of reform that you think would be appropriate for that. Although it clearly affects the institutions and the way they operate, it also is about the kinds of programme that ought to be within the European framework.

Carwyn Jones: I suppose we would prefer to see a little more flexibility in the way in which the funding programmes operate, particularly with regard, for example, to being able to do more to fund transport programmes, which have been constrained, in our view, over the past few years, particularly with regard to the road programmes. They are important. They improve connectivity. We have to bear in mind that we are on the western edge of Europe and connectivity, therefore, becomes even more important for us in that regard.

Generally, I have to say, I think the system has worked well for us. We have no major problems with the way that, for example, structural funds have operated, the ESF has operated, even though we would argue, of course, that there might be a little more flexibility in terms of what we can do with the money.

The Chairman: Do you have additionality as being a constraint from time to time on things you would like to do but, at HM Treasury level, this becomes difficult because there will be a clawback in its contribution?

Carwyn Jones: No. I have to say that is not something we have experienced. It was an issue many years ago, in 1999 to 2000, but it is not an issue that we have found is a problem in terms of the operation of the funds in the last few years.

Q12 Baroness Falkner of Margravine: Are you, by any chance, engaged in the discussion about eurozone “ins” and “outs”? One of the things that is of some concern for the UK as a whole, certainly much more so for Edinburgh than, I would imagine, for Cardiff, but I want to know if it is a concern, is the momentum to push economic and monetary union, the momentum towards deeper integration, potentially fiscal union as well, an advisory board for the eurozone and other integrationist measures, transfers, bailout funds and so on. That would have an impact on the eurozone “outs” and particularly, from the UK’s perspective, for Edinburgh and London, on the financial services sector, which would be very exposed. We have seen legal moves on the part of the European Central Bank to try to restrict the UK’s hub as a financial centre through court cases and stuff. Does that matter in Wales? Is it on your radar?

Carwyn Jones: Well, we do have a financial services industry. We have companies in Wales that are operating on the stock exchange from Cardiff. Why be in London now? There is no reason for it with the LSE being virtual. That said, financial services are not as important to us as to London. We sit here sometimes and wonder what it is that makes financial services so special when we, for example, still have a large steel industry that gets very little support from the UK Government, when we have major industries outside the financial sector, even though we are trying to build our portfolio, to use the phrase, in the financial sector. But it is not in London, so it does not have the same effect. The City has no real resonance in terms of its needs outside the City, I think.

There are a number of issues that you raise there, though. I suppose the concern I would have is I would not want to see a scenario arising where there is an inner EU and an outer EU—in other words, an EU with monetary union but not fiscal union, which, of course, is the problem with the euro at the moment that made it difficult for the ECB to address the

problems of some European countries in the past few years. I would not want to see a scenario where somehow those on the outside were seen as being of less worth and less value than those on the inside, particularly if we ever saw a scenario where there was a more favourable approach to structural funds for those who were within the eurozone rather than those without the eurozone.

Lord Davies of Stamford: No one has suggested that, have they?

Carwyn Jones: Not that I am aware of, but my concern would be seeing that happen. I certainly hope that that does not happen, clearly.

The Chairman: On that one, can I pick your mind a bit more on the question of liaison with other devolved Administrations and, in certain cases, member states that are smaller rather than larger? As you look at the model, you see a number of major states, of course, of which the United Kingdom is one, and some of those states have devolved Administrations in some of their areas, if not always. In certain cases, they will share common industrial or other issues, maybe maritime issues, where it may make sense to collaborate. There is also the separate issue about discussions on constitutional matters. There is you and Holyrood and Northern Ireland and, indeed, the Irish Republic as a neighbour. Do you see it as being important and useful to you to maintain those sorts of links, what I call the horizontal links, as well as the vertical links up through the United Kingdom Administration in terms of getting your voice heard in Brussels and across the European Union?

Carwyn Jones: We maintain our own representation in Brussels, which is essential to us bearing in mind, for example, that with agriculture it is entirely devolved, in effect. There is no UK policy on agriculture, more or less, these days. It is fair to say that we are able to work closely with UKRep. The understanding is that we will pursue our own policies but we do not try actively to undermine the UK—otherwise why use UKRep in those circumstances? We do work with the other devolved Administrations where there is common ground. That is not always the case, of course. Let us take agriculture as an example. In Wales, sheep meat is an important sector, less so in Scotland and Northern Ireland. In Scotland, the beef and grain sectors particularly are important in a way they are not in Wales and so forth. But we will seek to work together where there is that common ground and we will do that in discussions that we have with the UK Government as well where there is that common ground.

Baroness Falkner of Margravine: Will you work with the other member states' sectors where there is a commonality of interest—with French farmers?

Carwyn Jones: We will. For example, we have established working relationships with the Spanish regions, particularly with the Basques and the Catalans. The same is true with the German Länder. Much of it depends on the structure of the state that we are dealing with. There are some states that do not really perceive any level of government below that of the sovereign state. Some do understand it, so we will tailor our approach according to whom we are dealing with.

The Chairman: On the previous question, for the record, I ought perhaps to have declared an interest as a farmer. I still do that and there was a time when I used to buy sheep in Builth, so we ought to put that on the record, but I find your comments interesting on that.

Q13 Baroness Wilcox: I am from the fishing industry, so I am not talking about farmers. If one took a more generous view, going from 12 countries to 27 countries is like taking a

small business to a bigger business, and every now and again you need to stop and look and see if you are running it well, if there are other ways of doing things, because you are not what you looked like all that time ago. I would like to think that that is what the Prime Minister is doing. I also think that he is speaking to the leaders of other countries and saying, “What is on your shopping list? What would you like to get rid of, if you could? What is it that we could ask for that we could all agree with?” or something like that. In the best of all possible worlds, that is what it would be for me.

Of course, in the fishing industry, for us, it would become enforcement. Enforcement would be a big word for us in the fishing industry, because we have our quotas and we fish our quotas with our common law system and then we have to sit there and watch while the Spanish come in and completely wipe through their quotas, and they only have two people looking after them and they sit in Madrid. They never come out and you cannot report another country, you have to do it only for yourself. So there are lots of bits and pieces in there that I hope the Prime Minister is speaking to other countries about.

One of the things I would like to ask you about, since you have been talking about farming, is the common agricultural policy. We are going to look and see whether we are going to stay in; we are going to give our people the opportunity to look at what is on offer and see if it is good enough. It might be better. It might be much better than we ever thought it was going to be and we can be deeply enthusiastic about staying. I would particularly like to know something I do not know anything about, which is the common agricultural policy. You have already started talking about farming and about the money that you get from the EU, et cetera. What would you do about the common agricultural policy?

Carwyn Jones: It is moving in the right direction, away from headage payments. Not so long ago, farmers were being paid to overproduce; it affected the price in the market. We knew, for example, that we were producing between 20% and 25% too much in terms of sheep meat production in Wales. Certainly, some of the regimes that used to exist, such as the tobacco regime, the banana regime, the tomato regime made very little sense in reality and were aimed at special interests. What I am glad to see is that there is a continuous movement away from Pillar 1 payments, the straight production subsidies, to Pillar 2, which includes, for example, green subsidies. That benefits us in Wales. We are not a country with farms that stock at a high intensity particularly, and so, for us, we prefer to see a system where farmers are able to have economic sustainability while, at the same time, of course, they do not have to degrade the environment to do so. There has been a movement in that direction over the past decade particularly.

Baroness Wilcox: If the Prime Minister turned up here next week and asked you what it is you would like to see changed in the common agricultural policy, would there be something?

Carwyn Jones: No. I think it works pretty well in our interest. What I would not want to see is the CAP replaced with something run from London. That would be disastrous for Welsh farmers.

Baroness Wilcox: I do not think it is likely.

Carwyn Jones: I have dealt with Defra and its impression of farming is large arable farms, large units. It does not really get, for example, sheep farming, and that has been true regardless of the party running the department. From our point of view, it is much easier for us to be able to be part of a larger system where different types of farming are more recognised.

Q14 Baroness Prashar: Can I just go back a bit? Next week, the Prime Minister is going to make a statement, so he has said. Have you been consulted about what might be in it?

Carwyn Jones: No.

Baroness Prashar: So there have been no discussions with you about the overall vision of the kind of Europe you would like to see?

Carwyn Jones: No.

Baroness Prashar: My other question is: what sort of process would you like of consultation? Ideally, if you were to be properly engaged, what is the kind of consultation process that you would like to see for the negotiations?

Carwyn Jones: The JMC Europe would have been the ideal place for that, but really it is a question now of the heads of Government meeting. Let us be realistic about it. I think we are going to be in very different places and I would be surprised if all the other three Governments were in a position to be able to support the UK Government in their vision—but then we do not know what it is yet. It would have been easier, given that it affects devolved areas, to have had this conversation upfront, but no, we do not know, as I said earlier on, what the endgame is or what the negotiations have encompassed.

The Chairman: If the Prime Minister goes into, say, in the December Council, a substantive negotiation, clearly he and his Ministers will be responsible for that, but will there be a Welsh input, in one sense or another, either through UKRep or maybe even the device of literally having an open line to someone so you could say, “I can live with that” or whatever, if it is getting into a live negotiating situation? I am not asking for the details of position, but I am just anxious to establish whether you have any handle on this really at a stage where something could be changed.

Carwyn Jones: There is no reason why that cannot happen. It used to happen, for example, in agricultural negotiations, where it was normal for it to be the English Minister, as far as agriculture was concerned, who went into the Council of Ministers and would come out and discuss what was on the table with Ministers from the other administrations. That was normal at one time.

Baroness Falkner of Margravine: When would that have been?

Carwyn Jones: That would have been between 2000 and 2002 and, beyond that, 2003 to 2007. I can say that because they were my personal experiences of the way it happened when I was the Minister in charge. So, yes, it did happen where the Minister would come out and say, “Right, this is what is being discussed. What is your view on it?” That precedent is still there. There is no reason, for example, why, in different stages of negotiations, at least officials from the devolved Administrations should not be there in order to be able to feed back what is happening.

The Chairman: I think that will become critical, and perhaps you may like to reflect on how you make this point, if you agree with it. If it literally is a choice between two options, it would be helpful to have the views of yourself and the other devolved Administrations as to which one to go for. You are nodding, so I think that is an assent.

Carwyn Jones: I am not sure we will come to a position where we all agree, but then we do not know, at the moment, what the basis of any agreement might be.

The Chairman: No, but at least one assumes that you will hear in good time what the Government have decided on and you will, no doubt, be able to make your representations then.

Carwyn Jones: Hopefully not through the Sunday papers.

The Chairman: Thank you. I have noted that.

Lord Davies of Stamford: Is one of the things that you are hoping might come out of the renegotiation greater powers for national Parliaments? If so, how would you see, if at all, regional parliaments, such as your own, feeding in their own initiatives, views or insights to the national Parliament, so that the national Parliament can represent them at the Union level?

Carwyn Jones: I do not know what powers might be returned.

Lord Davies of Stamford: There have been suggestions of a stronger yellow card, a red card, a green card, all these initiatives, which you have probably heard about.

Carwyn Jones: In terms of work permits?

Lord Davies of Stamford: No, in terms of greater powers for the European Parliament in European legislation, so that national Parliaments might more easily be able either to veto Commission initiatives or to instigate Commission legislative initiatives—those are among the suggestions—or, indeed, might just have some greater direct access to the Commission. Quite a lot of ideas have been suggested from different sources. Do you think they are realistic and, if they are, do you see any role for regional parliaments feeding your particular input into the national Parliament in that connection?

Carwyn Jones: I do not see what possible advantage that would be to Wales, to be honest with you. What difference does it make whether it is a decision taken in London or in Brussels? Many of these decisions anyway are taken in Wales. For example, agricultural policy I have mentioned. The implementation of directives: why would the UK Parliament be able to veto certain directives when, in fact, they are devolved? There would need to be recognition that there is a very strong role for Scotland, for Wales and for Northern Ireland. It is not entirely a matter for the UK Parliament.

For example, I come back to agriculture. If agricultural policy was returned to member states that would worry me and I would not be in favour of it, because that would simply mean a transfer of power from Brussels and Cardiff to London. This needs to be handled very carefully, considering the devolution settlement that we have in the UK.

Lord Davies of Stamford: This comes back to my original question as to whether you have any additional suggestions to make to the Government about things that they might be going for in this renegotiation. I think you told us that you have not put in any formal proposals or suggestions of that kind.

Carwyn Jones: We have not come to the conclusion that there is a need, or rather the case has not been made, thus far, to return powers to the UK Parliament from the European Union, and we do not know what effect that would have on the devolved Administrations. Without the detail, it is very difficult to know what our position might be.

Q15 The Chairman: Perhaps I can touch on the REFIT initiative that First Vice-President Timmermans has been shepherding. It seems to me that, at least in principle, there is a possibility that you could have an enhanced democratic interest in that through national Parliaments, but possibly also devolved Administrations, in trying to clean up some of the excess bureaucracy in the European Union and/or, to use your own phrase, to inculcate a bit more flexibility in getting the thing about. I just wondered if you have been bolted on to that process or taken an interest in it, because it may be one of the ways in which we can, as it were, square the circle of having greater democratic interest and

involvement with the Union without necessarily that meaning the creation of huge and inappropriately centralised schemes. Can you pick out that line of argument a bit?

Carwyn Jones: It is very difficult for us to be able to form a position without fully understanding what the UK's position is. We have a broad idea in terms of what the Prime Minister has said, but we do not really know what the UK wants. What will happen, inevitably, is the UK Government will form a position, will not really understand the issues as far as devolved Administrations are concerned—that is usually what happens—and then we will have to work out what it means for us. Until we know how these mechanisms will intermesh with each other, it is difficult for us to know how it will work as far as Wales is concerned.

The Chairman: Your best hope probably, at the working level, would be what you can do through your involvement with UKRep, for example, at the technical level, so your officials will be there when a particular area—it could be, for example, sheep identification—is under discussion.

Carwyn Jones: We are not entitled to be at Council of Ministers meetings. We go there by invitation. It is the same for our officials. Our officials can go to the *salle d'écoute* and listen to the proceedings, but we are not entitled to be at the meetings. It is possible for devolved Ministers to represent the UK in its entirety on certain issues, but that has happened rarely in the past and, I suppose, would be a rarity in any event.

Yes, through our representation in Brussels, we do a lot of work making sure that the Commission understands what the Welsh viewpoint is with regard to a particular issue, but there is no formal mechanism by which we can input into the UK's position—informal, yes, and it works to an extent, but there is no formal mechanism to do it. At one time, there was a mechanism where the Agriculture Ministers met every month in advance of the Council of Ministers and agreed the UK position. That certainly was the case a decade ago, mainly because such is the degree of devolution in agriculture that there had to be agreement. It was not possible for the UK Government to do certain things without the agreement of the devolved Administrations, but it worked. Nobody went there with a view to try to disrupt things and it worked very well.

Q16 Lord Davies of Stamford: I am drawing two conclusions from this discussion and I wonder if you can tell me if they are the right conclusions to draw. One is that, although an exercise of this kind, a renegotiation of our membership of the EU, is obviously a very important matter for all of us and might be an obvious occasion for detailed consultation in advance with the regions to see how they felt about the various issues that we confront, there has not been that kind of consultation at all and you are in as much doubt as we are about what the Government intend to come up with. My second conclusion is that you feel about this exercise that it is rather unnecessary, perhaps otiose, perhaps even dangerous, and that you do not see the need for a renegotiation in the national interest or in the Welsh interest. Maybe it is a party-political agenda by the Prime Minister, but it is not something that you see an intrinsic merit attaching to. Is that correct?

Carwyn Jones: I would agree with both those points. I accept that the UK Government have earned the right to hold a referendum, but the Scottish referendum created uncertainty and this does as well. It cannot be true for one and not the other, especially when the terms of any renegotiation are not known.

Baroness Falkner of Margravine: That was precisely the problem. I was on the Constitution Committee at the time when the Scottish referendum took place and that was

precisely what the problem was. I suggest that it is in the nature of referendums that are contingent on something happening, rather than mere asks on the basis of a treaty that is already established, that one cannot really tell until fairly late in the game what the story is.

Carwyn Jones: That is true. We are finding, however, that investors are nervous. Investors come to Wales not on the basis that they have a market of 3 million people, clearly not, and not on the basis that they have a market of 60 million people in the UK. They come to Wales on the basis that this is a base for them to access a market of 500 million. Anything that interferes with that and they will go elsewhere. That is the worry that we have.

The Chairman: Again, I appreciate this is not in your gift or control, but would you generally have a preference for, if we are going to have the referendum, getting on with it and having it reasonably early?

Carwyn Jones: Yes. For me, it cannot occur earlier than autumn next year, but to take it into the autumn of 2017 just heightens that uncertainty.

The Chairman: Can I go on to ask, which we did not ask our witnesses this morning, about what you might call the democratic obligation when a decision is taken? I realise—and we heard some of this in debates on the Referendum Bill in our House last week—that there may be some difficulty in, say, a government source briefing as to the virtues or otherwise of the referendum package, because clearly people want to make an unfettered choice and not feel that the decks are being stacked either one way or the other. On the other hand, there will be a need for people to have their questions answered and their interests at least able to be addressed.

How do you see this working? This may be partly at the Westminster UK level, but also at the Welsh devolved level. How would you see setting about informing the general public? That is specifically about the reform, renegotiation and referendum process. Perhaps further into the future, we are looking at whether or not people here can be or need to be better informed about what is going on in Europe, assuming we do stay.

Carwyn Jones: We have extensive experience of referenda here in Wales, how they operate and how messages are communicated. The UK Government would be entitled to inform the public in any reasonable way they saw fit in terms of what the final deal was and why that would be backed by the UK Government. With the current legislation, of course, there would have to be an organisation on both sides that would be the recognised organisation, to my mind. It is a question then of how those organisations communicate their messages. The difficulty is that the print media are strongly hostile to the European Union and it can be difficult for people to understand what is going on in the EU beyond what they read in some papers, so there will be a job to do.

Lord Davies of Stamford: Is it basically English papers?

Carwyn Jones: Yes. There will be a job to do in order for people to understand what the real issues are. It will not be easy. They managed it in 1975. As somebody who wants the UK to stay in the EU, the message needs to be simple and, if possible, encapsulated in one sentence. When we had the referendum here in 2011, the question was three paragraphs long. It made reference to Schedule 7 of the Government of Wales Act; most people living normal lives would have no idea what that meant. Basically, I distilled it down to “Do you believe that all the laws that only affect Wales should be made in Wales?” and that was it. That was what the referendum was about. There will be a need to try to communicate the issues in common language, not in technical jargon. That is the major challenge.

Q17 The Chairman: As First Minister, do you feel you have a responsibility to the people of Wales to brief them on the implications of what the UK Government have come up with?

Carwyn Jones: Yes, I do. The difficulty is, of course, it may be that I do not agree with the deal the UK Government come up with. That, to me, is not a reason then to oppose the UK Government if they decide to campaign to stay in the European Union. My argument would be: “I do not agree with this package, but nevertheless I think it is important to remain within the structure, and then at some point in the future this package might be revisited”. That is an important distinction to make. The structure itself is important to Wales. The deal may not be particularly favourable, but that does not mean that I would oppose the deal and then say to people, “I think we should vote to leave”. That would be far too dangerous for us.

The Chairman: Thank you. I wonder if my colleagues have any other points they want to raise.

Lord Davies of Stamford: That is a very logical position to take, Mr Jones, but it is quite dangerous psychologically, is it not? If a headline in *The Sun* is “Welsh Government reject package, bad news for Wales”, and you then say, the next day, “You should still vote yes, please, to stay in the Union”, an awful lot of your voters may get a rather confused message.

Carwyn Jones: If *The Sun* runs a front page story about Wales I would be surprised, but I see your point. I will distinguish it in the same way as I distinguish issues with the UK. There is much wrong with the UK’s constitution now. That does not mean the UK itself is a busted flush. There is a difference here between saying the institution is worthwhile, but at the moment what the UK Government are proposing is not something we would agree with, but we do not think that it means we should vote to leave the institution. That is the distinction I would make.

Lord Davies of Stamford: As I say, your position is absolutely logical and absolutely clear to anybody who thinks about the matter for more than five minutes. We have the same problem, as you well know, nationally in the Labour Party that we may face Cameron coming back with some concession that opts us out effectively of some of the social protection chapters of the European Union, in which case, some people have said, rather destructively, we should get out of the European Union altogether, which seems a completely suicidal response.

Carwyn Jones: I will not be saying that.

Lord Davies of Stamford: No, quite. Clearly what we should do is try to win the next election and then opt back in, which we did with the social chapter before; that would be the logical approach to adopt. But as I say, psychologically, it may be quite difficult for those who are not following all these matters in great detail to completely understand the message in those circumstances. Are you worried about that?

Carwyn Jones: We need to make sure that people understand they should not throw the baby out with the bathwater in that sense and, you are right, messaging is important so that people are not confused. It is likely that, on the “in” campaign, there will be campaigns that have different messages. They will all be saying, “Remain in the EU”. Some will say remain on the basis of what the Prime Minister has negotiated; there will be others who will say we should remain in anyway and seek to reverse what the Prime Minister has negotiated. What is important is that there is a common message between the campaigns, so that it does not confuse people. The same might well be true on the other side. There will not be a united campaign on the issue of leaving the EU; there will be different gradations there as well.

The Chairman: In fairness, the question is a “remain or leave” issue. It is not with reference to the negotiation.

Carwyn Jones: But they will frame the debate around the question.

Q18 Lord Davies of Stamford: What do you think the Welsh people will be most concerned about in this campaign? What sort of issues are they most concerned about? Is it social protection; is it agriculture; is it the single market?

Carwyn Jones: It is the economy and investment. I am not going to pretend that there is overwhelming and monolithic support for EU membership in Wales. We sit somewhere between England and Scotland in terms of the Europhile-Eurosceptic scale. All the polls show there is a fairly clear majority to stay in, but not as high as the majority to stay in in Scotland.

Lord Davies of Stamford: In terms of investment here and jobs, which are based on access to the single market, would you say that Wales has a higher or greater dependence on the continuation of our membership of a single market than Scotland or England?

Carwyn Jones: It is difficult to say whether it is higher than Scotland or England. What I do know is that it is crucial, from our point of view. When I go and speak to investors who are coming to Wales, access to the EU market is absolutely fundamental to the attractiveness of Wales as a destination to invest in. We have about 150,000 jobs that are reliant on unfettered access to the European market. We have major employers not very far away from here, such as Ford, Tata Steel, Toyota in the north, Airbus. They are European operations. Anything that interferes with their ability to operate Europe-wide is bad for us. They will look elsewhere to invest; not overnight, they will not suddenly close all their factories overnight, no, but in the longer term it is inevitable that that will happen.

The Chairman: That figure you gave us of 150,000, First Minister, is the primary employment rather than any multiplier effect.

Carwyn Jones: *Primary and secondary employment.*

Lord Davies of Stamford: Do you find that those investors are not only concerned that we should have continued access to the single market on the same terms as other countries that are members of the single market, but that they want us to remain part of the legislative, the regulatory, the decision-making structure, so that we are still in a position to represent those economic interests in Brussels and the Council of Ministers and elsewhere, whereas if we negotiated some free trade agreement or trade agreement with the EU from outside, we would not have any of that kind of influence when their particular sector of activity comes up for some regulatory or legislative decision?

Carwyn Jones: That is absolutely true. It is true of Norway. The Norwegians call it “fax diplomacy”. I do not suppose it is a fax any more, but they would receive a fax with a directive that they were obliged to follow; they had no influence at all over it. The UK is one of the largest states in the EU. It should be able to exert a substantial amount of influence. It has not been successful at doing that, in my view, over the past five years particularly. What most people sometimes fail to understand in the general public is that, if you leave the EU, you do not suddenly free yourself of the EU’s directives. If you want to export into that market, you play by that market’s rules. Better then to have influence over how those rules are framed than no influence at all.

Q19 The Chairman: This is a slightly left-field question, but you trained as a barrister and therefore you will be familiar with the common law and I am not. In fact, I think none of us

is legally qualified in this group. I am just interested. As you look at it, do you find that a common-law jurisdiction, which is us and the Irish Republic, essentially, sits successfully with a civil law administration through Brussels? Does it give rise to tension or can it be smoothed out?

Carwyn Jones: Well, the UK is not a common-law jurisdiction, of course, in its entirety. Scotland is not; Scotland is a civil law jurisdiction.

The Chairman: Indeed, you are quite right, absolutely. Thank you for correcting me.

Carwyn Jones: So I see no problem here. Ultimately, the fundamentals of the principles of law are the same. Natural justice has a particular meaning; fairness has a particular meaning. Process then becomes different, but I do not think anybody would say that, as between, for example, England and Scotland, there is a fundamental difference in outcome necessarily. It may be the principles are slightly different. It may be the process is very different and it is very different in Scotland, but the US, for example, has a common legal system in terms of common law, apart from Louisiana. It seems to work.

As far as Europe is concerned, the same thing applies. At the end of the day, of course, what we are looking at in the European context is commercial law, not human rights law. As you know, that is a matter for the European Convention and the European Court in Strasbourg. The approach to commercial law tends to be fairly common across the EU in terms of principles, in terms of contract, in terms of the approach to competition law, for example. I do not think any of these things are so different that there is no meeting between a common-law system and a civil law system.

Q20 The Chairman: That is very helpful. If my colleagues have no other questions, we will express our formal thanks in a minute, because you have been very businesslike and full, but also concise in your answers and that is very helpful to us. I just wondered if there is a single message you would like us to take back, either on the conduct of the negotiations or on the kinds of issue about conduct and also about vision for a reformed EU in which we are taking an interest.

Carwyn Jones: The one single message would be that the negotiations have to take into account the interests of the devolved Administrations and their people. It means that the UK cannot simply go ahead and agree to something and put something before the British people without understanding the effect it might have on devolved areas, on the powers of the devolved legislatures and government. For me, the elephant in the room is: can the UK survive a vote to leave the EU? I have seen the First Minister of Scotland say there would then need to be a second independence referendum and I think there is some force behind that, because the terms of membership have changed in that regard. What I would never want to see is a situation where the UK left the EU despite the views of people in Scotland and Wales and then people having to choose between the UK and the EU.

Lord Davies of Stamford: But you would not have a referendum here on membership of what remained of the United Kingdom because England had voted by a majority to leave the EU, would you?

Carwyn Jones: No. The Scots would; I have no doubt about that. My worry has always been not so much the issue regarding Wales, but if the Scots were to leave the UK—I have said this publicly—is what is left sustainable? I can see a campaign starting in some of the newspapers a few years after a Scottish referendum that says, “Why are we stuck with Wales and Northern Ireland? Why can England not be on its own?” All things that seem

unlikely become more likely with the sort of constitutional earthquake that occurs after Scotland leaves.

From our point of view, I would never want the people of Wales to be in a position of having to make the choice between the EU and the UK. If our economy started to tank as a result of us leaving the EU, then who knows where the debate might lead in the future? It is a debate certainly I would not want to see.

Baroness Falkner of Margravine: I have been looking at a lot of figures about the economic impact; every think tank and university is producing a new report these days. It seems that the jury is pretty much out. It is very narrow: you might lose 0.6% of GDP; you might gain 0.8%, a range that is very small, minus or plus 1%. It seems to me that the economic argument is that we cannot know the economic argument this far out. You talked about the economy of Wales beginning to tank, but what if it went the other way? Naturally there would then be, presumably, a different reaction.

Carwyn Jones: I cannot see how it could. I cannot see how the existing large employers that are already here would stay in the long term. Why is it attractive to them? If you are an investor and you are looking for a market to invest in, you are going to choose the largest market, as long as it is secure, as long as you know you can be sure that the legal system is secure and your interests are going to be protected. Why go to the UK with 60 million people rather than the EU with 440 million? That is the difficulty, and it is already an issue I am picking up from potential investors. They do not believe the UK will leave; I think it is fair to say that, but it is an issue for them: “Why would we come to you if you are not part of the much larger market?”. The argument that will be put by people who wish to leave is they will say, “Of course there will be a free trade agreement”. That is not guaranteed and that is another example of the kind of uncertainty that we are encountering.

Baroness Falkner of Margravine: Yes, I agree.

Lord Davies of Stamford: Surely the point is that you can argue all day about how many jobs would be threatened if we left the EU, but not a single job would be created. There is no reason why anybody would make any investment they would not otherwise make, whether they are foreign or British, simply because we have left the EU.

Carwyn Jones: There is. Let us take, for example, Ford Europe. Ford have three engine plants in Europe, in Cologne, Valencia and Bridgend, in my constituency. They all go through a system of internal competition in order to secure new contracts. If there was any barrier between the Bridgend plant in terms of it securing contracts, whether that was market access, for example, then Cologne and Valencia are immediately in a more privileged position. That is the difficulty and it all comes down to whether it is perceived that there is a fetter on market access. If it is felt that there is an extra barrier that is involved when it comes to investing in the UK, people will not come to the UK.

Lord Davies of Stamford: I quite agree with you, but the point is this: if there is a prospect of our leaving, and certainly if we left, we would lose, undoubtedly, a lot of investment. We can argue how much investment we would lose; we can argue how many jobs that would mean we would lose and we would come up with different figures and, as Baroness Falkner says, different think tanks will come up with different estimates. But, by virtue of our leaving, we would not create any jobs at all. This is the big discrepancy and that is the key point. You do not know what the downside is, but there is no upside.

Carwyn Jones: That is right.

Baroness Falkner of Margravine: What I was trying to flesh out was not speculation about how many jobs would go or not. What I was trying to flesh out was whether you believe—and I think you have answered that—that the arguments for choosing to remain in the European Union would be primarily economic, from a Welsh perspective.

Carwyn Jones: Yes. That is fair to say.

Q21 The Chairman: Having said that—and this will have to be our concluding question—do you think in the debate leading up to the referendum it will be important to introduce a degree of wider political perspective as well, as to the kind of society, the kind of ambience in which we want to live? Are we internationalist or not and is that appropriately defined by the European Union or does it go wider? We all came into politics for different reasons, but some of them are a bit more than simply the price of fish, if I can put it at the bluntest level.

Carwyn Jones: First of all, we are more connected to Europe than at any time in our history. The world has become a much smaller place and so has Europe as a result of it. Last year, at the anniversary of the start of the First World War, I was reflecting on how far away Flanders was from, for example, north-west Wales at that time. It was days' journey away. Now it is a question of a few hours. More people holiday in Europe. In terms of what we eat, we are much more European than was the case before. We are much more integrated in that sense, but what does worry me is that we end up with a debate that is based not on logic but on a blinkered form of nationalism: let us just hope the world goes away and let us stick our heads in the sand here, because we are an island, even though we are not, because we have a large land border with the Republic of Ireland, which people sometimes forget. That is the greatest danger: that the debate is framed around a feeling of some kind of nationalism rather than what is best for the UK, its people and its economy in the future.

The Chairman: First Minister, that is an appropriate note, if I may say, to end on. We would like to express the thanks of all the Committee for your time and for the reflectiveness and quality of your answers. We are very grateful. Diolch yn fawr.

Carwyn Jones: Thank you. Croeso.

Dr Hywel Ceri Jones and Dr Joanna Hunt —Oral Evidence (QQ 1-9)

Dr Hywel Ceri Jones and Dr Joanna Hunt —Oral Evidence (QQ 1-9)

[Transcript to be found under Dr Joanna Hunt.](#)

Jamie McGrigor MSP, Christina McKelvie MSP, and Anne McTaggart MSP—Oral Evidence (QQ 79-91)

Evidence Session No. 8

Heard in Public

Questions 79 - 91

Members present

Lord Boswell of Aynho (Chairman)

Lord Davies of Stamford

Lord Jay of Ewelme

Lord Trees

Lord Tugendhat

Lord Whitty

Baroness Wilcox

Examination of Witnesses

Christina McKelvie MSP, Jamie McGrigor MSP, and Anne McTaggart MSP

Q79 The Chairman: My Lords, parliamentarians, colleagues. It is coming up to midday. This is a formal evidence session of the Lords EU Select Committee. We are particularly privileged to be in Scotland, in pursuit of our quest for the vision of EU reform and a better understanding of the process and the bits of the process that do not work as well as other bits might, particularly in relation to devolved Administrations and Parliaments. We are looking to see both whether there is a common vision and where the nuts and bolts are.

We very much appreciate your time, if I may say so personally, Christina. Many thanks, because we have a very good working relationship on the consultative machinery we have on behalf of all the member Parliaments within the United Kingdom. That is five, and not two: the House of Lords, with its democratic obligation without its democratic mandate—we will leave that at that point—the House of Commons and the three devolved Parliaments or Assemblies. I have always found that very constructive—we had a very good meeting in Belfast recently—and long may that continue. I am delighted to see Anne McTaggart from the Scottish Labour party.

We are awaiting two others. I think the sensible thing is to start and they can join in. We can see how the questions unfold. It is designed for us to get the evidence but also to exchange views, where that is helpful. In that regard, I remind colleagues that, if they find they have an interest other than a generic or general one, they should declare it. Here we are, well done. Come and join us, Mr McGrigor. We are three out of four, now. These are literally my opening remarks.

We will be recording this and we will send you a transcript for any factual correction. As far as I am concerned, just to take this further, this will be our second report upcoming on the referendum process. I hugely value the opportunity for a continuing dialogue with parliamentarians here, not just on this occasion but in the future. I introduced Anne McTaggart from Scottish Labour, and now we have Jamie McGrigor from the Scottish

Conservatives, with one more to come. We will start, if you do not mind. I know it is a hugely busy day here.

Jamie McGrigor: Of course. My apologies if I was late.

The Chairman: No, you have done fine. If we might start, Christina, my understanding is that your Committee is currently conducting an inquiry into EU reform and the EU referendum implications for Scotland. Without pre-empting your final report—you will hear the magic words in that, because clearly you must not tell us what is in that—what are the key issues that have emerged from the evidence you have had so far?

Christina McKelvie: Thank you very much for allowing us to come along and give evidence to your Committee. The collegiate approach that we have developed over the years, being extended to the whole Committee, and your work and our work helps to inform us all. That helps to ensure that the information that goes back to the Government when they make their important decisions is as informed as it possibly can be.

From our point of view, we have just kicked off this inquiry, so we had a call for evidence asking that very question on the implications for Scotland. We have had some pretty detailed responses to that. There seems to be a bit of a debate starting to be generated in Scotland. The independence referendum debate has created an appetite in Scotland for continuous debate on what kind of country we are; where we want to go; what type of things have an influence on us; and where we can have influence in the world. In that context, the evidence we see coming in reflects that.

We publish everything that we bring to our Committee on our website as it comes in, so there is a whole host of information there already at your fingertips, should you wish to use that. It is from many varied sources, with some very detailed analysis of specific aspects of Scotland in Europe and areas around that, including the franchise and who gets the vote. It is a very hot topic in Scotland right now. We are looking at all those aspects. We have had a roundtable with civic Scotland and the trade unions and had their perspectives on that a few weeks ago. Tomorrow we meet with the academics and the lawyers. We have had some very detailed evidence from many of them, including a detailed report from Aidan O'Neill QC on the franchise, which is very interesting reading indeed.

For us, the main theme that emerges is the impact on Scotland. Our farmers and our fishermen have very clear concerns about the impact on those two industries and were very open about that at the roundtable. We have some issues from the trade unions on the rights of workers, the free movement of workers and the impact that that would have, and from some of the others.

The Chairman: One you have not mentioned—farming and fisheries we would be familiar with—is the energy sector, which is of interest to our Committee, but presumably it must be a very important part of the discussion here.

Christina McKelvie: Absolutely. Europe is going down the road of looking at more renewable energy produced, whereas in Scotland we are attempting to develop a very clear renewable energy policy that seems to have barriers put in the way. But that is maybe a discussion for another day.

The Chairman: I think it had better be.

Christina McKelvie: But you are right: security of all things, whether energy security, food security, financial security or personal security, seems to be the thing that people think would be at risk should we find ourselves outside of Europe. You will know that there is a very robust debate about Scotland's place in Europe, should we become an independent

country. No doubt, if you get in a taxi, the taxi driver will tell you about Article 40, Article 49 or the Greenland option of Article 50. You have people in Scotland who know this stuff and are quite happy to give you their opinion on it. The debate is generating a bit and we think that our inquiry will help inform that debate.

The Chairman: The very good opinion that has gone to your Committee, published on 8 December—we have seen it because it is in the public domain, and it is coincident with the advice that we have received—is very helpful and detailed in clarifying some of these issues. Thank you for that introduction. Now we will go round my colleagues. We can make this fairly free-flowing among your parties as well.

Q80 Lord Jay of Ewelme: You will have seen the Prime Minister's letter to President Tusk. First, I wondered whether, in the light of that, you felt you had a reasonably clear understanding of what the British Government's objectives are in the reform process and the negotiations that are now under way. Secondly, in so far as you are clear about those objectives, how far do you think those might be achievable?

Christina McKelvie: I have been following Mr Cameron's tour of Europe and some of the reaction that is coming from that with interest. With regard to the letter, I do not think the letter is very clear at all. I do not think it sets out exactly what would be required or what is expected. I do not think it will satisfy some of the people on the Prime Minister's own Benches, and maybe in some of the other parties, who have a very clear idea of whether they want to be within or without Europe. The letter is still pretty vague, but, given the tour, some of the comments from the tour and the interaction with other member states, you see more detail coming from that. Looking from the outside, it is about benefits and free movement of workers. It comes down to those two things: whether we pay people direct benefits and whether we have free movement of workers. My worry is that that turns into a debate about immigration and migration, and not about the merits or the demerits of Europe. Keeping that on track is a very clear concern for me.

Lord Jay of Ewelme: Leading on from that, you were talking earlier on about the degree of interest and understanding among the Scottish population of these negotiations. How far do you feel that there is an understanding on their part of what the Prime Minister is trying to achieve? Also, is there a sense that, in some way or another, this is a London-conceived and London-driven negotiation and is not paying enough attention to what your concerns might be?

Christina McKelvie: I am very concerned that you are only getting my part of this argument here.

The Chairman: Jamie, why do you not deal with that one?

Christina McKelvie: Then I can come back to you.

Jamie McGrigor: I come from the point of view that it is a very good idea for the Prime Minister to try to get a better deal for the UK, of which Scotland is obviously a part—a very important part. Of the four main points, the most problematic one is probably going to be welfare. Apart from that, on things like competition in Europe, he is absolutely right to be striving for that. Most people in Scotland would agree that, at the moment, Europe seems to be lying under a stagnant cloud, without much growth. We all have to see growth. We have to see something happening. With Scotland having been full of entrepreneurs in the past and having a record of entrepreneurial activity, I think most Scots would be very pro that. There is not a great deal of difference between what people think in Birmingham and what people

think in Glasgow. There is perhaps some truth in the idea that, as I often think, London is a separate country from all those places.

Lord Trees: So do we.

Jamie McGrigor: I am not saying it is not good, because it develops a lot of visible income, but the point is that I feel what Scottish people think is not greatly different from what people in England would think. Christina would probably disagree with me on that, but, if you get into a taxi, it does not necessarily mean the person is an SNP supporter. They could well be a unionist.

Lord Tugendhat: Surely it is not valid to draw a distinction between Scotland and England. Scotland is so much smaller, and England is so much more diverse. You have a range of different views in different parts of England, some of which would be some distance away from the way people here might feel, but others of which would be, if not close, then identical. The ways in which people in the north-west think and people in the south-west think are probably wider apart than the ways in which people in the north-west think and people in Scotland think. To say “England” and “Scotland”, if I may say so, is not a valid distinction.

Jamie McGrigor: That is true. It is a good point, well made. From my own point of view, I represent the Highlands and Islands region, which is over half the landmass of Scotland. One of the main things that people there worry about will be their agricultural subsidies, because everybody, or an awful lot of people, is in some way linked to those. There is a feeling: “If we left Europe, what would happen to our subsidy?” That is a question I am getting all the time.

Lord Tugendhat: Sure.

Jamie McGrigor: For fisheries, it is not so much so, because there are not so many; it is not as dependent on subsidies as the agricultural industry is. But it is true that the fishery people are asking the same questions. I do not feel I have answered your question at all.

Baroness Wilcox: Your Scottish fishermen have done rather well today.

Jamie McGrigor: They have done very well on quota, on haddock in particular. That is a good sign that at least all the sacrifices they have put up with in the past, in the fleet, seem to have been borne out, in the fact that we have now got better stocks in the North Sea

Lord Tugendhat: I have a sister-in-law who is a constituent of yours, and certainly her views on subsidies are very well reflected by what you have said.

The Chairman: At this point—I was not going cut you off, because what you said is helpful to us—I ought perhaps formally to declare that I am in receipt of subsidies from the European Union for farming. I will do that, just to make it clear to people, although I do not think it is that kind of discussion.

Jamie McGrigor: I have to declare exactly the same thing.

Baroness Wilcox: I am from the fishing industry.

Q81 The Chairman: Anne, I wonder if you could come in on this. You represent Glasgow constituency, with a strong trade union influence and interest. Because we have picked up to some extent an interest in issues of fairness at work and so forth, I wonder how much you see that and how much you feel that is mirrored by industrial opinion in other parts of the UK. Is it a different discussion in Birmingham from the one here? Are

people seen as being more collectivist or are they more worried about losing collective values here, or not?

Anne McTaggart: I do not think there is much difference. There is a huge concern coming from the union movement just now about collectivism and what some of this might mean to workers in particular, whether it be in Glasgow or in Birmingham. It is hugely important that, whether we are for David Cameron's letter or not, we have to be behind trying to get the best deal we can within the European movement. He has asked some questions. We will work around that. We are trying to debunk some of the information that has been out and some of the information that was requested. This is a huge job for us as political elected members. What does this mean to the person on the street? What does it mean to the worker? What does it mean to the people of Scotland? How will it affect them? It is a huge task for us to go and find that out.

The Chairman: Christina rather implied this earlier, but do you also feel that the argument is better developed here? Maybe—and I am speculating—this is on the back of the independence referendum campaign that you have had. Are the political antennae tuned in, in this case to Europe, in a way that they are not elsewhere? To be honest, we did not find this had really ignited in Belfast, when we were there recently, or in London. Do you feel that you are ahead of the game in this?

Anne McTaggart: Very much so. The referendum most certainly ignited people's passion to be involved in politics, for whatever reason. People are still involved and maintain their interest in what would be best for Scotland, how that would look and, whether as part of the EU or not, how Scotland best fits with that.

Q82 Lord Tugendhat: I was going to ask how you characterise the attitudes towards the question of UK membership in your respective parties, in the Scottish Parliament and in Scotland as a whole, whether there is a distinctive debate in Scottish society compared with the rest of the UK and in what spheres Scotland either benefits or suffers. I think you have answered part of it, but, in terms of the spheres in which Scotland either benefits or suffers, we have not dealt with that aspect.

Jamie McGrigor: We are all suffering at the moment in that, as I mentioned earlier, any form of subsidy coming from the EU is paid in euros, and, because the euro is so low against the pound, people are suffering from that point of view. That is one measure, but presumably that happens throughout the UK. It is not just a Scottish thing.

Lord Tugendhat: It is an interesting point.

The Chairman: It would be fair to say that comes top in agricultural industries I am not involved with, such as the dairy industry, for example.

Jamie McGrigor: Exactly.

Christina McKelvie: That was raised by the two sectors at Committee a few weeks ago. To be fair to the farmers and the fishermen—it was the NFU and the Scottish Fishermen's Federation that were represented—they said that pre-crash it was paid in euros anyway. It makes no difference whether it is paid in euros or groats; they have always got the same amount of money. Because of the crash, there was a bit of pressure on that, but it did not matter to them because it has always been paid in euros.

Jamie McGrigor: It has always been paid in euros, but the value of the euro matters enormously. That is the point.

Q83 The Chairman: Can we have an industrial take on this too? Across the UK, there have been real difficulties with the steel industry recently. I am not sure how specific they are in Scotland, partly because you have restructured in the past. Using that as an example, but not the only case, are you feeling sensitivity to that and does it affect how people feel about Europe? Do they blame it, because they are in a single market, or do they see it as being part of a solution to the impact problems of that industrial change?

Christina McKelvie: There are three aspects to that. On steel, it depends on what quality of steel you are talking about, because we have not had a steel industry that makes steel girders or things for building stuff since Ravenscraig. We have not had that for many years. We have a few small steel mills that do rolling plate, which you do not use in buildings unless it is to put a fancy front on your building. It is not used to actually build things.

The Chairman: Structural steel works.

Christina McKelvie: We have already shifted away from the steel industry. That was pre any of the tensions around Europe. But we are in a situation now where two of our remaining steel plate mills are under threat and there is a Scottish government task force on that. There has been a bit of a kick-back from the trade union movement, saying that if we did not have certain EU rules on this we could save this industry via state aid. Some of that came back, because apparently we can, but it has to be the member state that does it, and the UK Government have said they will not do it. They will not save Redcar; they will not save Motherwell or Cambuslang. It has not been the member state, but having a Government with a task force to try to save the steel industry. The option is not available to them under EU rules, so that complicates things.

The Chairman: Presumably that is because it is felt to be inconsistent with other aspects of UK policy.

Christina McKelvie: Yes.

The Chairman: Anne, do you want to comment on that? It is not necessarily only on steel; it can be other impact effects: globalisation or a very prolonged recession.

Anne McTaggart: It is convenient for people. If there is an industry going down and jobs are being lost, people pile on to: “Who can we blame?” Sometimes it is an easier task to blame what is behind the EU regulations. Again, it is about trying to debunk that information and finding solutions. We all want to see employment. We do not want to see the shutting down of the steel industry. We want to see the industries thriving; we want to see jobs growing. Our job is to try to make the best of that situation and, if that means tapping in to our EU colleagues, so be it.

Christina McKelvie: There is a debate on two other topics concerning the relationship with Europe and whether that is a good-quality and productive relationship. There is a huge debate in Scotland on TTIP and the impact of the trade agreement on our public services, farming standards and chemical standards in Scotland—all of those things. We have done a pretty major piece of work on TTIP. You have a debate in Scotland on TTIP: “Do we want to be in a Europe that uses an investor-state dispute mechanism that is secret and is not democratic?”

The other thing is the refugee crisis. Many people I know, across all sectors in Scotland, who I would have deemed as being pro-Europe, were very critical of the lack of action from the EU when it came to the refugee crisis over the summer. They said, “Do we want to be part of a European Union that allows people to drown in the Mediterranean?” It was as brutal as that; Scots people are usually pretty straight anyway. There was probably a lessening of the

positive relationship between Scotland and Europe, on the back of some of these decisions that had been taken, which we felt had an impact on our ability to do things about it.

The Chairman: Perhaps we ought to move on from this in a minute. Let me ask you a straightforward question on this. I am assuming there is a fairly general tenor of support for continuing membership across Scotland and, I suspect, among those present today. Would you be worried if a referendum were conducted in circumstances where there were fairly high-profile migrations taking place in the Aegean next summer? Do you think people would look at the television and say, “Well, perhaps Europe is not for us because they are not doing the job. It is failing”?

Christina McKelvie: It would depend on the reaction. We are talking about a coastguard that is not about search and rescue and not about supporting people who get into difficulty, but more about stopping people. It is more about barriers than support. That would be the dividing line. People would want to see Europe reacting in a humanitarian manner, where all member states take on the responsibility. They would not want to see more dead children on a beach or people standing at fences in Hungary, Turkey or parts of Greece and Italy.

The Chairman: One of our specialist Committees has looked at the whole issue of safe routes for migration.

Jamie McGrigor: On that point you are making, Christina, the reaction I got was that people were rather astonished that there was not a more co-ordinated approach from Europe to deal with the disaster. Somehow one would have thought that this massive institution, with its Parliament and everything else, would represent a body that would be able to cope with an emergency. It did not appear to be. It seemed to be chaos. No, “chaos” is too strong, but it was people from different member states trying to help in different ways, whereas a co-ordinated approach really was not there. If you looked at Lesbos and people wading ashore from rubber boats, nobody was really helping out. Greece could not cope. Where was the internal European body that was going to deal with this, of which we were all members? We imagined somehow that there would be somebody who would deal with it, but there just did not appear to be.

Lord Davies of Stamford: It has never been popular to suggest new increases in jurisdiction for the European Union, before an emergency has made those increases absolutely necessary. Now we have an EU that is putting together co-ordinated policies in quite a determined way in the last few days, I think, on migration and the strengthening of the common external frontier.

Christina McKelvie: Juncker has done a great job here.

The Chairman: He has.

Lord Davies of Stamford: What you were saying, Christina, was quite interesting. There might be a difference between England and Scotland here. Nobody, of course, likes to see pictures of dead babies on a beach or think about that sort of thing, and there was undoubtedly an enormous degree of emotion throughout the EU when those pictures became available. Angela Merkel accepted 800,000 Syrian immigrants into Germany, which is pretty remarkable. But, once that had passed, my strong feeling is that in England people’s concern is with illegal immigrants, coming not just from Syria but from elsewhere—from north Africa, from Eritrea, from central Africa and so forth—and the lack of fences against them and the common external frontier, so they all end up, in some people’s perception, at Sangatte or being smuggled across the Channel. That is a different worry from the one you are talking about, that we are not being sufficiently humane or letting enough in.

Christina McKelvie: The thing about this debate is that all these things get conflated, whether it is migration, immigration, from the EU, from outwith the EU, or whether it is the refugee crisis. They all become conflated and then end up on the front of red-tops. That influences people's thinking, rather than separating them out for the human things that they are, which is something that we tend to try to do very often in Scotland.

Q84 Lord Tugendhat: You mentioned, very interestingly, the two issues on which you thought there was a distinct Scottish debate. Let me ask if you would focus on a third, which is that it is quite obvious to anybody who follows EU affairs that bigger countries have bigger sway than smaller countries. You only have to compare the way in which France gets away with breaking the eurozone rules on the one hand with what, to take an extreme example, happened to Greece on the other. What happened in Greece made something of an impact on opinion, particularly in left-wing circles in the summer. I wondered whether the difference between being a member of the EU as part of a larger country and being a member of the EU as a small country was something that had impacted on the Scottish debate.

Christina McKelvie: I think so. Going back to the Greek crisis, before the refugee crisis, there was a bit of debate in Scotland: "Is that how we should treat a sister country that is having difficulty?"

Lord Tugendhat: And a small one.

Christina McKelvie: "We should be there to support". The debate around that was about whether imposing administrators as a head of state on a country was circumventing democracy. That was a real concern for many sectors. In Portugal and Italy, in Spain and Greece, there was a push to have unelected administrators running the countries rather than the actual democratic will of the people, which I think was reflected in the elections. Tsipras being elected in Greece was a real kick-back from that as well. I certainly had debates with people in Scotland who were saying, "I do not know if I want to be part of a European Union that thinks that is okay, when it should be about support and not about imposition". That debate was very real and alive, yes.

The Chairman: We turn to what you might call the negotiations issues and the parliamentary aspect of this.

Q85 Lord Whitty: We would like to get a feel from you as to whether you think, in this run-up to renegotiation and the eventual referendum, the UK Government has taken the views of the Scottish Parliament—we obviously asked a similar question to the Minister just now—and Scottish interests generally. Do you think you have been kept fully informed? Have you had any influence on the way the Government are tackling negotiations in Brussels?

Christina McKelvie: We issued an invitation to David Lidington to come and give evidence to our Committee, as part of our inquiry, on the UK's position on this and the impact it would have on Scotland. He declined that invitation on three or four different occasions, citing that he speaks to the Scottish Government, so we should get our information from there. We pointed out that it is a cross-party Committee of Parliament, and Parliament and government are two separate institutions, but he still did not come along.

Some of the work is to write to Ministers and write to interested parties and groups to get that information. We have sent letters off to Fiona Hyslop, the Cabinet Secretary, who you met earlier, and letters with similar themes and questions to the UK Government, in order for us to gather that information. When a UK Government Minister says, "No, I am not

coming to your Committee”, that is an impediment immediately. We found ways around that, because we are a bit canny about getting information from other places and in different ways. But having that type of respectful relationship across a table, like this, with each other would be a better way to do it.

The Joint Ministerial Committee meetings, the European ones, are an improvement. I do not know what the Cabinet Secretary said to you earlier, but there seems to be a bit of an improvement in that, because we get notes from those meetings sent to the Committee formally. They do not have all the details, because obviously some things are discussed in Committee between two Governments that are private, but we get a general note, which seems to be getting more detailed as it goes along. I am an optimist. I hold out hope that there will be an understanding that it is very important to consult all constituent parts of the UK when it comes to making a decision that affects all constituent parts of the UK. I would hope they would do that.

The Chairman: It is at least worth asking the question of UK Ministers: if they are in favour of an enhanced role for national Parliaments, who is going to be allowed to join the party? I note your mirth, but it is a good debating point, if I might respectfully suggest it to you.

Christina McKelvie: Absolutely, and it is one we will pursue.

Q86 Baroness Wilcox: If Scotland voted to remain in the European Union and the overall result was a vote to leave, would a second referendum, or independence, inevitably follow? You have already been speaking about this, so we know it is in the back of your minds, but I would be interested to know if this was an immediate reaction from your people.

Christina McKelvie: I suppose it would be that reaction from the people that would matter. My party’s policy and the Government’s policy is that the people of Scotland will decide whether there will be any other referendums; whether anybody puts it in the manifesto or not is neither here nor there. If the people of Scotland do not want it, then we have a problem, from that point of view. If they want it, then we have a different set of problems in how we facilitate that. An in-or-out referendum has been talked about by many people as a trigger, as a material change almost, in the constitutional set-up. Would that be strong enough? I think it would depend on the volume of vote from Scotland and how strongly people feel about it when they go to cast that vote. If they cast the vote absolutely definitely to remain in, and by dint of size of population we found ourselves in negotiations to go out, my personal reaction would be, “Excuse me, EU, but we want to stay”. An Article 51 might facilitate that.

Lord Tugendhat: “Return” would be a more accurate way of putting it.

Christina McKelvie: I want to think the EU is practical about these things, so we will find some practical arrangement.

The Chairman: I would be really interested in the take of the other parties on this. Anne, do you see it the same way or do you think it is more obscure or uncertain on that?

Anne McTaggart: We have just had a referendum and the vote was clear. The majority of the people wanted to stay within the UK, and if you want to be within the UK you have to play by those rules. That is where Christina and I differ. No, I do not want us to leave the EU. I would not want for that to happen. If it does happen—Christina is right—the people of Scotland will decide whether there is going to be another referendum. No, I do not want to see another referendum—not in my lifetime. However, if that happens, the people will decide. It will ultimately not be any political party.

Jamie McGrigor: The SNP Government called for a double lock and they put forward an amendment in the House of Commons, which was defeated. I go along with what Anne says on that: as far as I am concerned, we are members of the UK. The double lock they were calling for insisted that every single member state of the UK had to vote that way before we could go out, including Wales and Northern Ireland. You would have to look at that if Northern Ireland happened to say, “No, we would rather stay in”. What about the other way around, if one lot decided they wanted to go out? If we are a UK, then we are a UK, and that is it. We have to stick by the same rules.

Q87 Lord Trees: This is particularly to Christina. I am quite intrigued by our interest in the possible paradox between the Scottish populace’s reaction to a union with Wales, Northern Ireland and England, and the Scottish populace’s opinion about a union with another 27 countries. Do you think there is rather a paradox there or how would you explain that?

Christina McKelvie: Independence in Europe?

Lord Trees: A substantial minority of people in Scotland did not want to remain in a small union of four nations, but opinion polls show that a majority of Scots would like to be in the EU as one of 28 member states.

Christina McKelvie: I think it comes down to autonomy. You have a situation where we had a very successful round of fishing talks led by Richard Lochhead, who has been the Minister for fishing, farming and all things environment for eight and a half years now. He has that experience. I have to say that, when it comes to EU talks in that respect, in most cases Richard leads those, because he has the most experience. That is not the same for other portfolios across government, where our government Ministers will be left sitting outside the room, never mind even a place at the table, which can be difficult. Saying that, in justice, Ken Clarke was very good at working with Roseanna Cunningham and taking forward a joint position. From a European point of view, you have a Scottish Government unable to take decisions that are best for Scotland and, in some cases, a UK Government taking decisions in Europe that are detrimental to Scotland. Fishing is one of them in a historical context. We were looking for the independence of a member state in order to take forward some of the ideas that we felt were our priorities for Scotland, and which could be better addressed by an independent Government going to Europe as a member state and not as part of the UK.

The Chairman: Just to be clear about what you have said, within the United Kingdom as at present, it is almost a contingent or haphazard matter whether or not a particular Minister is sensitive to these pressures and involves Ministers from Scotland as against doing their own thing and telling you. You are nodding to that, Anne. Is that your view?

Anne McTaggart: Yes.

The Chairman: They vary. To take a simple question, you mentioned the previous Justice Secretary but two, or Lord Chancellor, but there is a different legal system in Scotland, which, by itself, creates quite a clear interest. That will depend on who happens to be the Lord Chancellor of the day.

Christina McKelvie: It comes down to personalities, which can be very difficult if you are pushing forward with an idea for Scotland.

Jamie McGrigor: On that particular point you mentioned about Richard Lochhead and the fisheries, the Scottish Fishermen’s Federation chairman, Bertie Armstrong, said that it does not matter who is in the chair; what matters is what is said from it. If Richard has the most

experience, then perhaps he should. What we want is the UK's point of view put forward as strongly as possible, and I do not think there should be any pettiness about that.

Q88 Lord Jay of Ewelme: Going back for a moment again to the specific issues of the Prime Minister's renegotiation, he has identified immigration—he calls it immigration rather than migration—as one of the four key challenges as part of his renegotiation, with the specific objective of enabling the UK to control migration from the European Union. My question is: how far is that concern shared in Scotland and is there a feeling that too much of a control could hinder economic growth if you cannot get the people you need to do the certain jobs that need to be done? How is that seen?

Christina McKelvie: It already does, in some respects. We have been pushing the UK Government for a long time now to reintroduce the aspect of post-study work visas, because we have some very talented people who come from Europe and the wider world to study here. They come to do their PhDs and to take part in research projects. Given that one of our major growth areas is life sciences and research and development, which is where the quality jobs are being created right now, to lose some of those brains and some of those individuals because of where they were born is a real impediment and it has a huge impact on the Scottish economy. I think using the word “immigration” in the letter is extremely unhelpful, because it should be about the right of free movement of workers. That is what it should be about. I heard George Osborne in an answer to a question last week saying that he believes in the free movement of workers, so it throws that immigration statement in the Prime Minister's letter into sharp relief. There seems to be a bit of a back-track going on here, because they use the word “immigration” and think it would be a catchall when it is not. This is about the free movement of workers. Essentially, from our point of view, it is not about the free movement of workers but about having to pay benefits to workers, should they come here to work and become ill or unable to work for whatever reason, such as if they lose their job or they are in a redundancy situation. It seems to be more about paying for people. We have about 170,000 EU workers in and around this area. In some cases, some of our industries would not function without them.

Lord Jay of Ewelme: Are these EU citizens working here or Scottish citizens of EU origin?

Christina McKelvie: We have lots of EU citizens who have made Scotland their home. They came to study and they have a job here. They have got engaged in industry, especially in some of the farming and fishing industries. They have set up businesses and created jobs. In fact, one of our parliamentarians, Christian Allard, is French and has been here for 30 years. He will not have the right to vote in an EU referendum, which is ludicrous.

Lord Jay of Ewelme: Is this a view across the political spectrum here, do you think?

Jamie McGrigor: Yes, to some extent. We have a very strong Polish sector now. In Inverness, there are Polish shops. They are part of the community and are greatly welcomed in Scotland. We have plenty of room in Scotland. We are not so congested perhaps as other parts of the UK.

Christina McKelvie: We have different needs.

The Chairman: And there is no backlash.

Jamie McGrigor: There is always a backlash.

The Chairman: Yes, but not of a scale that would give rise to concern.

Jamie McGrigor: No. You will see newspaper headlines about people taking other people's jobs and that sort of thing, but, on the whole, I do not believe some of the tourism industry would function if it was not for quite a lot of European nationals helping to run it.

Christina McKelvie: This hotel has a great range of people.

The Chairman: That would be your take as well, would it, Anne? Basically, migration is seen as positive and should not be discriminated against.

Anne McTaggart: Absolutely. Again, the red-tops get hold of myths and just peddle nonsense. It is important that we get out that our tourist and farming industries could not survive without that.

Lord Jay of Ewelme: You say the red-tops get at it, but, if we were asking a cross-section of public opinion, would they be saying the same thing as you are saying, or are there pockets of places that are concerned about it, in the same way as they are in some parts south of the border?

Jamie McGrigor: You have a point there. There are pockets of places where the situation is quite acute, where people feel they have lost their job and cannot get a job because somebody from Poland or some other country—it does not matter; I am just using Poland—is going to take it.

The Chairman: Closing this point, it would be fair to say that my impression of how I hear it is that this is less seen as a problem in Scotland than it is in the United Kingdom as a whole.

Christina McKelvie: I think it is because we have particular needs in some of our industries. If you take the recent refugee crisis, the first tranche of people through the Syrian Vulnerable Persons Relocation Scheme have come to Scotland: 600 people in the past month or so. In terms of the work that we have done in preparing for that, when I was in the trade union movement, I worked in social work in Glasgow, and we took a group of refugees into Glasgow. At the time, we did not prepare the local communities for it. We put people into tower blocks, which were poor housing accommodation not just for refugees but for everybody, and it had a really detrimental impact on communities. In setting up the task force for this resettlement, we have looked at areas across Scotland with declining populations or areas that need workers and where we can work with the communities. We saw the scenes of people arriving in the Isle of Bute last week, where the community turned out to greet them with all their kids.

In fact, Parliament did a Parliament Day with young people, asking them how they would support refugees coming into their community. The ideas that some of the children came up with were much better than anything that we had, including a buddy system for the children of Syrian refugees, not just at school but after school and at the weekends, as well as how to make sure that English as a second language is naturally learned in the communities. If you look at how we handled that, you will see a different attitude in the communities. I am not saying we are perfect by any stretch of the imagination. We have some of those factors in there, which are usually bred by fear of people coming and taking jobs.

The Chairman: What we hear is very positive, so we note that with pleasure.

Christina McKelvie: A lot of very good work has gone into that across the parties as well.

The Chairman: I understand that.

Q89 Lord Trees: It has been perceived in some quarters that there is a democratic deficit within the EU and the Government have talked about the need for a new arrangement, where national Parliaments, perhaps acting together, can stop unwanted legislative proposals and so on. How would you like to see democratic accountability enhanced in the EU and what role do you see for the Scottish Parliament in that?

Christina McKelvie: There are two aspects to that. Some people believe there is a fundamental unfairness in that every single member state needs to agree to every single thing before a decision is made, and democracy would be the most-votes-won routine. Both of these are double-edged swords, because you would need to have a collective responsibility to any decision that was taken; therefore, every member state should agree. But, on the aspect of other things that member states put forward, should those be advanced because the majority of member states support them, or should they not be advanced because one or two do not agree with them? You have some of that. Democratic deficit for us is whether the votes of the people of Scotland actually count when it comes to aspects of European discussions, Council meetings and heads of state meetings, and whether we have an influence in that. As part of the work that I do, I am convenor of the Committee, I sit on the governance committee of the Council of Europe and I am on the Congress of Local and Regional Authorities. When I see some of the regions of Europe—which is how Scotland is defined—that have much more power, more say and therefore much more influence on what goes forward as the collective position of that country, that is where I see the democratic deficit. I do not understand David Cameron’s argument on democratic deficit. I do not think he has explained it enough for people to understand what he means by that. Hopefully, that is something that will come up and be more defined in the debate.

Lord Trees: Since the last election, has the position, in your opinion, not got better, given the strong representation from Scotland in Parliament, with a particular focus, although it is the same number of MPs, and the potential to influence things in Westminster and the UK Government’s point of view in Europe? Is it not better now in terms of democratic legitimacy?

Christina McKelvie: There are a lot of voices saying the same thing very loudly. If you look at the process of the Scotland Bill, for instance, or the EU Referendum Bill, on amendments put forward by 56, and in some cases 57 or 58, of the 59 MPs who come from Scotland, we are just voted down. That is where that tension arises: you have the whole of Scotland almost saying the same thing, but it is voted down. A very clear indication of that is how we believe in votes at 16. That is the position of every party in the Scottish Parliament, that we believe that people should have the vote at 16. We legislated for and created that in Scotland; we think the same should be said for the EU referendum and for EU citizens. There is a very distinct difference there.

Jamie McGrigor: There are two points I would like to make. One is that Scotland is only one region, first of all. Scotland is just one region. We have six MEPs and not many people vote for them. I do not think there is enough of a link between MEPs and their constituents, for one thing. How you deal with that, I do not know, but that is one thing that is definitely true. The other thing is that, going back to my region of the Highlands and Islands, it benefited enormously, originally, from the EU because we had all these Objective 1 structural developments to build causeways and bridges. That was great in those days, but now that money goes elsewhere, so there is a feeling: “Who decided it was going elsewhere? Why could we not stay like we were and get the same benefits we were getting? We are no longer getting the benefits that we got before.” That is a point. Who made the democratic choice to move the funds elsewhere?

Christina McKelvie: I think we should have 14 MEPs anyway.

Lord Tugendhat: Ms McKelvie, you said you did not think that Scotland had the same degree of clout with the British Government that some other regions have with national Governments elsewhere. Could you tell me which other regions, subdivisions or whatever you want to call them, in Germany or Spain or wherever it might be, have greater clout than you do?

Christina McKelvie: The Länder in Germany have control over foreign affairs and have a very distinct EU voice. That is where we have taken some evidence from. Which region was it?

Jamie McGrigor: Was it Bavaria?

Christina McKelvie: From Bavaria, yes.

Jamie McGrigor: Bavaria is particularly strong.

Christina McKelvie: Bavaria is a very strong example of that. Some areas like the Basque Country and Catalonia are now developing their own foreign policy in that respect. Outwith the EU, when you look at the power that Quebec has in relation to foreign affairs, they have their own political influence there and a decision-making body to do that. We have looked at some of these aspects. We are looking at alternatives to the European Union and other aspects of that after the new year, so we may be in a clearer position to have gauged opinion on that.

Q90 Lord Whitty: One of the other baskets of the Prime Minister's negotiating package is competitiveness, and he wants to wrap all sorts of things up into competitiveness. I got the impression from the Cabinet Secretary this morning that, while competitiveness is very much also on the agenda of the Scottish Government, they are worried that some of this is a cover for forms of deregulation and the removal of social protection, particularly in the employment area, which they would not support. Is that a correct interpretation and does that reflect the view across the Parliament?

Christina McKelvie: I am not sure. I will let Jamie in, because Jamie has been ploughing that wee furrow for a long time, on competitiveness and the single market. The Scottish Government's position is not the position of the Committee. We have not come to a position on any of these aspects and, in the course of this evidence-taking, we may not. We may just have an open recommendation on that. You know the Scottish Government's position on it. That is the Government of which I am a Back-Bencher, so I would have similar views, but I think Jamie has a very distinct view on this, and no doubt Anne will have a different view as well.

Jamie McGrigor: I am just concerned that our exports are mostly whisky, beef, salmon and cheese—£460 million-worth of cheese. An awful lot of this goes to Europe and, were we not members of the single market, it would be very difficult for Scotland to suddenly find herself outside that huge market. That is what my concern is, basically.

Christina McKelvie: Twenty-eight different regulatory frameworks would be a nightmare. We have very small businesses on which Europe has a big influence. Some of our small salmon fishermen earn big money but have small operations.

Jamie McGrigor: Salmon farmers, not salmon fishermen. They have benefited enormously from this. Mind you, a lot of it goes to China as well. We are opening up other markets all the time. I think the initial convergence would be quite difficult. The shock to the system might be pretty severe, I would have thought.

Lord Whitty: In terms of what, broadly speaking, the Parliament and your Committee would hope came out of the competitiveness negotiations, what one thing do you think would help Scottish industry?

Jamie McGrigor: Are you asking the convenor?

Lord Whitty: I am asking all of you.

Christina McKelvie: Yes, on you go.

Jamie McGrigor: From what I can see, most of Scottish industry would prefer that we stayed in, if that is the question that you are asking.

The Chairman: You are all nodding to that.

Lord Whitty: Do you think there is something the Prime Minister could achieve in the negotiations?

Jamie McGrigor: I would like him to achieve a little more spark in European economics, personally. Nobody has mentioned red tape, bureaucracy and all that stuff we used to talk about as a problem with Europe, but it all comes under the same heading. We want to cut down on cost and move up a gear, and that is what we would like to see the Prime Minister achieve for the UK.

The Chairman: That is quite helpful, not least because there are some moves, of course. We scrutinise the work programme and the Timmermans-led REFIT programme. I think there are some fellow feelings across Europe on that matter. It is just a matter of getting them all in line.

Q91 Lord Jay of Ewelme: This is the last of the four baskets, I suppose. The Prime Minister is, I personally think absolutely rightly, as is George Osborne, particularly keen that there should not be, in the European Union in the future, a discrimination between those countries that are members of the euro and those countries that are not. Britain looks like being in the second category for the foreseeable future, as, indeed, do one or two others, such as Sweden. He is seeking to secure legally binding principles that safeguard the operation of the Union for all 28 member states and a safeguard mechanism to ensure these principles are respected and enforced. Is that something that, on the whole, would get general agreement, or is that something you think is difficult or problematic in any way?

Christina McKelvie: It is an aspect that needs to be explored in a bit more detail. Not to harp back to the independence referendum, but one of the things that those of us on the yes side were told consistently was that we would be out of Europe but made to use the euro. There were two conflicting arguments going on: as an independent country, we would be chucked out of Europe and need to renegotiate our way back in; in the meantime, we would be forced to use the euro. That was an aberration of what the treaties say. We know that. It was politics, and we understand and respect that. I know Denmark has a very clear monetary policy when it comes to being in the euro or not; it remained outwith the euro but pegged to the euro. Interestingly, it did not go into crisis when the euro did, so there are lessons to be learned there. There may be a way of looking at how they do it, what mechanism they use and how we can then incorporate that. There has to be an element of choice within the European Union as well. It is probably an area where I agree with the Prime Minister that there has to be a bit more work done on this. What countries feel about their economic climate, whether it is ERM1 or ERM2 or whatever—I lived through all of that at that time—and the impact that would have on the local economy of whatever member state it is, is a discussion that needs to be had.

Jamie McGrigor: Personally, I think the euro is the problem. I do not see why countries should be forced to abandon their currencies if they wish to join the EU. However, that is a personal view. I would agree generally with what has been said. Political and monetary union are two separate things, and it is worth looking at what the United States did. It took them a very long time.

Christina McKelvie: And Ireland.

The Chairman: That is perhaps for another occasion.

Lord Davies of Stamford: As everybody knows, there is in the preamble to the treaty, and has been since the beginning in 1957, a phrase about ever closer union of the peoples of Europe. We have had expert advice on our Committee that that represents an aspiration, that it does not establish any particular obligations on member states or take a view about any political structure or solution and that it is unexceptional, but other people take great exception to it. The Prime Minister has said that, “The British people do not believe in it”. It is one of his four objectives to get that changed. What is the view in Scotland about the importance and interpretation of that phrase and whether it is right to make an issue of it in the way the Prime Minister is doing?

Christina McKelvie: You touched on the problem there: it is the interpretation of the phrase that is the problem. People interpret that phrase differently. For me, ever closer union of the peoples of Europe is working together on many aspects of things that have an impact on us all. It does not mean politics and it does not bind us to anything, the refugee crisis being a perfect example of that. The euro crisis is another example, where people thought, “Hold on a minute. I do not like what Europe is doing to some of these countries that are in strife. We should be, as the peoples of Europe, working together to resolve this rather than imposing”. It is the interpretation that is the issue. For us on the Committee, we will explore that interpretation to see what it means for Scotland, but, to be absolutely honest with you, it is not a debate that has come up thus far. It is something we should push for some evidence on.

The Chairman: Everyone is nodding on that. On that note, can we move towards a conclusion? I suppose, to inject my personal view for a moment, most of these issues are about whether or not the arrangements we have, which may need modifying, can satisfy the needs and aspirations of people wherever they are and give them a sense of identity, security and stability in the life they lead, which are not unreasonable things to ask of a democratic system. I have been impressed, on previous occasions, but particularly today, and I think all our Committee has been, by your engagement with us and the way in which you have been able to take slightly different positions, but nevertheless to have a common understanding, which has been really useful to us. We appreciate that.

Jamie McGrigor: We will fight later.

The Chairman: Yes, you can see them behind the bike sheds later, but we will leave that to you. It would be appropriate to record our thanks for that and to say we will follow up with a transcript. I hope we will, through this inevitably rather trying and difficult process, continue to maintain contact as to what you are doing with your report and what we are coming up with, and to generally exchange views, which is very much to our mutual advantage. Thank you very much.

Anne McTaggart: Thank you.

Jamie McGrigor: Thank you.

Jamie McGrigor MSP, Christina McKelvie MSP, and Anne McTaggart MSP—Oral Evidence (QQ 79-91)

Christina McKelvie: Thank you. On behalf of our Committee, thank you for this. The way to resolve all these issues is to have good conversation. If we have good conversation, then we can come up with some resolutions, hopefully, and move forward collectively. Thank you on behalf of our Committee. We really look forward to maybe engaging with you again. The Committee has an eye on all the work that you are doing anyway. Good luck with your deliberations.

The Chairman: Thank you very much.

Christina McKelvie: Enjoy your time in Scotland.

The Chairman: Always.

Christina McKelvie MSP, Jamie McGrigor MSP, and Anne McTaggart MSP—Oral Evidence (QQ 79-91)

Christina McKelvie MSP, Jamie McGrigor MSP, and Anne McTaggart MSP—Oral Evidence (QQ 79-91)

[Transcript to be found under Jamie McGrigor MSP](#)

Anne McTaggart MSP, Jamie McGrigor MSP, Christina McKelvie MSP—Oral Evidence (QQ 79-91)

Anne McTaggart MSP, Jamie McGrigor MSP, Christina McKelvie MSP—Oral Evidence (QQ 79-91)

[Transcript to be found under Jamie McGrigor MSP](#)

David Melding AM, Alun Davies AM, Suzy Davies AM, Rt Hon Lord Elis-Thomas AM and William Powell AM—Oral Evidence (QQ 22-27)

David Melding AM, Alun Davies AM, Suzy Davies AM, Rt Hon Lord Elis-Thomas AM and William Powell AM—Oral Evidence (QQ 22-27)

[Transcript to be found under Alun Davies AM](#)

Professor Anand Menon, Dr Sara Hagemann and Professor Simon Hix—Oral Evidence (QQ 41-52)

Professor Anand Menon, Dr Sara Hagemann and Professor Simon Hix—Oral Evidence (QQ 41-52)

[Transcript to be found under Dr Sara Hagemann](#)

HE Dan Mulhall, HE Claus Grube and HE Witold Sobków—Oral Evidence (QQ 28-40)

HE Dan Mulhall, HE Claus Grube and HE Witold Sobków—Oral Evidence (QQ 28-40)

[Transcript to be found under HE Claus Grube](#)

Dr Jane O'Mahony—Written Evidence (VEU0005)

Visions of EU Reform – The Irish Perspective

I. Summary of Evidence

1.1 This evidence submission focuses on the perspective of one European Union (EU) member state, the Republic of Ireland, regarding future reform of the EU and the extent to which the Irish Government shares the UK Government's vision for the future of Europe.

1.2 Viewing a British exit from the European Union as a 'major strategic risk' for Ireland, the Irish are strong supporters of continued UK membership of the EU and hence sympathetic to the UK Government's renegotiation efforts.¹ The Irish Government is broadly supportive of three of the main objectives of the UK's membership renegotiation, namely enhancing competitiveness, sovereignty and subsidiarity and a formal setting out of the relationship between those within and outside the Eurozone as outlined by Prime Minister David Cameron in his Chatham House speech and letter to European Council President Donald Tusk. On proposed welfare reform, however, the Irish Government is more cautious given existing links between the two countries on freedom of movement and workers' rights.

2. Ireland's perspective on EU membership and the purpose of European integration

2.1. Ireland's decision to join the European Economic Community (EEC) was largely an economic one. Heavily dependent on UK trade, in 1973 EEC membership offered Irish industry the opportunity to modernise and diversify further into new markets, as well as clear benefits for the agricultural sector through the Common Agricultural Policy.² From the outset Irish participation in European integration had as a main aim the achievement and securing of Irish prosperity.

2.2. In addition, participation in European integration was seen as an opportunity to modernise socially, politically and culturally. As a small state in a globalised world, EU membership was and still is seen as an enhancer of national sovereignty. In spite of (and perhaps also because of) recent economic difficulties resulting from the fall-out of the financial crisis, Ireland's membership of the EU continues to be viewed as broadly beneficial by the public and a strong commitment to EU membership underpins governmental action.³ For the Irish Government Irish prosperity is closely bound up with the opportunities and advantages of membership of the EU, particularly as realised through the single market, and membership of the Eurozone is viewed as key to underpinning Irish financial stability.⁴

3. The Irish view of Britain's EU membership

3.1. As outlined in the recent Foreign Policy White Paper, *The Global Island: Ireland's Foreign Policy for a Changing World*, Britain's continued membership of the EU is seen as of vital national interest to Ireland.⁵ Indeed, for the Irish it is extremely important that other EU member states recognise that Ireland has an important stake in the outcome of the negotiations given its unique historical ties with Britain and shared land frontier.⁶

3.2. For Ireland, a British exit from the EU would be seen to have significant negative consequences for Ireland's economy,⁷ potentially negative implications for the political settlement in Northern Ireland and the loss of an important ally in EU negotiations.⁸ It is in this context that *Taoiseach* Enda Kenny and other government ministers have signalled their willingness to support the UK government in its reform agenda as part of its EU membership renegotiation on numerous occasions, emphasising at the same time that any reforms agreed

must be consistent with Ireland's interests in the wider EU. In this respect the UK's EU reform agenda is seen as an accommodation of national concerns (similar to the situations in Ireland following the referendum rejections of the Nice and Lisbon treaties in 2001 and 2008). In other words, it is understood as a British reform agenda rather than an EU reform agenda *per se*. In terms of a broader debate on the future of Europe, in Ireland EU reform is debated in the context of future reforms to European economic and monetary governance (e.g. the proposals of the Five Presidents' Report).

4. Competitiveness

4.1 The UK Government wants to see a greater focus on efforts to boost competitiveness, growth and employment creation in the European Union. The Irish Government is strongly supportive of this goal, in particular of enhancing the single market, particularly in services, digital and also to a certain degree in energy. The TTIP negotiations were launched under the Irish EU Presidency in 2013 and as a highly globalised economy dependent on international trade, the Irish strongly support completion of trade agreements with the US, Japan and other developed economies in Asia and South America, in line with the European Commission's new Trade Strategy launched in October 2015.⁹ The Irish labour market is already very flexible and the Irish Government also backs the REFIT and Better Regulation agendas, and in that context the enhancement of frameworks that reduce regulatory burdens on businesses. In sum, the Irish Government's interests strongly chime with British priorities on these issues.

5. Sovereignty

5.1 On the question of sovereignty, there are two main issues under discussion: 'ever closer union (of peoples)' and the enhancement of powers of national parliaments in EU decision-making. The Irish electorate has voted in nine EU-related referendums since 1972. 'Ever closer union' as concept has different meanings in different member states and while it has not been the explicit focus of contention in Irish referendum campaigns, further political integration in European security and defence has been contested due to Ireland's policy of military neutrality. Given the flexibility Ireland already exercises as part of its EU membership,¹⁰ the Irish would not have difficulty with formal recognition of the specificities of Britain's relationship with the EU, including its views on 'ever closer union' as they currently exist.

5.2 While the Irish parliament's engagement with European Union policy-making has increased significantly in recent years, parliamentary scrutiny of EU legislation is relatively weak in comparative terms. Factors such as a powerful executive, a lack of resources, a heavy emphasis on constituency work for Irish MPs and limited visibility have mitigated against a more active role and the Irish Parliament's take-up of the new powers granted to national parliaments with the Treaty of Lisbon has been relatively limited.¹¹ It could be said that an enhanced role for national parliaments is not a key priority or high on the agenda of the Irish Government. In the 2011 Coalition Programme for Government pledged to put in place systems 'to ensure that Ministers do not bypass the *Oireachtas* (Parliament) and make decisions in Brussels on EU matters before these matters are subjected to scrutiny by the *Oireachtas*', i.e. a binding scrutiny reserve system. This has yet to be implemented.¹²

5.3 Nevertheless, the Joint Oireachtas Committee on European Affairs has signalled that it is open to the idea of enhancing the role of national parliaments in the pre-legislative phase of EU decision-making as developed in the Treaty of Lisbon, possibly under an enhanced yellow card system with new thresholds for activation of such cards and changes to time periods

for consultation, as well as the enhancement of mechanisms for further cooperation amongst national parliaments.¹³ The preference at this juncture would be for any new reforms to be achieved in the first instance by inter-institutional agreement rather than through treaty change.

6. Relationship between Eurozone and Non-Eurozone countries

6.1 Ireland was a founding participant in the European Monetary System (EMS) set up in 1979. Since then it has remained at the heart of economic and monetary integration in the EU as a founder member of the Eurozone. While Ireland's decision to participate in the EMS was based on a desire to move away from the link with sterling and enter a strong European exchange rate regime, it also had a political dimension, the desire to be a constructive player at the heart of moves towards further European integration.¹⁴ The decision to join the single currency had a similarly political dimension.¹⁵ Following the financial crisis of 2008 and its 2010 bailout, the Irish government's priority was to regain economic sovereignty through exiting the EC/ECB/IMF programme and securing economic recovery. The importance of Ireland's membership of the Eurozone was amplified in this context. There is strong public support for the Euro in Ireland.¹⁶ That said, the Irish are mindful of British concerns in this area and would support the setting out of parameters for the relationship between member states within and outside the Eurozone that respect the positions of both sets of member states, as has been achieved with the Banking Union legislation. The Irish would be alert to the dangers of caucusing in this area but would also have reservations over the use of safeguard mechanisms such as 'emergency brakes' by non-Eurozone members to block proposed legislation deemed to favour the Eurozone over others.

7. Addressing Migration and Welfare

7.1 The close ties between Ireland and the UK are underpinned by a long history of migratory flows between the two countries, which post-independence took place through the Common Travel Area arrangement.¹⁷ Migrant flows between Ireland and the UK continue to be strong with approximately 400,000 Irish citizens currently living in the UK and UK nationals making up the second largest group of non-Irish nationals in Ireland (almost 230,000 British-born people live in Ireland according to the 2011 Census).¹⁸ Ireland's experience of inward migration is relatively recent and reached a peak following the opening of its labour market to the new EU member states who joined in 2004. During the economic crisis, immigration declined significantly and the phenomenon of emigration returned as many Irish left the country for better opportunities abroad. While the number of Irish emigrating is now falling, it remains high, in spite of improved economic performance and falls in unemployment. The UK continues to be the most popular destination for emigrants of all nationalities leaving Ireland, the majority of those being in the 25-44 age bracket.¹⁹

7.2 In the context of this close connection, the demand that as EU migrants, Irish citizens could also be denied in-work benefits as exist within the British system of social security, such as tax credits and housing benefit, for a period of four years would be viewed with alarm in Dublin, given long-standing historical reciprocity in certain welfare provision which pre-dates EU accession. The challenge thus is how to reconcile this demand with the fundamental principle within the EU's single market that workers should not be discriminated against on grounds of nationality and at the same time address Irish-UK bilateral sensitivities on this issue.

7.3 While immigration as an issue is nowhere near as high on the list of public concerns in Ireland compared with the UK,²⁰ a recent public opinion poll in Ireland pointed to one

potential area of agreement between London and Dublin over welfare reforms: 70% of those polled were in favour of ending child benefit payments to migrants' children who stayed in their home country.²¹ Such a change could potentially be made through a revision for example of Regulation 883/2004 of the European Parliament and of the Council on the coordination of social security systems (subject to co-decision) for instance.

30 November 2015

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Dr Robert Parry and Rt Hon Carwyn Jones AM—Oral Evidence (QQ 10-21)

Dr Robert Parry and Rt Hon Carwyn Jones AM—Oral Evidence (QQ 10-21)

[Transcript to be found under Rt Hon Carwyn Jones AM.](#)

Professor Andrew Scott and Professor Laura Cram—Oral Evidence (QQ 98-105)

**Professor Andrew Scott and Professor Laura Cram—Oral Evidence
(QQ 98-105)**

[Transcript to be found under Professor Laura Cram](#)

Vivien Pertusot—Written Evidence (VEU0013)

The UK's government vision for the EU

1. The European Union today faces fundamental challenges internally and externally. *Internally*, the economic crisis has eroded the EU's "permissive consensus" that allowed integration to occur by implicit approval of the EU's positive character. The growing role of the EU in domestic politics has unsurprisingly attracted its share of criticisms. Before the Maastricht Treaty, the EU maintained a high level of de facto support. There was an implicit consensus that the EU was a positive project. The Maastricht Treaty sounded the death knell to what many called the "permissive consensus" that prevailed among the member states. The raucous ratification processes in Denmark, France and the UK were early signals that the future ahead would not be as unruffled as before. Likewise, the rise of critical opinions crystallised. Since then, the criticism against the EU has increased and the number of its detractors has swelled. The rhetoric may differ across the EU, but the arguments are broadly similar: The EU is not democratic enough, it lacks legitimacy, and it is an elite-led project divorced from the interests and concerns of its citizens. While the clout of such arguments was fairly limited in the 1990s and early 2000s, they were already significant in some member states, such as Austria, Denmark or Finland. For the most part, however, they remained the core arguments of relatively marginal radical left and radical right parties.

2. Despite this, as some have explained, the post-Maastricht period saw the progressive emergence of a "constraining dissensus" on the EU. In other words, the EU entered the national political arena and political parties and other political actors started to invest in it. Slowly, further integration as the response to a collective action problem became less automatic than it was before.

3. *Externally*, the EU is seeing the redistribution of power at the global level where the EU's implicit power of attraction is diminished, sometimes even challenged. At the economic level, the EU is becoming less central. Two elements can help better picture this trend. Foreign Direct Investment (FDI) in Europe grew by 129 per cent between 2002 and 2008 and by only 19.8 per cent between 2008 and 2012. Some countries, especially the UK, have however managed to mitigate this decline. Meanwhile, FDI stocks in China have trumped those in Germany since 2012 and a similar situation is likely to happen with Brazil in the coming years. Another interesting trend is that the emerging countries, which used to be mainly recipient of FDI, are growingly becoming investors themselves. China is a prime example. Its outgoing FDI stocks have grown by almost 177 per cent since 2008.

4. Politically, emerging powers are pressuring the established order. It is visible at the International Monetary Fund, where there have been repeated calls to reform the institution. In part out of frustration, China decided to launch the Asian International Investment Bank, which has attracted countries beyond Asia – France and the UK in particular have decided to join it. Diplomatically, Western powers are more challenged than ever. They need to work harder to convince non-Western countries in international fora, such as the UN, or to build wide coalitions. It is worth recalling the Turkish-Brazilian initiative on Iran in 2010, which was clearly aimed at showing the Western countries that their views did not represent the whole "international community".

5. These internal and external pressures have burgeoned simultaneously. It has led to a situation in which many countries in the EU have increasingly been looking inward to fix the economic and political crisis, whereas the redistribution of cards at the global level was ongoing and largely left unmonitored. In other terms, the EU has collectively been in retreat and has consequently not fully realised the tectonic shifts, which were taking place. It does not mean that some member states have not acknowledged that they needed to adapt to new realities. The UK's decision to trade in renminbi in the City is evidence of that, as well as France's exploration of new partnerships with non-traditional partners, such as Indonesia or Japan.

6. The EU is only now starting to catch up on the time lost on managing the crisis. The European Commission has announced a new trade agenda. The EU, under the leadership of the High Representative Federica Mogherini, will publish a new global strategy in June 2016, which should take stock of all the trends already mentioned and provide guidelines for the EU to thrive in this reconfigured global chess-game. The EU has published a European Neighbourhood Policy review whose core principle is flexibility in dealing with its partners in the East and South.

7. The difficulty for the European institutions remains however to accept the new situation. The institutions have projected the so-called transformative power the EU is supposed to have, meaning that the EU's power of attraction can influence and even change the attitude of others. This fundamental pillar has underpinned the institutions' actions at the international level. Accepting the fact that this transformative power has been durably damaged is not an easy task. Adapting to the new situation, which for instance may require to consider some countries as rivals on some occasions rather than partners in all circumstances, is equally complicated.

8. The internal and external pressures have more fundamentally forced member states to reflect on the state of the EU and whether its current shape and policies were adequate to thrive in this challenging world order. David Cameron's view that the EU's cardinal priority should be "to secure prosperity" is as valid as any other at this stage. Others would say that the EU should be able to shield its member states from economic crises and allow them to remain key players on the world stage.

9. To a large extent, the UK Government understands the EU's potential to help countries, such as the UK, to retain leadership in the world. Its push to open new trade routes or its capacity to use the EU's foreign policy tools when it serves its interests (see the UK's support of an EU civilian operation in Ukraine) illustrate that the UK knows that its global interests are best served by remaining within the EU.

10. However, its internal debate on the EU largely misses this dimension focusing instead on other issues, such as immigration and subsidiarity. It impacts the UK's influence within the EU. As long as the UK is embarked on a bruising debate about the EU, it will see its capacity to act as an eye-opener to other member states limited. Part of the reason is that the UK continuously sends mixed signals vis-à-vis the EU. Moreover, the most Eurosceptic voices in the UK benefit from wide media coverage. Their rationale that the UK can go it alone is counter-productive at the EU level even if that position does not reflect that of the government.

11. The UK debate has also created a gap between Britain and its partners. The UK's focus on "ever closer union" seems completely idiosyncratic to EU member states, which are meanwhile discussing the future of the Eurozone, how to combat unemployment etc. The debate about "ever closer union" is lost on many on the continent. The treaties have always talked of an "ever closer union among the peoples of Europe", which can hardly be characterised as a call for a supranational state. There may be a deeper, almost philosophical, dimension to this debate, but it does not cross the UK borders. In the rest of the EU, this notion is uncontroversial: as so many others, it simply calls for more cooperation and coordination. No member state, whatever their willingness or resistance to deepen integration, spends time debating about "ever closer union among the peoples of Europe".

12. It is a lot more pressing for the EU and its member states to reflect on how to quash the economic crisis and how to restore the EU's legitimacy in the eyes of the citizens. On both fronts, the EU might have a role to play, but it would be misguided to imagine that member states are secondary players. It is illusory to envisage a solution to the economic crisis without substantial national reforms. It is equally unlikely that the EU's flailing legitimacy can be corrected only by actions undertaken at the European level. National authorities should actually be the primary actors. It should be their role to explain what it means to be a member of the European Union – the benefits that it provides as well as the obligations that come attached. Those obligations are evident to the countries, which joined the EU in the 2000s, since they had to absorb in a matter of a few years the whole of the *acquis communautaire* and substantially reform their entire state apparatus. Those obligations are becoming ever more concrete to members of the Eurozone, but this dimension is not always perceived or acknowledged by national leaders. In the end, it is complicated for an elected representative, especially a member of Parliament, to avow that his/her powers have diminished with time on issues such as budget priorities. Since this explanation has not been done at the national level, it has facilitated the spread of Euroscepticism among citizens, who feel that the EU is part of the problem, not part of the solution – if it ever was.

13. The debate on democratic accountability and legitimacy has consequently grown in importance in the past years. As mentioned above, the belief that the EU institutions are solely responsible for fixing this crisis of legitimacy is ill-thought. Eurobarometer polls consistently show that in the vast majority of member states, there is more trust in EU institutions than in national ones (governments and parliaments). This does not however lead to the conclusion that the EU institutions are more popular, more legitimate or more accountable. This is no longer a black-and-white picture whereby the only source of legitimacy could be the Parliament or the government. The EU has changed the nature of democracy in ways that are seldom acknowledged. Today, no institution can pretend to embody the full source of political legitimacy. Democratic accountability and legitimacy can only be achieved through a mix of institutions interacting with each other. Within the EU, it is particularly difficult, because it is multi-layered and involves different nation states, which have their own national agendas. However, a successful Eurozone – and steady support for it – cannot be achieved without the strong involvement of national parliaments at the national level, but also at the European level via inter-parliamentary cooperation for instance.

14. On the EU more generally, a more legitimate EU requires that national authorities stop blaming "Brussels" when "bad" decisions "fall" upon them and inversely that the Commission and the European Parliament do not consider member states as obstacles to their quest for more European solutions, often leading to further integration. Reaching this

new equilibrium will be extremely complicated, because it demands that all actors change software.

Is the UK Government's vision shared by others in Europe?

15. David Cameron presented his vision for a reformed Europe in January 2013 and in November 2015. Those two speeches are important in that they propose potentially far-reaching reforms to the EU. As mentioned above, the economic crisis has indeed led many member states to turn inward without fully digesting the changes happening in the world as well as the soft and sometimes hard Eurosceptic forces at play.

16. However, the UK's Government vision clashes with many ongoing debates in the EU, especially within the Eurozone. Prime Minister Cameron and several of his Ministers openly accept that the Eurozone needs to reform and further integrate. This repeated call is welcome but it also sends the impression that the Government does not fully appreciate the consequences of a furthering of the integration within the Eurozone. The most serious debates about the future of the EU now take place within the Eurozone. The integration at 28 has reached a limit. There may be measures to deepen the Single Market in different sectors, but that hardly qualifies as political integration. They may need several more years to materialise, but measures for a more integrated Eurozone could have great consequences on the functioning of the EU at 28. This may actually be one of the most difficult issues – at least temporarily. The Euro area today contains 19 member states, but it is reasonable to assume that most of the others will have joined it by 2025. It may lead to an odd situation in which three member states are left outside the Eurozone: Denmark and the UK with their opt-out and Sweden, whose public opinion appears durably resistant to adopting the common currency. It is not a given that Denmark and Sweden would feel comfortable in that situation for very long.

17. Further integration within Eurozone could have several consequences. First, there will be growing disinterest in investing political capital and resources onto the EU28 policies. Second, some policies today at 28 may need to be adapted to further the interest of the Eurozone, especially those related to economic and financial policy. It can become a matter of coherence, which is a powerful political motive.

18. Several voices consider that this coexistence between the Eurozone and the EU28 can be resolved by having a consolidated Eurozone, while broadening the internal market to include some countries, such as Turkey or Ukraine, whose memberships cause divisions. The practicality of such endeavour is quite unclear at this stage.

19. One certainty is that a more integrated Eurozone does not necessarily serve the interests of the UK if it ambitions to remain outside of it, while keeping its full membership in the internal market. This situation may be sustainable for several years, but appears less so in the longer term. Several signals have already indicated that difficulties will be numerous, such as the ECB's attempt to locate all clearing houses doing business in euros within the Eurozone – which was rejected by the European Court of Justice after the UK's challenged the decision – or the use of the European Financial Stability Facility (EFSF) to provide financing to Greece in Summer 2015. It is becoming clearer – although not fully realised in the UK – that the Eurozone's primary interest is to guarantee its stability.

20. It does not mean that the UK and the rest of the EU do not share common goals on some reform items on the agenda. There is a shared willingness to limit the weight of EU regulation and to restore growth and competitiveness in the EU. However, this is not perceived as a systemic element in the thinking on the future of the EU. It is a relatively obvious call to adapt to new circumstances and find some solutions to exit the economic crisis.

21. It leaves the UK in a complicated situation. The idea of multi-pillar Europe is not new, but it is not hard to envisage its precise shape. Multi-speed integration, or differentiated integration, has become a central feature within the EU. The implicit presumption was that all member states would still head into the same direction. It is vastly different to imagine a multi-pillar EU. In rough terms, it would distinguish between the Eurozone and the internal market. Since those two pillars deal with specific issues and have been co-existing ever since the introduction of the euro, it seems theoretically possible to image that situation lasting. Then comes the question of the decision-making process. It is reasonable to assume that the Eurozone will down the line vote systematically together on issues of fundamental interest to the stability of the Eurozone. It would leave the UK in the minority camp regardless of the importance of the issue on the table due to the fact that Qualified Majority Voting applies for the internal market.

22. In large part, the UK's decision to remain outside the Eurozone as well as outside all the mechanisms established in the past seven years will impact the UK's place within the EU. The UK will growingly be perceived as a second-tier member of many issues of importance to the EU outside those of development, foreign policy, internal market etc. It is likely to lead to frustration from all sides – in the UK for feeling that its interests are not considered highly enough and in the Eurozone for having an EU member state, which will repeatedly refuse to partake in initiatives of genuine interest to the Eurozone. After all, most mechanisms established after the outbreak of the financial crisis are open to all member states, even those that do not have the common currency.

23. This cannot be underestimated in the long run. The shape that the EU has today may be drastically different in 10-15 years. Whether the UK can fit in, feel comfortable, be a constructive partner and thrive remains to be seen.

Vivien Pertusot, Head of Brussels Office, French Institute of International Relations
Personal Capacity
30 November 2015

William Powell AM, Alun Davies AM, Suzy Davies AM, Rt Hon Lord Elis-Thomas AM and David Melding AM—Oral Evidence (QQ 22-27)

William Powell AM, Alun Davies AM, Suzy Davies AM, Rt Hon Lord Elis-Thomas AM and David Melding AM—Oral Evidence (QQ 22-27)

[Transcript to be found under Alun Davies AM](#)

HE Witold Sobków HE Claus Grube and HE Dan Mulhall—Oral Evidence (QQ 28-40)

HE Witold Sobków HE Claus Grube and HE Dan Mulhall—Oral Evidence (QQ 28-40)

[Transcript to be found under HE Claus Grube](#)

HE Witold Sobków—Written Evidence (VEU0002)

- 1. Has the UK Government taken the views of other Member States sufficiently into account in defining its reform objectives? Have your Governments been kept informed as the discussions in Brussels and around the EU have progressed?**

The Fundamental problem in assessing the British EU reform agenda stems from the fact that a list of specific proposals of the British government has not been unveiled yet. We understand that the objective of the UK government is to reform the EU in a way which would be beneficial to all its Member states, although there seem to be some areas where the UK government seeks British-specific concessions.

- 2. The UK Government has stated repeatedly that national parliaments are the sources of democratic accountability and legitimacy within the EU. Do you agree? How would you like to see democratic accountability enhanced in the EU?**
 - o In support of the Government’s position on democratic legitimacy, Ministers have frequently asserted that there is no European ‘demos’ that could form the basis of genuinely democratic pan-European institutions. What is your view?**

We agree with the UK Government that democratic accountability of the EU actions needs to be strengthened. There is no doubt that the role of the European Parliament is not established enough yet in our societies to make it the main body granting legitimacy for the EU. The falling turnout in the elections to the EP is a worrying phenomenon. One of the ways to strengthen the accountability of the EU is to boost the role of national parliaments. There exist various possibilities, but the main way of gaining influence by national chambers is through ensuring an effective oversight over the actions of the Executive. There is a huge unfulfilled potential in this respect and we should look at best practices.

National parliaments should use better the prerogatives that the EU treaties already grant them. We all know that the “yellow card” procedure has been activated only twice and the “orange card” procedure has never been used. I’m sure that since the adoption of the Treaty of Lisbon there could have been other occasions when the respect for the subsidiarity principle was in question, but not enough reasoned opinions were collected or they didn’t arrive in time. This is why national chambers could work, and indeed have been working, on improving their co-operation to monitor the activities of the Commission better and act fast when it’s necessary. There is also unfulfilled potential of co-operation between national parliaments and the European Parliament which has more prerogatives on EU policies and has good expertise.

Finally, there is a possibility of creating new mechanisms. The UK Government is promoting the idea of a “red card” for national parliaments, i.e. blocking the EU legislation by a group of chambers. Establishing such a mechanism would without doubt require treaty changes, for which there is no appetite at present, and would constitute a serious systemic change in the institutional framework of the EU. We would rather create an informal “green card” based on the existing political dialogue between the parliaments and the Commission, if its creation is possible under the current treaty framework and constitutional regulations in MSs. This mechanism could enable proposing informal and unbinding suggestions of directions of

legislation or concrete measures by a group of parliaments. Establishing such a mechanism would require an agreement between national parliaments and the Commission. Last but not least, we notice that the need for improving democratic accountability of the EU has grown considerably during the recent financial crisis. We should seek better results of the EU policies in order to convince citizens of their value. This is our biggest challenge which we must face through close co-operation on constructive EU reforms.

3 November 2015

The UK in a Changing Europe Initiative—Written Evidence (VEU0007)

The UK Government's vision for the EU

Is the Prime Minister right that the over-riding priority for today's EU should be "to secure prosperity"?

1. The UK government's stated vision for the European Union was set out succinctly in his letter to Donald Tusk, President of the Council of Ministers: "The European Union needs to change. It needs to become more competitive to cope with the rise of economies like China and India. It needs to put relations between the countries inside the Euro and those outside it – like Britain – onto a stable, long-term basis. It needs greater democratic accountability to national parliaments. Above all, it needs, as I said at Bloomberg, to operate with the flexibility of a network, not the rigidity of a bloc."
2. In other words, from an economic perspective, the EU needs to refocus its attention on competitiveness, both externally and internally. This means creating a functioning Single Market, not just in goods but also in services (especially, from the UK's point of view, financial and digital services); it means reducing the volume of regulation, and regulating in a more business-friendly way; it means controlling EU expenditure and, within that, reorienting expenditure from the Common Agriculture Policy (and to some extent the Structural Funds) to areas which are more likely to promote growth (such as research); and it means moving with more urgency to conclude trade deals with non-EU countries, most importantly the US (TTIP) and emerging economies like India.
3. It is worth noting that there is very little here that previous UK governments of all parties could not have signed up to - this was very much the agenda of the 1997-2010 Labour government, which in turn (with the exception of social policy) was not that different from the 1992-97 Major administration.
4. Where the vision of the current government does perhaps differ significantly is in the constitutional and governance mechanisms needed to deliver this agenda. Previous governments have resisted the transfer of more powers to the EU level, and the expansion of qualified majority voting, but have also been very reluctant to contemplate the creation of a "two-speed Europe", fearing that this would result in a significant diminution of British influence. By contrast, the current government has explicitly endorsed a two (or multi) speed approach, recognising implicitly that this will mean some important decisions being taken with Britain not at the table (or not at all the relevant tables); British interests would instead be protected by various constitutional mechanisms designed to stop Member States in the fast lane imposing any such decisions on Member States which like Britain are in the slow lane.
5. The Prime Minister's letter to President Tusk sets out four reform objectives, under the heading of economic governance, competitiveness, sovereignty, and immigration. Taking each 'basket' of reform objectives in turn:

1. economic governance. The Prime Minister sets out a number of principles, all directed at ensuring "non-discrimination" - that the UK should not be disadvantaged by being outside the Eurozone
 2. competitiveness. The Prime Minister's proposals are couched in fairly general terms, but essentially relate to improving the operation of the Single Market and reducing burdens on business.
 3. sovereignty. Aside from ending the commitment to "ever closer union", the Prime Minister proposes to enhance the power of national Parliaments to veto specific proposals
 4. immigration. The Prime Ministers wants the UK to be able to restrict in-work benefits to EU migrants for a period of four years.
6. In the letter and speech of November 10th, some of these were quite extensively and specifically detailed (basket one and three). Nothing in those two baskets appears particularly controversial in principle, or a significant break from existing practice, and should have wide political support (though the legal means of achieving them may yet be unclear). There remains considerable doubt around what is achievable under basket four (immigration), and considerable distance between some Member States here. More generally, basket two, on competitiveness, was expressed in very general language in the letter and speech of November 10. This has subsequently been taken up in the letter to Franz Timmermans of 26 November, led by Government Ministers Osborne and Javid and signed by Ministers of 18 other Member States (including France and Germany). This letter confirms a desire for quantifiable targets on regulatory burden reduction, and also adds an important commitment to 'taking into account proper protection of consumers, health, the environment, employees and financial market stability and respecting existing protection standards'.
7. There is however a clear tension between on the one hand the UK's economic objectives, and on the other, its political objectives. This was also the case under previous governments, but it is even more obvious here. Improving the operation of the Single Market, particularly in complex areas like financial services, or streamlining existing regulations to enhance competitiveness, often requires action at EU level. This was perhaps best illustrated by the "Cut EU Red Tape" report from the Government's Business Taskforce, which identified the most important barrier to growth as being the failure to fully implement the Services Directive - a call for "more Europe" not less.
8. As the Prime Minister's letter says, the government's priorities are to a significant extent already shared by the Commission. But many of the political and governance proposals in the letter would, of course, make action at an EU level considerably more difficult. For example, allowing a certain number of national Parliaments, acting together, to veto EU legislative proposals could clearly make it considerably more difficult either to introduce new regulations to improve the operation of the Single Market, or to amend or repeal existing legislation. The same might be true of extra protections for non-eurozone countries.
9. There are two other tensions which emerge from the Prime Minister's letter:

- (a) the set of principles set out under the first point is very obviously directed at protecting the interests of the UK, rather than creating the most efficient governance structure for a future two-speed EU
- (b) The proposals on benefit entitlement for EU migrants clearly have nothing whatsoever with the government's wider vision, but are rather directed at domestic political considerations

Does the UK Government's vision for the EU adequately take account of the changing geo-political context?

10. Prior to his speech and letter to Donald Tusk, the Prime Minister had not referred to geopolitics in connection with his vision for a reformed EU. In his Chatham House speech, however, he stated that 'I am in no doubt that for Britain the European question is not just a matter of economic security, but of national security too, not just a matter of jobs and trade, but of the safety and security of our nation'. Subsequent events in Paris have further highlighted the link between European collaboration and national security. Yet while such arguments might have a significant role to play in debates leading up to the referendum, geopolitics is conspicuous by its absence from the renegotiation agenda.

What does the commitment of the Member States of the EU to create "an ever closer union among the peoples of Europe" mean? Is this aim any longer relevant or achievable?

- 11. Treaty preambles in themselves create no legally binding commitments, though may be used by Courts for interpretative guidance. The term 'ever closer union' appears both in the Treaty preambles, having been included in the original 1957 Treaty of Rome, as well as in the body of the Treaty, Article 1 TEU, where it is presented in politically declaratory language, rather than establishing a legal commitment or obligation on the part of the Member States ('This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen').
- 12. In the early years of the EU's existence, prior to the UK's accession, the European Court of Justice established foundational principles about the nature of the EU legal order, such as its potential for direct legal effects within national legal orders, and the supremacy of EU law over conflicting national law. In neither case is the language of 'ever closer union' explicitly referred to, though it cannot be excluded that it may have operated as a background factor in the Court's reasoning. The emphasis is rather more on ensuring that the commitments to achieving common/single market objectives are taken seriously, though importantly a reference is made to the fact that the Treaty preamble acknowledges a place not just for states, but for peoples too. Where, more recently, explicit use of the term has been made, this has tended to focus on the 'openness' of decision making processes, in the context of securing access to documents.
- 13. It has been suggested that opting out of 'ever closer union' would be a largely symbolic act with little practical effect. Of course, the impact of symbolism should not be underestimated. While hard evidence of direct legal effects of this clause is

largely lacking, this principle can play a role in the shaping the spirit within which the law is interpreted. Of equal importance, it plays a role in shaping the spirit within which law is proposed and passed by other institutions at EU level. Without a formal Treaty change to remove this aspiration for all member states, however, it is difficult to see how a unilateral EU opt-out from a commitment to ‘ever closer union’ would significantly alter the current status quo. In practice, the actions of EU institutions reflect the spirit as much as the letter of the EU Treaties and that spirit would still prevail for the EU as a whole. The additional impact of a formal opt-out as opposed to the current position, in which the UK position on ever closer union is well known, is likely to be marginal.

14. In short, whilst it cannot be definitely stated that the term ‘ever closer union’ has had no influence on the Court in its integrative jurisprudence, there is certainly no clear legal set of commitments that arise from this term. Further, all member states would appear comfortable with the idea of ‘ever closer union’ accommodating politically and legally differentiated terms of membership. As stated in the 2014 European Council Presidency Conclusions – the Council notes that ‘the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not want to deepen any further’ (point 27, 26/27 June 2015). This can be seen as an acknowledgment of the experience of over twenty years of Treaty based differentiation, which has seen the UK secure legal opt outs from EMU, aspects of Justice and Home Affairs, and, for a period, employment rights.
15. The government clearly places a significant value on gaining an explicit Treaty commitment confirming this reality of UK exceptionalism, for a domestic UK audience rather more than for its EU partners. There has been little attempt to explain to a UK audience the extent to which differentiation is already deeply engrained within the EU order.

What are the main sources of democratic accountability and legitimacy within the EU?

16. National Parliaments are a crucial complement to the role played by the European Parliament, playing a critical democratic bridge between citizen and EU. In some states, including of course the UK, the democratic mandate is also held at a more local level, through regional parliaments.
17. The move to a fuller involvement for national parliaments in EU governance generally may be seen as a welcome step. It is one that is supported by the current European Commission leadership, though not by the President of the European Parliament, who argues any strengthening of their role should be exercisable in relation to their governments, rather than the EU institutions (<http://www.euractiv.com/sections/uk-europe/schulz-collision-course-cameron-over-national-parliaments-role-319674>)
18. From the reviews undertaken of the experience of national (and regional) parliaments to date, we know there is scope for enhancing and improving the current ‘Early Warning’ system – such as extending the time for submissions (which would also better accommodate the feeding in of regional parliament views). The House of

Lords EU Select Committee has been at the forefront of developing mechanisms for more positive forms of national parliamentary involvement – such as the ‘green card’. The Government’s emphasis on reform, with the suggestion of a red card procedure, is constructed in what are likely to be seen as more negative terms.

To what extent is the UK Government’s vision shared by the devolved administrations and other stakeholders within the UK? Has the UK Government taken the views of other key stakeholders within the UK, including the devolved administrations, sufficiently into account? Do they feel they have been properly involved in the process?

19. There would certainly appear to be a question mark over the extent to which the devolved administrations have been involved in setting the reform agenda, and in the renegotiation process. The reform agenda does not appear to have been significantly influenced by the findings of the Balances of Competences review (to which the devolved administrations contributed). The matter of the renegotiation has become (from June 2015) a standing agenda item on the JMC (Europe). There have been expressions of frustration about the lack of involvement – for example, from the Scottish Parliamentary committee in relation to the UK Minister for Europe who twice turned down an invitation to appear before their Parliamentary Inquiry; and from Scottish Government minister Fiona Hyslop, who recently called for direct input into the process, rather than simply through JMC(E). The House of Lords evidence session in Cardiff also saw the Welsh First Minister report on the lack of consultation and involvement. Unlike in Scotland, there has been no explicit published Welsh government statement on Wales’ priorities for reform. It has been made clear through ministerial comments though that it is felt to be in Wales’ interests for the UK to remain a member of the EU.

20. There are several distinct devolution related issues around the European referendum. While Scottish opinion overall is only slightly less Eurosceptic than English, the issue is less salient in Scottish politics so that the old ‘permissive consensus’ on EU membership is largely intact. The parties represented in the Scottish Parliament are pro-Europe and the presence of UKIP is smaller. Civil society bodies are largely pro-Europe. It is likely that the referendum campaign will take a different form in Scotland, linked to the specific position of Scotland and the continuing constitutional question. In Wales, it is expected that the campaign will be closer in form to that in England.

Where competences subject to renegotiation with EU are also devolved, there is a clear devolved interest. This does not affect most of the topics at issue except perhaps for welfare benefits, some of which are to be devolved (in Scotland). The emphasis on lightening the regulatory burden under the competitiveness basket may have consequences for devolved areas such as environmental policy.

21. The Scottish Government and some other parties have taken a distinct line on some non-devolved matters. Both the present Scottish Government and its predecessor favour the free movement of labour and welcome immigration, for demographic and economic reasons. It also favours the concept of a ‘social Europe’. Although this has not been specified in detail, it could affect moves to deregulation and competitiveness stressed by the UK Government.

22. The negotiations are the responsibility of the UK Government but there is a strong case for the devolved administrations to be associated with them, in the way that they are involved in regular EU policy-making where devolved interests are at issue.

To what extent is the UK Government’s vision for the future of the EU shared by the EU institutions, and by other Member States? Where is there a possibility of consensus, and where are there major differences?

23. At a high level, there is much in the government’s vision that is shared by some if not all Member States. In particular, the need for increased competitiveness and for the EU to legislate less and better is now shared not just by the UK’s traditional allies on these topics (the Netherlands, Sweden and Denmark, to some extent Germany) but also more widely (see the letter to Timmermans of November 26, signed by the Ministers of 19 Member States). And on the governance side, the UK’s acceptance that the eurozone is likely over the next few years to integrate further and faster, and that this will require constitutional (Treaty) change, is also welcome.
24. However, there are a number of serious problems with the translation of the vision into specific reform objectives in the context of the government’s renegotiation strategy:
- (a) Since the key economic objectives do not require Treaty or specific legislative change – they are really about doing EU “business as usual” better – Member States, perhaps especially those who are normally allies on these topics, don’t really understand what exactly the UK Government is asking for or why it does not simply pursue it in the normal way. Indeed, they may worry that the referendum debate weakens, rather than strengthens, their hand. And, as noted above, it will be obvious that at least some of the UK Government’s political/governance objectives potentially conflict with its economic ones.
- (b) There is some sympathy and understanding for the UK Government’s desire to ensure that countries in the eurozone have some protection against discrimination or “ganging up”. However, the current list of demands may appear to prejudge a much lengthier and more complex multi-dimensional and multi-country negotiation. The eurozone countries will not allow their governance structures to be dictated by the needs of one non-eurozone one; and it must be remembered that most of the non-eurozone countries want at least to keep the option of adopting the euro in the foreseeable future very much open. The result may be that while other countries recognise that the UK Government’s position is not unreasonable, they won’t want to precommit unduly before the full-scale negotiations on Treaty change begin.
- (c) Finally, while other countries - most of which have their own domestic political problems on one or other aspects of the wider migration issue – understand that the UK has a serious political issue to address here, there is considerable bemusement at the way the UK Government has chosen to address it in the context of the renegotiation. Certainly they do not fully understand why the UK’s membership of the EU is being risked over an issue which they know very well senior UK

policymakers privately regard as economically insignificant. So while they will be prepared to make some cosmetic alterations to current rules to help with UK domestic politics, there is unlikely to be consensus on giving the UK everything it wants, or anything close (even leaving aside the legal constraints). An often repeated phrase is that - while there is willingness to negotiate to retain the UK as a member of the EU, this membership will not be preserved at all costs.

Insofar as there is a lack of consensus on the long-term future of the EU, is a twospeed (or multi-speed) Europe feasible?

25. The reality of the European integration process is that it not only can and has developed on the basis of multi-speed progress toward shared goals, but also reflects the recognition that not all goals are shared by all member states to the same degree, or even at all. Common concepts such as 'a la carte Europe', 'variable geometry Europe' and 'differentiated integration' seek to capture this more nuanced understanding of cooperation at the EU level. As noted at point 14 above, formal manifestations of the principle of differentiated integration are evident in the multiple opt-outs already negotiated and in the commitment to this principle declared by the 2014 European Council in its Presidency conclusions. In practice, the principle of differentiated integration might be described as the pressure valve that has allowed cooperation in core areas of EU cooperation, such as completion of the internal market, to progress even when deep differences in relation to broader goals such as 'ever closer union' persist.

30 November 2015

TheCityUK, CBI and TUC—Oral Evidence (QQ 53-64)

TheCityUK, CBI and TUC—Oral Evidence (QQ 53-64)

[Transcript to be found under CBI](#)

TheCityUK—Written Evidence (VEU0016)

Introduction

1. TheCityUK is an independent membership body representing the UK-based financial and related professional services industry. This ranges from banking, insurance, asset management, securities and private equity through to legal, accountancy and management advisory services. These sectors as a whole account for 12.8% of the UK's GDP and financial services account for 12% of UK tax receipts. They employ over two million people, more than two-thirds of whom work outside of London. TheCityUK's membership includes UK-headquartered and inward investor firms. We seek to engage and respond to relevant UK, EU and international developments which have an impact on the industry's competitiveness, as well as to potential opportunities and threats to the UK's economic and national interests.

Context

2. TheCityUK is a politically non-partisan organisation which produces robust evidence of the implications of economic and policy developments for UK-based financial and related professional services and the wider economy, including of the UK opting to leave or to remain within the EU. This evidence is available impartially to all sides of the formal referendum campaign.
3. We welcome the opportunity to respond to the House of Lords EU Committee inquiry examining the vision for the future of the EU that the UK Government is seeking to realise through its current reform proposals, ahead of the referendum on UK membership to be held by the end of 2017.
4. TheCityUK has produced a number of publications which contain information of relevance to this inquiry; these are listed among the references at the end of this document. Our research outlines practical measures for reform for the benefit of all of the EU's 28 Member States and 500 million people. This response draws on the evidence base represented by these various publications to address the issues that the Committee has identified in this inquiry.

The UK Government's vision for the EU

Is the Prime Minister right that the over-riding priority for today's EU should be "to secure prosperity"?

5. TheCityUK believes that the European Union stands in need of reform, both to encourage a focus on pro-competitive, growth-oriented policies and to ensure these policies are devised and carried out with the optimum combination of EU and Member States' powers and resources. The European Single Market, open to the world, provides the most secure way to support the economic growth which is so vital for the future prosperity of Europe and individual Member States. Completing the Single Market could be worth an additional 5% to EU GDP, or as much as 8% in the long term – equivalent to between £500bn and £800bn. The UK could benefit by £110bn or £4100 per household.

6. According to the ECB's macroeconomic projections for the Eurozone over the next two years (published in September 2014), indicators suggest a weaker economic outlook in the short term in an environment of subdued trade developments, geo-political tensions and uncertainty about the reform process in some Eurozone countries. This lack of European growth is arguably the biggest threat to financial stability. The twin tasks of generating robust, sustained growth and creating jobs represent two of the most important challenges facing Europe.
7. Returning to long-term economic growth is essential to the EU's ability to deliver on the promise of peace and prosperity. The imperative for reforming the EU should be to promote economic growth and secure Europe's competitive position in the global economy by focusing on well scoped 'quick wins' that have the potential to bring tangible, immediate benefits to Europe's people and secure prosperity.
8. The EU financial services sector accounted for €636bn of Gross Value Added in 2013, nearly 6% of total EU economic output. Taking professional services into account, this rises to around 10%.
We therefore welcome the Prime Minister's reaffirmation that competitiveness needs to be at the heart of the EU reform programme. The financial and related professional services industry wants to see practical change that will foster economic growth, facilitate the creation of high-value jobs, boost trade and investment, and maintain the EU's competitiveness on the global stage. This would bring significant economic benefit to the EU.

Does the UK Government's vision for the EU adequately take account of the changing geo-political context?

9. We believe that the vision is achievable if the UK engages constructively, continues to take a lead in pressing for change within the EU and forms alliances with other Member States to do so.
10. TheCityUK has recently responded to the Foreign Affairs Committee inquiry, 'Costs and Benefits of EU Membership for the UK's Role in the World'. Our focus and guiding principles in the response are summarised as follows:
 - There is an increasing need to understand and respond to complex global challenges that affect the landscape in which government and businesses operate;
 - The UK's influence, reputation and national assets (including our values and the rule of law) must continue to be deployed to best effect to promote our national interests;
 - Assessing other countries' or blocs' priorities and actions with clarity requires direct experience and insight; and
 - Building coalitions of common interest with other governments and working together effectively with other stakeholders is vital.
11. The European Commission has suggested that '90% of global economic growth in the next 10-15 years is expected to be generated outside Europe'. It is important for the EU

to be open to growth around the world and be able to draw on it. For example, completing a comprehensive Transatlantic Trade and Investment Partnership (TTIP) could be worth £10bn a year to the UK and completing all the trade deals currently on the table would boost EU GDP by £220bn.

12. While The Commission's strategy 'Global Europe – Competing in the World' set the scene for a programme that has resulted in a series of bilateral trade agreements that are both broad (extending over all sectors of goods and services) and deep (covering matters such as regulatory cooperation), it is right to call for an even greater focus on policies to increase trade and investment by focussing on maximising commercial relationships with growing markets, both developed and emerging, outside Europe. The European Commission's October 2015 Communication, 'Trade for All: Towards a more responsible trade and investment policy' broadly reflects that approach as we had argued in our submission to the Consultation.
13. TheCityUK has suggested the following reforms in this area to promote this aim:
 - **Development of a code of conduct for the EU's Commercial Policy** to show how the Common Commercial Policy (CCP) can best be run, involving the private sector, Member States and other stakeholders. This should not compromise the effectiveness of the European Commission's ability to act as the single point of contact for our trading partners during negotiations. As future trade agreements will be significantly more complex than past agreements, Member States, the private sector and other parties need to be involved in a transparent and timely manner.
 - **Increased resources for negotiating trade agreements.** The EU is currently negotiating a large number of trade and investment agreements, but with very limited resources. Although the Commission is rightly giving priority to those negotiations with the greatest prospects of success, consideration should be given to moving further resources to the Commission's Trade Directorate-General and putting in place a more transparent prioritisation process, to maximise the EU's opportunities to access the economic growth that is taking place in the rest of the world.
 - **Reform of the EU's third country regime.** As a part of the Commission's cumulative impact assessment of post-crisis regulatory reform, a rigorous and impartial study of third country regimes across the legislative framework should be undertaken. The results of this study should be the basis for beginning a political dialogue aimed at reshaping the European Union's approach to third countries and achieving international regulatory coherence in financial services. A new consistent approach to transitional periods to allow ESAs and the European Commission sufficient time to conduct third country reviews before confirming equivalence urgently needs to be agreed.

What does the commitment of the Member States of the EU to create “an ever closer union among the peoples of Europe” mean? Is this aim any longer relevant or achievable?

14. The EU reform debate provides an opportunity to consider the EU's long-term strategic goals. It is clear that the next few months will be decisive for the direction the EU will be taking in the coming decade and the UK's place within it. In this context, it is timely and right to reconsider the concept of ever closer union in a Europe that has changed greatly since that ideal was first espoused. The EU is now defined as a multi-currency, multi-speed and multi-direction union. This has been recognised in the European Council conclusions of June 2014. There is now a need to enshrine this in the European Union's constitutional arrangements.
15. Related to this question are the established principles of subsidiarity and proportionality. Subsidiarity means that the EU should only undertake actions which cannot be better tackled at national level. Previous reports by TheCityUK have noted the political nature of subsidiarity questions and that a challenge on the basis of subsidiarity has never succeeded. Proportionality means that any action at the EU level cannot exceed that which is necessary to achieve the objectives set by the Treaties. We support these concepts.

What are the main sources of democratic accountability and legitimacy within the EU?

16. The EU's legitimacy could be improved, in particular by developing better mechanisms to harness Member States' expertise and to better apply the principles of subsidiarity and proportionality. Increased and effective scrutiny by the relevant national and European legislators at the relevant stages in the legislative process would both enhance the quality of legislation and improve the likelihood of subsequent political and public acceptance. These recommendations include:
 - The scope of action at the EU level, whether in financial and professional services or more widely, should be confined, as the Treaty says, 'if and in so far as the objectives of the proposed action cannot be sufficiently achieved by Member States, either at central level or regional and local level'. In other words, 'Europe where necessary, national where possible';
 - Impact assessment for all EU institutions should be carried out by an independent Regulatory Scrutiny Board accountable to the European Parliament;
 - Post-implementation reviews should be agreed as a compulsory part of the rule-making process, as should the deadline by which the review should be completed;
 - Assessments of the cumulative impact of regulation should be incorporated into the Regulatory Fitness and Performance Programme (REFIT) to which the Commission is committed and which has already achieved a lot of progress;
 - The Commission and European Parliament need to engage more energetically with national parliaments. It is also necessary for national parliaments to put in place the processes and resources to enable more effective scrutiny, so that they can better link in EU and national activity. National parliaments should be engaged at the earliest possible stage of the policy-making process;
 - Improving inter-parliamentary cooperation e.g. through the Conference of Parliamentary Committees for Union Affairs (COSAC). COSAC currently meets

twice a year. This should be increased and each national parliament should commit to being represented by at least two Members of Parliament (MPs) at each meeting. Additionally, the use of Interparliamentary Committee Meetings in between COSAC meetings should be increased to discuss draft legislation or other specific issues; and

- Expansion of the time-frame during which the yellow card can be used by national parliaments from eight to twelve weeks and lowering of the threshold to a quarter of all national parliaments.

Is there consensus on EU reform within the UK? Is the UK Government's vision for the EU achievable, and how has it been translated into specific reform objectives?

17. Reform of the European Union is vital and TheCityUK supports the Prime Minister's efforts to negotiate change. Recent announcements setting out the Government's reform agenda in greater detail, and the letter to Commissioner Tusk, are a positive step forward in delivering changes which will ensure the EU is fit for purpose.
18. Of the key principles set out by the Prime Minister, TheCityUK believes ensuring non-discrimination between Euro and non-Euro states, and hardwiring competitiveness into the DNA of the future of the European Union are the most important. Both of these principles underpin the reform proposals TheCityUK published earlier this year, which reflect the views of our members across UK financial and related professional services.
19. Ensuring non-discrimination between all EU Member States is not about special treatment for the UK, or for UK financial services. It is about recognising that all Member States should be treated equally under the rules governing the operation of the Single Market. London is Europe's financial centre. It is critical therefore to ensure its position outside the Eurozone does not adversely impact its ability to provide financial services across the European Union and to support the creation of jobs and economic growth in all Member States. As part of the non-discrimination principle, it is particularly pleasing to see the Prime Minister calling for recognition that the EU is a union with more than one currency. This is fundamental to the UK's continued successful membership of the EU.
20. Safeguarding the integrity of the Single Market and making sure that this principle is enshrined in all existing and new EU legislation is critical in order for the financial and related professional services industry to best support the EU's ambition of jobs and growth.
21. TheCityUK believes that the EU must be reformed, and we have published a range of papers that articulate what that encompasses. A successful renegotiation that delivers real change is in the UK's vital national interest and is equally important for other EU Member States.

22. TheCityUK's EU reform agenda is set out in 'EU reform – detailed proposals for a more competitive Europe'. The report focuses on proposals relevant to financial and related professional services in four areas:
- A deep and strong Single Market, open to the world;
 - Better regulation;
 - A European agenda for jobs, growth and competitiveness; and
 - Fair and equal treatment of all Member States.
23. In line with the Government's thinking, our key reform proposals are:
- A commitment to the completion of the Single Market, especially in Capital, Digital and Financial Services, alongside the production of an action plan that sets out specific proposals to eliminate non-tariff barriers by a certain deadline;
 - Endorsement of the Commission's Better Regulation Agenda while stressing the need to go further, especially regarding impact assessments for all EU institutions conducted by an independent Regulatory Scrutiny Body;
 - Ensuring the EU remains open for business from outside the EU by making the trade agenda a bigger priority, for example by reconsidering the EU's third country regime and the resources allocated to negotiating trade and investment deals;
 - Protecting the integrity of the Single Market and putting the protection of the interests of euro-outs on a safe legal basis. Better transposition and enforcement of European legislation should also be made a priority; and
 - Long-term strategic reform proposals also need to be considered and addressed to reflect the emerging realities of the EU and the relationships between Member States and EU institutions, especially by re-examining the meaning of 'ever closer union'.
 - These reforms should be coupled with the core principles of subsidiarity and proportionality.

Is the UK Government's vision shared by others in Europe?

To what extent is the UK Government's vision for the future of the EU shared by the EU institutions, and by other Member States? Where is there a possibility of consensus, and where are there major differences?

24. TheCityUK engages with European institutions and Member States through regular delegation visits to Brussels, visits to Member State capitals and our programme of Financial Services Dialogues with private sector partners in other Member States.
25. It is clear that there is strong support amongst the Member States and European institutions for reform of the EU, both to encourage a focus on pro-competitive, growth-orientated policies and to ensure that these policies are devised and carried out with the optimum combination of EU and Member States' powers and resources.

26. The UK is not alone in calling for a reformed EU: other Member States have produced reform proposals and it is in the interest of all Member States that the EU should function more effectively. We welcome the opportunity these reform initiatives create to work together towards delivering a coherent reform programme to help Europe meet the challenge of a highly competitive global economy.
27. In June 2014, the European Council set out a clear strategic direction for the current mandate. It identified as its first priority those actions that would foster growth, increase investment, create jobs and promote improved competitiveness. It set out a list of specific actions, including:
 - Completing the internal market for both goods and services, and creating a genuine digital Single Market;
 - Improving access to finance and investment for infrastructure and for growth companies;
 - Reducing administrative burdens and compliance costs for business;
 - Prioritising research to support innovation; and
 - Stepping up the pace of international trade negotiations.
28. It also noted that the EU should ‘concentrate its action on areas where it makes a real difference’, ‘refrain from taking action when Member States can better achieve the same objectives’ and recognised that ‘the emphasis should be on concrete results’.
29. The organisation of the Commission by President Juncker and the focus on better regulation, subsidiarity and the role of national parliaments moves the reform agenda forward significantly and are all very encouraging signs. We believe there is a ready appetite for dialogue on reform, not least through the new Taskforce on strategic issues related to the UK referendum, since there is widespread recognition of the need for change.
30. In order to build relationships with Member States and to make the case for EU reform, TheCityUK, in conjunction with the City of London Corporation, has established a series of bilateral Financial Services Dialogues to discuss issues of common concern and areas of EU reform. Dialogues with industry partners in France, Ireland and Italy have been established and further dialogues are planned with Germany and The Netherlands. These Dialogues have helped TheCityUK to explain its views and explore options with others. TheCityUK also leads delegations to Brussels to discuss issues around EU reform and our proposals have been well received.

Insofar as there is a lack of consensus on the long-term future of the EU, is a two speed (or multi speed) Europe feasible?

31. The EU has existed as a multi-speed project for some time. Of the 28 Member States that make up the EU, only 19 are currently members of the Eurozone while only 26 out

of the 28 Member States are members of the Banking Union. To date, this multi-speed Europe has been managed through use of the enhanced cooperation procedure.

32. This is not without its complications and it is crucial that the integrity of the Single Market is protected in a multi-speed EU. TheCityUK has proposed the following reforms to that effect:

- Protecting the integrity of the Single Market by enshrining this principle in all individual pieces of legislation;
- Encouraging the ESAs alignment with the Single Market;
- Strengthening of the ESRB's cross-sectoral approach;
- Making the Eurogroup Chair a permanent member of the European Council;
- Putting a greater focus on transposition and enforcement of European legislation;
- Banking Union and any other policy or legal developments not involving all EU Member States should adopt the safeguards of the enhanced co-operation procedure; and
- A provision that non-Eurozone Members have permanent observer status at Eurogroup meetings.

33. Because the Single Market is so essential to the EU's future, we also believe that further reform is required to ensure sustained political commitment to and focus on the Single Market, namely:

- Reaffirmed commitment to the completion of the Single Market by produce an action plan, setting out specific proposals to eliminate non-tariff barriers along with an implementation timeline. The European Council should commit to the completion of this programme by an agreed deadline. The Commission's recently launched Single Market Strategy addresses this point;
- Formation of a Single Market Council to replace the Competitiveness Council with a permanent chair; and
- Completion of the Single Market in Financial Services, Digital and Capital.

34. The objectives of any reforms enshrining the principle of a multi-speed Europe into its institutional architecture should be:

- To enable the Single Market to co-exist more easily next to a more closely integrated Eurozone and to protect the integrity of the Single Market;
- To guarantee that decisions that affect all 28 Member States are never taken by the Eurogroup in isolation and ensure that the interests of non-Eurozone Member States are always taken into consideration;
- To ensure providers and users of financial services products are not discriminated against based on their location and the currency they use; and
- To ensure that countries within and outside of the Eurozone enjoy the same rights.

35. The imperative for reforming the EU should be to promote economic growth and secure Europe's competitive position in the global economy by focusing on 'quick wins'

that have the potential to bring tangible, immediate benefits. These are likely to be policy reforms that can be achieved without treaty change. In addition, as we have already mentioned, a multi-speed, multi-currency, multi-direction union inevitably means the concept of ever closer union needs to be addressed. In order to harness the EU's full potential, constitutional reforms also need to be considered in the long-run. Bearing in mind that not all Member States are willing or able to move forward at the same speed or even on the same track, most EU Member States agree on the need for reform but have different priorities and ideas how this might be achieved. But all Member States should not just demonstrate greater willingness to complete the Single Market, they should also take active steps to dismantle barriers to intra-EU business.

List of TheCityUK publications

TheCityUK Submission Balance of Competences Review Trade & Investment Executive Summary (February 2013)

TheCityUK Submission to Balance of Competences Review Trade & Industry (February 2013)

Reviewing the case for EU Membership: How can the UK manage its relations with the EU more effectively? (February 2013)

TheCityUK Submission Balance of Competences Review Single Market Synopsis (August 2013)

TheCityUK Submission Balance of Competences Review Single Market Synopsis Executive Summary (August 2013)

The City Speaks (October 2013)

IRSG-Balance of Competences Review (January 2014)

Analysing the case for EU membership: How does the economic evidence stack up? (April 2014)

A legal assessment of the UK's relationship with the EU – A financial services perspective (April 2014)

UK and the EU: A mutually beneficial relationship (January 2015)

EU Reform: Detailed proposals for a more competitive Europe (June 2015)

Foreign Affairs Committee's Inquiry: Costs and benefits of EU Membership for the UK's Role in the World (October 2015)

3 December 2015

TUC, CBI and TheCityUK—Oral Evidence (QQ 53-64)

TUC, CBI and TheCityUK—Oral Evidence (QQ 53-64)

[Transcript to be found under CBI](#)

TUC—Written Evidence (VEU0014)

The UK Government's vision for the EU

- Is the Prime Minister right that the over-riding priority for today's EU should be “to secure prosperity”?
 1. The TUC certainly believes that one of the priorities of the European Union should be to secure prosperity, but we would argue that a key issue is how equally that prosperity is shared. In that context, we would draw the Committee's attention to the argument of *Kalin Anev Janse, secretary general and member of the management board of the European Stability Mechanism (ESM), who has argued that while the US has stimulated GDP growth more effectively in recent years, EU growth has been spread more fairly, providing relatively better outcomes for ordinary people*⁵⁵.
 2. Measures to ensure that such growth was more fairly distributed would - as organisations like the OECD have argued - include robust social partnership and collective bargaining arrangements, higher wages, redistributive fiscal policies, more widespread provision of quality public services, and increased investment in education and training. Raising wages would considerably increase demand, foster productivity and address the exploitation and undercutting that generates antagonism towards migrant workers in our communities.
 3. The TUC would also argue that recent years of austerity have hampered the growth potential of Europe, which should be kick-started again with a substantive investment plan of at least 2% of EU GDP (as proposed by the European Trade Union Confederation in its *New Path 4 Europe* initiative⁵⁶.) A sustainable investment initiative to create high quality, high skill, high wage jobs in developing the physical and social infrastructure of Europe could create 11 million jobs and tackle youth unemployment and the threat of deflation.
- Does the UK Government's vision for the EU adequately take account of the changing geo-political context?
 4. Inasmuch as we understand the Government's vision for the EU, we believe that it does not give sufficient importance to the concept of 'pooled sovereignty', as Jurgen Habermas describes it: the way in which the UK's interests can be more effectively pursued in alliance with other European nations than individually. And we believe that it overstates the limitations of the EU on the UK's other alliances. For example, we value the UK's membership of the Commonwealth because of the practical links it provides with developing and less developed countries. But these links are not restrained by UK membership of the EU – they could in fact be enhanced by that, as the existence of three Commonwealth countries in the EU gives the EU a different relationship with the global south, and one which we believe would be more progressive for developing countries.
 5. We particularly believe that the Government's vision is limited in its appreciation of the role of the UK as part of a European Union in a future global economy. The

⁵⁵ <https://agenda.weforum.org/2015/10/is-europe-outperforming-the-us/>

⁵⁶ https://www.etuc.org/documents/new-path-europe-etuc-plan-investment-sustainable-growth-and-quality-jobs#.VIIS_k2Hxlo

Prime Minister has argued⁵⁷ that as the world's fifth largest economy, Britain would be perfectly capable of thriving outside the EU. There appears to be some lack of appreciation that the UK's place in the global economy depends to an extent on membership of the EU – for example the role of inward investment into the UK from inside and from outside the EU (often dependent on our membership), and the role of the EU as the UK's principal trading partner.

6. Around 45 per cent of UK exports go directly into the European Union, a disproportionate share relative to the EU's overall size in the world economy. Seven of our largest ten trading partners are EU countries. With UK exports accounting for 30 per cent of our GDP, access to European markets plays an important role in supporting UK output and boosting employment.
7. It is often argued that leaving the EU would have no impact on this access, but we do not agree that trading relations would be so simply re-aligned. Within the EU, all tariff barriers to internal trade have been removed and other barriers to competition between member states are gradually being dismantled. Membership of this free trade area brings significant benefits for the UK, which includes increased innovation, reduced intermediate costs (such as taxes and tariffs) and the capacity to specialise more easily in areas where we can build comparative advantage. In addition, UK tariffs with the rest of the world might well be affected were we to leave the EU: for instance, US tariffs would be likely to rise to the World Trade Organisation (WTO) minimum, rather than the lower level which already applies to EU trade with the US.
8. While some maintain that the overall share of UK exports that goes to the EU is in decline, this misses the point that the overall proportion of trade with the EU remains high (and volumes remain substantial regardless of share). What's more, for the service sector, where UK trade has expanded most vigorously, the importance of EU markets is unchanged on recent years (with the EU export share stable over the last decade). Stronger EU growth (which the TUC continues to argue requires greater EU support for investment) would substantially further boost UK businesses.
9. Looking outwards, the EU is the top trading partner for 80 countries (by comparison the US is the top trading partner for a little over 20 countries.) UK companies are supported to access markets across the world by virtue of our EU membership⁵⁸ as EU states combined offer a far more attractive package to international partners than the UK does alone. The UK's ability to negotiate better deals if we were outside the EU would be significantly reduced, if not impossible (given the recent statements of the US chief trade negotiator, such bilateral agreements seem unlikely to be immediate prospects).
10. Almost half of UK foreign direct investment comes from the EU. The latest comprehensive figures (2013) show that 48 per cent (£1.2tn) of the stock of UK direct investment is from European nations while the US accounts for 25 per cent, and the rest of the world a further 25 per cent. Despite recent government rhetoric, it is notable that in 2013 Chinese investments amounted only to £1.6bn (less than 1.3 per cent of the total). FDI is important to the UK's overall economic health, and while an overreliance upon foreign investment could leave our economy vulnerable to international economic shocks, a significant reduction in EU investment, which would be the likely consequence of the UK leaving the European Union, would be likely to harm our growth rate, with consequent negative effects for employment.

⁵⁷ <https://www.politicshome.com/foreign-and-defence/articles/story/david-cameron-im-deadly-serious-about-possible-brexite#sthash.oT9FpWfp.dpuf>

⁵⁸ <http://ec.europa.eu/trade/policy/eu-position-in-world-trade/>

- What does the commitment of the Member States of the EU to create “an ever closer union among the peoples of Europe” mean? Is this aim any longer relevant or achievable?
 11. The TUC believes the phrase primarily means that Europe’s people won’t ever be at war with each other again, identified by the TUC Congress this autumn as a key benefit of EU membership. It also reflects a willingness to work together to face common challenges.
 12. There is also a sense in which the phrase reflects the commitment of the people of the European Union to aspects of commonality that transcend national borders: common support for equality, freedom and human rights, for example, and a commitment to inclusiveness rather than exclusion of different races, religions and nationalities. And it can be read as suggesting that there are different communities of interest across the EU than simply an aggregation of nation states: for example, British trade unionists are key members of the trade union structures established at European level such as the European Trade Union Confederation (ETUC) which brings together trade unionists across the EU but also outside it, eg Iceland, Switzerland, Norway and Turkey.
 13. However, we believe that the Government is giving more prominence to this issue than it actually deserves. The TUC also notes that, since the last revision of the treaty (Treaty of Lisbon 2009) the phrase is complemented by a reference to the fact that decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity and also as openly as possible i.e. in full transparency and respect for the democratic process (article 1). Both references provide a very clear impediment to the development of a ‘federal Europe’, which would be neither feasible today nor desirable.
- What are the main sources of democratic accountability and legitimacy within the EU?
 14. The TUC believes that democratic elections are the principal source of accountability and legitimacy, but they are not the only elements: the rule of law is important, as are fundamental human rights such as freedom of association, freedom of speech, and the freedom to bargain collectively. The role of civil society in the EU – including the freedom for workers to combine together in trade unions and the right to withdraw their labour - is a key element of its democratic accountability and legitimacy.
 15. However, being the only directly elected institution, the European Parliament definitely plays an important role in ensuring the accountability of the EU decision making process. However the TUC notes with concern the low turnout at European Parliament elections, the lack of awareness amongst the public of the role played by this institution and the negative coverage by parts of the media about the EU in general and the work of MEPs – all factors contributing to hampering the potential of this institution and consequently its ability to scrutinise and hold to account the other institutions.
 16. The European Parliament is not the only institution that derives its legitimacy from the electorate since the Council of Ministers also represents elected governments. These nominate the Commissioners, which are political appointments, so in a sense also the European Commission derives its legitimacy from the electorate, albeit indirectly. The system is not perfect but represents a fair compromise between the intergovernmental and the Community method.

17. The Lisbon Treaty has also introduced provisions for a greater involvement of national parliaments and the TUC supported the use of the yellow card mechanism for the Monti II proposal in 2012, which was subsequently withdrawn by the Commission. This mechanism, together with the principle of subsidiarity, is in our view adequate to ensure democratic accountability and legitimacy within the EU; the fact that some of these mechanisms are hardly used is another issue and perhaps one of lack of awareness on the part of member states' administrations and the public alike. The TUC would like to see a more effective use of existing procedure before any change, as proposed by the Prime Minister, is made and any new process is put in place.
18. Nevertheless new processes such as the European Semester (admittedly with consequences only for the Eurozone) seem to have been conceived entirely disregarding the need for democratic accountability and legitimacy, with the Commission imposing policy prescriptions via the country specific recommendations on national governments – in most cases these prescriptions have not been sanctioned by the countries concerned.
19. This is an example of the type of policies that are perceived as 'being imposed' by the EU. The whole system would gain in legitimacy if the Commission and governments were prepared to let the European Parliament have their say as well as involving and taking into account social partners' views at national as well as at European level.

Is there consensus on EU reform within the UK?

- Is the UK Government's vision for the EU achievable, and how has it been translated into specific reform objectives?
20. Again, inasmuch as the TUC understands the Government's vision for the EU, we believe that some is achievable, but significant elements would actually undermine the very support for continued EU membership on which a vote to remain in the EU at the forthcoming referendum would be based.
 21. Our polling evidence⁵⁹ suggests that any undermining of the European social model, ie the rights at work that derive from EU legislation, would make it much more difficult to convince working people that the EU was worth voting to remain a part of. We noted that the Prime Minister's recent letter to the President of the Council no longer refers to such measures, and hope that this means the Government is no longer committed to taking away those rights. That would make the UK Government's proposals more likely to be deliverable.
 22. Some of the proposals set out in the letter to the President of the Council are ones which could certainly be achieved given sufficient goodwill from around the rest of the EU. The TUC agrees, for example, that decisions made by Eurozone countries which would significantly affect those countries outside – such as the UK, but also, for example, Sweden – should involve all the countries affected. This should not extend to a veto by the UK Government on changes which affect the interests of the City of London, but should require a voice for those affected. For example, the TUC would want the interests of British workers to be considered in the development of a social pillar for the Eurozone, to avoid the creation of a two speed social Europe.
 23. There are legal constraints on some of the changes that the Government proposes on benefits for those moving to the UK for work, and the TUC is concerned that these proposals could represent the thin end of the wedge, leading to restrictions of

⁵⁹ <https://www.tuc.org.uk/workplace-issues/work-life-balance/employment-rights/basic-rights-work/weakening-employment-rights>

all workers' in-work benefits, as suggested by the Government's unsuccessful attempts to cut tax credits earlier this year.

24. There are elements of the Government's vision which might require treaty change to be achieved, which is unlikely to happen within the timeframe set by the Prime Minister since the Five Presidents note on completing EMU mentions, for instance, a first round of treaty changes to take effect in 2018 and a subsequent round a few years later. Moreover it would take time for a convention to be called and for subsequent ratifications (which in turn require other countries to hold their referenda) to take place. It should also be understood that in any treaty reform, there might be other proposals than those of the UK Government. The ETUC, for example, with the full support of the TUC, has called for the introduction of a Social Progress Protocol to rectify the imbalance between market freedoms and social rights.
 25. In terms of the specific reform objectives, there has been a terrible lack of clarity, and the TUC called⁶⁰ for these to be published well ahead of the more recent request by European Council President Tusk. The TUC has also contended that the Prime Minister lacked a mandate to renegotiate in secret the terms of UK membership of the EU and that such an important process should be subject to consultation with all stakeholders.
- To what extent is the UK Government's vision shared by the devolved administrations and other stakeholders within the UK?
26. Our principal concern has throughout the process been that the UK Government wanted to reduce workers' rights, and the TUC would clearly not share that vision, as it would be unfair to working people, economically misguided, and counter-productive.
 27. We indicate above that, in terms of the four areas set out in the Prime Minister's letter to the Council President, we have some sympathy with the call for the engagement of non-Eurozone countries in decisions affecting them, and consider that the proposals to do with 'ever closer union' are overblown.
 28. In terms of the call for greater competitiveness, we believe that the EU's external trade balance suggests that competitiveness is not the main economic problem facing the EU. As in the UK, long-term investment, demand and productivity are far more pressing issues, and we are concerned that, whilst no one could argue that the EU should become less competitive, the term is often used as a smokescreen for measures such as attacks on collective bargaining, minimum wages and rights to job security which would exacerbate the increase in inequality and undermine the stimulation of demand which is necessary to deliver sustainable growth.
 29. Finally, the Prime Minister himself accepted that his proposals for in-work benefits for people coming to the UK from other parts of the EU to work – as mentioned above - were problematic. The TUC would welcome a move towards a more contributory benefits system, but we believe the issues that need addressing most urgently are tackling the ways that migrants are used by bad employers, fuelling exploitation and undercutting, and therefore undermining community solidarity, and the need to ensure that the impact of migration is properly addressed, for example

⁶⁰ <https://www.tuc.org.uk/international-issues/europe/cameron-must-not-negotiate-away-rights-british-workers-says-tuc>

by using the extra tax revenue and possible EU funding to relieve pressure on public services and housing.

- Has the UK Government taken the views of other key stakeholders within the UK, including the devolved administrations, sufficiently into account? Do they feel they have been properly involved in the process?
30. The UK Government has not seen fit to consult the TUC about its vision of the future of the EU since the previous administration's Balance of Competences review, the conclusions of which the TUC broadly supports (we note in passing that such conclusions generally do not support the Government's vision, which may explain the failure to repeat such a consultative exercise on the latest round of renegotiation proposals.)
31. When the TUC General Secretary wrote to the Prime Minister seeking clarification about his negotiating position, she received a belated reply⁶¹ from the Minister for Europe, which only served to corroborate concerns about attempts to dilute the Working Time Directive.

Is the UK Government's vision shared by others in Europe?

- To what extent is the UK Government's vision for the future of the EU shared by the EU institutions, and by other Member States? Where is there a possibility of consensus, and where are there major differences?
32. The European Commission and EU governments have understandably been relatively quiet in the absence of concrete proposals from the UK Government, aside from expressing some concerns around the proposed restrictions of access to benefits for migrant workers on the grounds that the majority of Member States that have stated that freedom of movement is not negotiable and what is being proposed could be discriminatory and contravene the EU treaty. From our contact with trade unions and governments around the EU, we also see an increased concern for equality and social cohesion, and a rejection of proposals to undermine workers' rights.
- Insofar as there is a lack of consensus on the long-term future of the EU, is a two speed (or multi-speed) Europe feasible?
33. The TUC would have serious concerns that a two-speed Europe would develop into a two-tier Europe where some have more rights than others, and the inequalities which currently exist within and between countries would only widen. It is of course always possible for some EU countries to act in concert while others do not (for example the Enhanced Co-operation Procedure currently being used to negotiate a financial transactions tax for 11 countries), and it is of course for individual countries to set the level of things like minimum wages. But the TUC would not want to see the European social model become an optional provision, applying in some countries but not in others.
- What conclusions can be drawn from the areas of either agreement or disagreement for the UK's future place within the EU?

⁶¹ <http://www.bbc.co.uk/news/business-34263273>

34. The TUC believes that the process of the renegotiation strategy has not done the UK any favours in relation to its standing in the EU, which could in the medium term make it more difficult for the UK Government to work closely and collegiately with other EU governments. The UK position has been neither well explained nor well understood, and has appeared to be driven by the requirements of internal party management than the interests of the UK or the EU as a whole. This characterised the UK Government's position on issues such as economic governance and the Presidency of the European Commission. The TUC hopes a more pragmatic, inclusive and evidence-based approach to getting Europe growing again might help resolve this problem in the future.

1 December 2015

UK Government—Oral Evidence (QQ 162-180)

Evidence Session No. 16

Heard in Public

Questions 162 – 180

Members present

Lord Boswell of Aynho (Chairman)
Baroness Armstrong of Hill Top
Lord Borwick
Earl of Caithness
Lord Green of Hurstpierpoint
Lord Jay of Ewelme
Lord Liddle
Lord Mawson
Baroness Prashar
Baroness Suttie
Lord Tugendhat
Lord Whitty
Baroness Wilcox

Examination of Witnesses

Rt Hon Philip Hammond MP, Foreign Secretary, Foreign and Commonwealth Office,
and **Vijay Rangarajan**, Europe Director, Foreign and Commonwealth Office

Q162 The Chairman: My Lords, Ladies and gentlemen, good afternoon and welcome to this open, formal evidence session of the EU Select Committee in the Lords. We would very much like this afternoon—this is not said simply as a courtesy—to welcome the Foreign Secretary, Philip Hammond, and his official, Vijay Rangarajan. Before we start, I would like to do the pro forma, as it were. This is a televised session—although not, I think, in real time—and the normal rules of engagement with Ministers apply, including the fact that we will send you a transcript afterwards for the correction of any errors. Indeed, if you have any great afterthoughts that you wish to inject, we would be delighted to hear from you. I want to do two things before we start. First, I have not done the research on the date, but this will be the first occasion for some considerable time that Her Majesty’s Foreign Secretary of the time has attended the EU Select Committee, and we would like to express our appreciation. We appreciate that this is an extremely important moment in the nation’s affairs, but it is very helpful to have you here. Secondly, and in no sense to be derogatory or to qualify that, I would like to record on behalf of the Committee our thanks to you, your colleague Ministers and your officials, both in London and in Brussels, for the support that they unfailingly extend to our Committee. It is always a reassurance and genuinely helpful to our work. Indeed, we extend that to the fact that, as our range goes a bit wider, particularly in the sub-committees when we are carrying out inquiries, posts along the way are invariably helpful, in my experience, and we appreciate that very much. I would be grateful if you would pass that on to your officials, because it is meant sincerely.

Perhaps we may kick off with the first question, not least because I know that parliamentary votes and procedures may disrupt this—we will have to work on the basis of going ahead as soon as we can. You will know that our inquiry is called “Visions of EU Reform”. That in a sense slightly differentiates it or develops it from our earlier inquiry, the report of which we published in July last year, which was very much about the process of the negotiation, reform and, ultimately, the referendum process. While the referendum is a domestic issue and not formally within the remit of this Committee, it is obviously cognate to it. We are still interested in the process, of course, but a number of us have felt, and the Committee has collectively felt, that we needed to get a better handle on the extent to which what Britain was aiming for in these talks was coincident with the interests and perceptions of other member states and whether in a sense there was a possibility of all going in the same direction, of which this may be part, albeit not necessarily the whole.

In that spirit, perhaps I could kick things off, Foreign Secretary, by asking whether you feel that the Government have a vision for the whole European Union or just for the United Kingdom. On the basis of the negotiations so far, how would you summarise the attitude of your interlocutors both in the European institutions and in other member states towards this possible common vision?

Philip Hammond MP: Thank you, Chairman. Certainly it would be naive for us to look only at Britain’s position and Britain’s interest. Clearly, in any negotiation in a multilateral forum, we have to be cognisant of the interests of all parties. I think we can see clear strands of our agenda that address concerns that exist not only in Britain but across the European Union—concerns about the competitiveness of the European Union and our ability to hold our own in a globalising economy and concerns about the accountability of the European institutions in the face of European parliamentary election after European parliamentary election with declining voter participation across the Union. So there are areas where I firmly believe that the agenda that we are putting forward is speaking for a strand of concern that runs across many, if not all, member states of the European Union.

There are other areas where we have a more distinctively British agenda. Clearly one of our concerns is to make the future European Union work effectively with a eurozone core and a significant number of member states that are not using the euro as their currency and are not taking part in the eurozone institutions. That is a concern particularly of the non-euro-using countries. Then there is the issue of access to welfare benefits and inward migration from other parts of the European Union, which again is not an exclusively British concern but is expressed most clearly by voters in the UK.

When I am talking to my interlocutors in the European Union, I always set the context like this. Britain has never been emotional about the European Union, which has always been a pragmatic construct for us. We were not one of the founding member states seeing it as a bulwark against recidivism to war in Europe. We were not one of the southern countries that joined the European Union as a way of cementing their new democracies after a period of military dictatorship. We were not one of the eastern European countries that saw membership of the European Union as part of the liberation from the yoke of Soviet communism. We have always been in this for firmly pragmatic reasons. We have always been focused primarily on an EU that would act as a turbocharger for the British economy and that would improve and protect the standards of living of British people. Many of our fellow member states see that as a very important, if not critical, role of the European Union and very much appreciate the focus that we put on it.

Q163 Lord Liddle: When the Prime Minister embarked on this great venture, which I personally want him to succeed in, he talked about a fundamental change in the relationship between Britain and the EU. Do you see the way in which the negotiations are going as bringing about a fundamental change? Obviously a lot of people defined fundamental change in terms of the repatriation of powers and more Westminster control over Brussels. How would you define this fundamental change in the relationship that we are going to achieve?

Philip Hammond MP: In those areas, the role of national Parliaments and the balance of competences exercised in Brussels versus those exercised in national capitals, I think that we will bring about fundamental change through these negotiations, but it will be fundamental change affecting the relationship between all member states and the European Union. Where I think we will see something that is more specifically British is the relationship between the non-euro member states and the euro member states. Britain is by far the largest of the non-euro member states, and clearly there is complete agreement across the European Union that we have to address this issue. We cannot close our eyes to the fact that the eurozone countries will need to move forward with greater levels of integration in a number of areas to ensure the success of the euro as a currency. Whether they want to do so or not is almost a secondary question. Countries that are not part of the euro will not automatically expect to be part of that greater integration; in the case of Britain, we would actively not wish to be part of that greater integration.

The other area that will reset the relationship between the UK and the European Union is a clear declaration, which we have asked for and expect to get, that Britain is not bound by the commitment to ever closer union—that Britain does not want to see closer union. We would like to see ourselves as being past the high-water mark of EU interference in our national life. Getting that declaration that ever closer union, which may be right for some, is not for Britain, and that it is accepted by all members of the European Union that that is not the course that Britain is engaged in, will be an important reset of the relationship.

The Chairman: Can I just come back on the question of the underlying vision that I asked you? You have said a number of things very clearly and helpfully about the background to this, including the traditional approach from the United Kingdom and the response of other member states and their need to engage on some of the specific baskets, which we discussed. You have also said, following press comments, that you do not necessarily want to go further into the process of European integration and that that might even mean going backwards. I have two questions. First, do you think that amounts to an underlying vision? Can you put it into a sentence for us?

Philip Hammond MP: Yes, I can—a European Union that is fit for the 21st century, that is focused on the things that matter to its citizens, which are economic growth, jobs and security.

The Chairman: Thank you. That is helpful. On the second point, I am thinking particularly of remarks that the Prime Minister made at Davos, or is reported as having made. While in some areas—and you have identified some of them—there may be scope for either halting or retreating from greater formal integration, are there other areas of interest to HMG in terms of if not formal integration, at least better collective action?

Philip Hammond MP: Collective action is quite different from integration, and we are always in favour of collective action when we can work together with other member states. Integration in the EU context implies to me a transfer of powers from the nation states to the European Union institutions, and I cannot think of any areas in which we would advocate the transfer of further powers from the nation states. Indeed, there are many people in

Brussels, including people in the Commission, talking about the European Union in future needing to do less and do it better, and needing to focus on the things that really need to be done at European Union level. The Dutch have a phrase, “Europe where necessary, national where possible”, and we are very much thinking along those lines. The European Union will work best for its member states if we ruthlessly apply the principle of subsidiarity, making sure that we only do from Brussels that which needs to be done from Brussels for the proper operation of the Union, and particularly the single market.

The Chairman: That is helpful. I suppose it is worth saying for the record that of course if there were to be an extension of the powers by means of integration and greater activity within the institutions, that would come to this Parliament by a referendum if it was material, would it not?

Philip Hammond MP: It would come to this country—it would be beyond the Parliament. The referendum lock that we put in place means that it would come to the country.

Q164 Lord Jay of Ewelme: Can I ask you a process question? The Prime Minister said that the EU was well on the way to agreement on his four objectives for reform after the December European Council. Is it realistic to expect agreement at the February European Council? To put it another way, where are we on the spectrum from possible through probable to almost certain to getting an agreement?

Philip Hammond MP: As you know, we have set our ambition, and the President of the Council has set his ambition, as reaching agreement at the February European Council. That remains our ambition, but we regard it as much more important to get the right deal than to get a quick deal, and we have to recognise the fact that the European Union has a couple of other issues on its plate. Although the British renegotiation is number one on our European agenda, I am afraid that it is not number one on the European agenda of any of our partners, except perhaps for the Irish. The reality of the situation, which we have to recognise, is that there are a lot of other very important issues chewing up bandwidth and time at the Council. If we can get it done in February, we would be delighted, and we are working towards that objective, but if we need more time, we need more time. We have until the end of December 2017 to hold the referendum.

Lord Jay of Ewelme: Do you think that the fact that there are other things on the agenda might encourage the other member states to get this one out of the way so that they can focus on those?

Philip Hammond MP: Unfortunately, some of the other things are very much real-time challenges for the European Union, whereas this agenda is one that can be dealt with in slightly slower time. I think there is an understanding of that in the European Union, and it would be inappropriate and unwise of us to try to push our agenda ahead of other things, which the other EU member states will see as being pressingly urgent to discuss at the February Council. But we are still confident that there will be a substantive discussion on this issue, and we are hopeful that between now and then we will be able to get to a position where we can get that agreement at the February Council.

The Chairman: Would you share the appreciation that some of us who went with this Committee to Brussels recently, in the last two weeks, picked up in our formal evidence sessions and in other encounters that there was a quite strong appetite at the European level to get on with this—and that, conversely, if it were not proceeded with reasonably soon, although I am not saying literally in February, it might be more difficult to get this

concluded thereafter? Do you get an impression that it may be a situation whose time has come?

Philip Hammond MP: No, I do not think that I get the sense that a window of opportunity will close, or not in the short term. We are clearly very focused on the fact that there are major German and French general elections in 2017 and, if this was not resolved during the course of 2016, we would have to think very carefully about how the realities of those election campaigns interacted with this debate. So we would certainly hope that it will be resolved well before then.

The Chairman: Thank you. Baroness Suttie is next, with what may even be a cognate question.

Q165 Baroness Suttie: I have two further questions on the timing. Do you think that a failure to reach agreement in February would rule out a summer referendum in June? Could you say a little about the Government's response to Nicola Sturgeon's interview at the weekend, when she said that **an EU referendum in June would be a mistake, because it would overlap with campaigning for Scottish elections?**

Philip Hammond MP: I met Nicola Sturgeon last week, so I am well versed in her view on the subject. When we debated the Referendum Bill in Parliament, Parliament insisted on putting in a prohibition on the referendum day being the same day as the devolved Administration or local elections either this year or next year. It did not seek to impose any wider black-out period, so this is a new issue that has been raised.

To answer the first part of your question, if you get a deal done in February, it will be possible to hold the referendum in June if we choose to do so; there is technically enough time. If the deal is not done in February, it would become much more difficult; certainly, if it is not done in March, it will become impossible because of the timescales provided for in the Bill. So we have said that we will focus on getting the deal done. When we have got a deal done, we will look at the timing options for the referendum and at the sensible approach to that. We note the comments made by the devolved Administrations. Let us see where we get to with the negotiations.

The Chairman: While on the subject of elections and voting, Foreign Secretary, I think your presence may be required elsewhere for a bit.

Philip Hammond MP: I am afraid I have been warned that there could be two votes in the Commons. I will see whether it is possible for me to skip the second one.

The Chairman: In the light of that, I would like to adjourn the public evidence session.

The Committee suspended for a Division in the House of Commons.

The Chairman: Thank you, Foreign Secretary, for returning so promptly. We have just under an hour of your time, and I will ask Lord Mawson to go straight on with his question.

Q166 Lord Mawson: Foreign Secretary, the Prime Minister is committed to securing legally binding reforms, and has cited "the protocols and other instruments agreed for Denmark and Ireland" as examples of how the EU had secured such reforms in the past. Do you have a specific model in mind?

Philip Hammond MP: As the Prime Minister has said, and as I have said myself, for this to work for the British people, the reforms have to be substantive, legally binding and

irreversible. How those things are delivered is something that we are open-minded about, but they have to meet those criteria. It is our belief, and it remains our belief, that some of the changes we are seeking will require treaty change in order to deliver those characteristics, particularly to protect them against judicial challenge in the European system. We envisage a decision made by the 28 member states in Council that is legally binding, an international law decision, including a commitment to enshrine what has been agreed in the treaties at the first opening of the treaties—a situation in which we would have a legally enforceable commitment to what has been agreed as an interim step to a treaty change enshrining those agreements.

The Chairman: On which subject, if—and I stress that this is, of course, hypothetical—there were a push-back from, a member state with say, a referendum procedure, when we came to eventual treaty change for the inclusion of that, if they were minded to reject either the new treaty, the revising treaty, with other matters included as a whole, or specific bits of it, it could create something of a legal crux, could it not?

Philip Hammond MP: We have to make sure that the interim decision is legally watertight, so that if we have to rest on the interim position, perhaps for a substantial period of time, we are in no way disadvantaged. We cannot accept an interim solution that is not enduring; it has to be capable of enduring for a very long time if necessary.

Q167 Baroness Prashar: Foreign Secretary, as part of their reform agenda, the Government are seeking limitations on freedom of movement within the EU. Do you not think that there is an inconsistency in that the Government strongly support the free movement of goods, services and capital and yet are concerned about the free movement of people?

Philip Hammond MP: First of all, a bit of a reality check. We have free movement of goods, more or less, in the European Union. We certainly do not have free movement of services or of capital yet. The Government are not seeking to limit freedom of movement to work—we have been quite clear about that. We are seeking to distinguish between freedom of movement to work and freedom of movement to claim benefits in the country where it is most advantageous to do so. We firmly believe that our benefits system, a unique feature of which in the European Union is the payment of generous in-work benefits to people who are employed on low wages, creates an artificial pull factor towards the UK. Now we have people coming to the UK to work in the labour market not just for the wages they can earn but because on top of the wages that they earn they can expect to receive generous in-work benefits. That is a distortion in the market, which is pulling people into the UK in a way that is not sustainable.

Baroness Prashar: My next question was whether, if do you restrict benefits, that may have an indirect impact on freedom of movement. Would that affect the economy, because in a way the UK is dependent on the migrant workforce for its economic performance and competitiveness.

Philip Hammond MP: That is precisely the problem. We are talking here about low-skilled jobs. I do not think that anyone is contesting the need to attract highly-skilled people to do highly-skilled jobs, but we are talking about people, sometimes with higher qualifications, coming from low-wage European Union countries to do low-skilled, minimum wage-type jobs in the UK. Those are jobs that frankly we need to equip people in this country to do who are unemployed and unable to access the labour market. It is a challenge for somebody who has perhaps been long-term unemployed and excluded from the labour market, and who has very low levels of qualification or educational attainment, to compete with

somebody from eastern Europe who perhaps has a degree-level qualification but is seeking to work in an entry-level job. We would encourage an approach that says that for those kinds of jobs we need to fully exploit all the potential in the UK labour market before we think about opening those jobs up to people coming from outside the UK.

Q168 Lord Tugendhat: My question is at something of a tangent, but you have just said in your answer that we do not yet have freedom of movement in services, which is perfectly true. That implies that it remains the British Government's aim to secure more freedom of movement in services, which in turn is not easy to reconcile with the statement that you made at the very beginning about how you did not think that we would want to have any further transfers to Brussels or, indeed, any further integration. I see a slight disconnect between what you implied a moment ago and what you said in your opening statement. Of course, we want more freedom of movement of services; in the nature of things, that is going to involve further development of the single market, which in turn is going to involve certain transfers.

Philip Hammond MP: I agree very much that we want to see completion of the single markets in services, financial services in particular, but also the digital single market and the single market in energy. All those things are clearly very much in Britain's interests, but they do not involve any further transfer of competence to the European Union. They effectively involve the European institutions completing the job that they are already mandated to do; they already have the competence in these areas, but for various reasons the single markets have not been completed. Britain is the country with the largest services sector in the European Union, so it is very much to our advantage to be in a European Union that has a single market in services as well as in goods. If you are an economy that is primarily a manufacturing economy, I can see that the most attractive thing is to focus on the single market in goods and perhaps not wish to take the additional steps that are necessary to complete the single market in services. But it is very much in our interests that we do that.

Q169 Baroness Armstrong of Hill Top: Can we return to in-work benefits and migrants? First, I was not sure of the implications of your response earlier about migrants who have higher qualifications. I wondered whether you were beginning to move towards saying that they would not be allowed into certain jobs unless they had been tested out—because it sounded a bit like that. Given the discussion in December and the noise that has been around since with what the Germans said yesterday, and so on, how close do you think you are to an agreement across the EU on the issue of benefits? If you do not think that you are getting there, what alternatives are you looking at?

Philip Hammond MP: First, let me try to reassure you. The point that I was trying to make was that one challenge facing low-skilled UK workers with low educational attainment seeking entry-level jobs is that they find themselves competing with people with higher education qualifications who come to the UK because the combination of an entry-level wage plus a generous in-work benefit top-up make those kind of opportunities relatively attractive to them. We see that as unfair and as frankly undermining the social purpose of in-work benefits. That system is carefully devised to try to ensure that people who might otherwise be better off on out-of-work benefits have the incentive to join the labour market, because we think that for all sorts of social reasons it is better for people to be in work than on out-of-work benefits. We want to protect our ability to encourage people who will always be marginal players in the workforce into work and make it worth their while being in work.

On the second part of the question, on progress and where we are, we have been completely open about the fact that this is the most difficult part of the negotiation. We have had numerous discussions with the Commission and the Council as well as with key member states about ways in which our objectives might be delivered here. We are confident that everybody has heard the full range of ideas that have been floated—and lots of ideas have been floated, some of them reported in the media. We are now waiting, ahead of the European Council meeting in February, to see what emerges from the President of the Council, and his ideas to put to the member states ahead of that discussion. We expect that to emerge within the next week or 10 days.

Q170 The Chairman: Foreign Secretary, you indicated in a recent article in the Guardian, as you have done today, that there may be different options on the table that may be more congenial to some other member states. This is about an apparent pull factor, bringing people into the UK—I think that the original calculation of the four-year period was designed to have a certain effect, although I am not quite sure what effect and what the scale of that was. Can we be sure that if different proposals, or a range of proposals, interact on this—you wrote in that article about having an equivalent or compensatory effect—there will be a robust calculus that enables us to work out that it does have such an effect and that in other words what you are aiming for is what you have achieved by other means, if that is necessary?

Philip Hammond MP: That is the clear intention that we have set out. We have put down a proposal, which is a four-year waiting time for access to in-work benefits. If other people have other ideas, we are perfectly prepared to consider them, but they should know that our threshold is four-years' waiting time for benefits. If someone has a combination of other measures that would deliver the same effect—the reduction in flow, recognising that the access to benefits is a mechanism for delivering the primary objective of a reduction in flow—of course we would consider them, as it would be crazy not to do. But they will be judged against the benchmark that we have already set down.

Q171 Lord Tugendhat: You mentioned in your opening remarks the Government's ambitions in relation to national parliaments. In some ways, of course, this Committee regards itself as a progenitor of ideas in that field. I have two questions. I understand that only twice since the Lisbon treaty have national parliaments reached the threshold of one-third of their number for using a so-called yellow card. Therefore, I would be interested in your views as to whether there is any prospect of the Government's proposed veto for national parliaments ever actually being used if the threshold is set higher. Secondly, I think we have been to some extent the progenitor of this idea; we worked very extensively on trying to find practical and effective ways in which to promote the role of national parliaments. Yet the Government, while advocating greater powers for national parliaments, have never taken on board any of our suggestions. I note that you do not seem to be consulting us or other aspects of the UK Parliament about how to promote this agenda.

Philip Hammond MP: First, I do think that if we have an effective power for the national parliaments acting collectively, that will galvanise its use. One reason why the yellow card was an unattractive mechanism is that the previous Commission was clearly going to ignore it. People will put limited energy and effort into pursuing an avenue that is not going to achieve anything. If we have a clear mechanism that shows that national parliaments working together can determine the outcome of events, that would galvanise national parliaments to work together. There may well be a need to establish more effective support machinery to co-ordinate the national parliaments in this work. I would certainly advocate that if we

succeed in getting this power written into the changes that we are seeking, we would put in place some secretariat-type machinery to ensure that the national parliaments are properly co-ordinated and can exercise that power.

Lord Tugendhat: What about seeking to do something about the UK Parliament being more active in asserting influence in this area?

Philip Hammond MP: Do you mean in terms of the scrutiny mechanisms that we have over decisions that are essentially decisions of the Government?

Lord Tugendhat: Yes.

Philip Hammond MP: I think there are two separate issues here. I am sure that we could discuss at length the scrutiny arrangements that we have, which are very important but have to be practical—they have to recognise the speed at which decisions sometimes have to be taken. But that is quite different from giving national parliaments a direct voice in the oversight and control of what is going on in the European Union, and in the model that we envisage, national parliaments would have both roles. They would have a role in scrutiny and oversight of what their individual national Governments are doing, as member states, and they would have a direct role working with other national parliaments in ensuring primarily the enforcement of principles of subsidiarity and proportionality in the legislative programme of the European Union.

The Chairman: For the record, you are not ruling out the possibility that national parliaments might want what we occasionally call in shorthand a “forward gear” to make forward-looking proposals. I am not necessarily saying that those have to be done through the European institutions; they could be done by recommendation, for example, or some kind of informal structure. We might feel a little reassured if you were able to tell us that you would not close your mind to that.

Philip Hammond MP: This is the green card proposal—no, absolutely not.

Q172 Baroness Suttie: I want to return to the question of the European Parliament. Do you think that you have given enough consideration to the role of the European Parliament during negotiations, given its role in any potential treaty change?

Philip Hammond MP: You are quite right—the European Parliament will have an important role to play, and we have engaged and are engaging with key figures in the European Parliament, including leaders of the various groups and the President of the Parliament, and have ensured that they are informed of our agenda. I have had, as have the Prime Minister and the Chancellor, many discussions with leaders of the different political groups and with Martin Schulz about the agenda and the Parliament’s view of our evolving agenda.

The Chairman: Specifically on that, I understand that there was an invitation from the European Parliament for the Prime Minister to address it and I think that he agreed in principle to do so, but I do not think that a date has been fixed. Is that going to happen now?

Philip Hammond MP: We have not actually fixed a date yet, but you are quite right that Martin Schulz invited him, and he agreed in principle to do so.

Q173 The Chairman: Good. Can I go on to the other bit of this—the devolved Administrations? We would take the view that as they are elected parliamentary bodies we have a certain obligation and interest in seeing that they are able to fit in with this, which is consistent also with the general approach to national parliaments to which you referred. I appreciate that there will always be room for interpretation, particularly at different political

levels, as to who has done or said what to whom—and there is sometimes wisdom after the event, and all that. We will aim off for that. But it would be fair to say that some of our discussions with the devolved institutions have revealed their claim, certainly, that there has been a lack of involvement in the negotiation process. When we went to Cardiff some time ago, the First Minister for Wales said that the discussions were not being shared with them, while the First Minister in Scotland expressed some frustration that the devolved institutions were informed of developments *ex post* rather than being involved in them. Interlocutors in devolved institutions in Northern Ireland, both in the Administration and the Assembly, were concerned—and I think you may have heard some of this from the Taoiseach yesterday—with the potential impact on north-south relations and whether that was fully appreciated in Whitehall. Allowing for your own view on those comments, could you tell us how you would respond to what we have heard—and I am sure you will have heard some of it yourself.

Philip Hammond MP: First, our relationship with the European Union is a reserved matter, so it is for the United Kingdom Government to negotiate these issues. However, we recognise that there are key stakeholders, and the devolved Administrations are key stakeholders. They will have a very specific input to make where anything touches devolved issues; they will have a more general input to make as democratically elected stakeholders in the United Kingdom. This matter is routinely on the agenda at the JMC, and I have had meetings, as has the Minister for Europe, with the devolved Governments. As I said, I met Nicola Sturgeon last week in Edinburgh, but I have previously met her here in London to discuss these issues. Unfortunately, we have not had a similar level of discussions with the Northern Ireland Ministers, because of the challenges that there have been over the past six months in Northern Ireland. I wrote yesterday to the Northern Ireland First Minister to see whether, even at this late stage, she and the Deputy First Minister would like to come over and have that discussion, to which they were invited late last summer. So we have had an ongoing discussion with the devolved Administrations. I recognise that it is almost inevitable that they will always have wished for a larger role in the process than they have had.

The Chairman: I have two points to make—although I may only record them, and please comment if you wish. One is that there is a critical north-south dimension within the island of Ireland, both at a practical level with 300 miles or 500 kilometres of shared land boundary, for example, but also with constitutional issues. You will have heard comments made by Foreign Minister Flanagan and the Taoiseach. That is one point. Secondly, perhaps you can give us an assurance, particularly as you move towards a conclusion of the negotiations, whenever that takes place, that if devolved Ministers have a problem, or a perceived problem or concern, you or your colleagues in Whitehall will be ready to pick up the phone and address them briskly and effectively, I hope.

Philip Hammond MP: I cannot promise that we will be able to address concerns, but I can promise that we will be happy to talk about them. All the leaders of the devolved Governments have had that offer—if there is an issue that they need to talk about, they should pick up the phone or come to see us. We are absolutely ready to discuss them, as you would expect us to be with key stakeholders in this process.

On the Irish dimension, you are absolutely right: there are issues about the peace settlement in Ireland, and there are issues for the Republic of Ireland. There is no doubt at all that if Britain were to decide to leave the European Union, the Republic of Ireland by some distance would be the country that was most impacted. The Irish are acutely aware of their vulnerability to a decision by the UK to leave the European Union. We discuss this regularly

with our Irish counterparts; I talk to Charlie Flanagan routinely about these issues, and the Prime Minister talks to the Taoiseach.

The Chairman: Thank you, that is helpful. Let us slightly change tack with Lord Caithness.

Q174 Earl of Caithness: I would like to take you on to the problems facing the eurozone and the non-eurozone countries. After the hiccups we had over payments to Greece last year, which had to be sorted out on an ad hoc basis, this is a key area to get right. What are the principles to getting a lasting agreement in this area? In negotiations with member states, has there been any sign of countries that are out of the eurozone but legally required to join the eurozone when the time is right wishing to change the terms of their entry?

Philip Hammond MP: That would be moving into the realms of speculation.

Earl of Caithness: But this has been raised. If we are going to deal with the eurozone, what about the countries that are saying, “Hang on, we have a problem because we said that we would join, but actually we do not want to”? But that is a secondary question.

Philip Hammond MP: That issue is beyond the scope of the discussions that we are having and, I think, one that is properly addressed to the countries in that group: countries that are not currently in the eurozone but are committed to joining the eurozone, which is all countries apart from us and Denmark.

On the question of what we have to achieve, I am glad to say that after a slightly difficult start in this category, the eurozone countries, which perhaps have not really thought about this a great deal, have now recognised that there is an issue here that needs to be addressed and that it is very much in the interest of the eurozone as well as the non-eurozone that we get these challenges out in the open and find a way to resolve them. We need a declaration that the European Union is a union with more than one currency. We need a clear commitment that there can be no discrimination against any business or person on the basis of the currency of the country in which they are domiciled or operate to avoid the problem that we had with the ECB attempt to exclude London from euro-denominated clearing activities. We need the integrity of the single market to be protected—the same case is played in evidence. We need a commitment that any changes which the eurozone needs to make in order to support the currency that might have to be imposed on eurozone countries would never be imposed on non-eurozone; they would be voluntary for non-eurozone countries. We need an absolute commitment, following the EFSM fiasco, that taxpayers in non-eurozone countries will never be forced to pick up the cost of supporting the euro through action in eurozone countries. That is it in a nutshell.

Q175 Baroness Wilcox: I have two questions to follow up on this. I think you will say no to the first one. Is there a risk that in arguing for symbolic changes such as the formal acknowledgement that the EU has more than one currency, the UK Government could lose sight of the more pragmatic and effective solutions?

Philip Hammond MP: I do not think so. I start from the principle that I have a problem with being a member of an organisation that cannot acknowledge a blatant fact that is staring it in the face. It is the case that the European Union has more than one currency. It is the case that at least two countries have a permanent opt-out from the need to join the euro. So it is a statement of fact, and I expect the European Union to be able to acknowledge the fact.

Baroness Wilcox: Right. Would it be possible to draw on some of the legal precedents set up in the banking union to achieve this vision of a balanced relationship between the euro ins and the euro outs?

Philip Hammond MP: We are seeking to agree a mechanism that allows us all to go forward. We have always believed, although I am not sure that every country in the eurozone believes, that the eurozone economies will have to integrate more closely. There will have to be a degree of political and social integration to underpin the success of the euro in the medium to long term. It is very important to us that the euro is a success, because the eurozone is our largest trading partner. We do not want to be in the position of having to act as a drag anchor on the eurozone trying to get its act together to support the euro and make it a successful currency, because our equities are not protected. So we are seeking a win-win for the non-euro countries and the euro countries. By getting this relationship properly codified and creating the mechanisms to regulate it, we will be allowed to be relaxed when the eurozone countries decide that the time is right for them to take further steps towards integration, so long as those steps of integration do not drag us along with them and so long as they do not disadvantage us, for example by undermining the single market or by imposing additional burdens on the UK. That is what we are trying to get right, and fortunately the great majority of eurozone countries have been enlightened enough to recognise that it is in their interest to have us supportive of that agenda when the time comes for it.

Q176 Lord Borwick: Foreign Secretary, the phrase used by the Prime Minister was: “one clear commitment that writes competitiveness into the DNA of the whole European Union”. In your Guardian interview, I think you said: “For me the test is ‘have we passed the high-water mark of EU intervention in our national life’”. As you may know, on this Committee’s agenda before you arrived was the subsidiarity assessment reform of the electoral law of the EU, on which the European Parliament seems to us to have done something that we believe is a breach of the subsidiarity principle. Using that as an example, how, in your opinion, is this high-water mark thing going? Have we reached this high-water mark? Does it look like it?

Philip Hammond MP: As far as the UK is concerned, that is the clear intention behind this negotiation, the package that we will deliver: to be able to look the British people in the eye and tell them that we have reached the high-water mark and that the intrusive involvement in our national life, which frankly so irritates so many people in this country, is a thing of the past and that we will see gradually—it is not going to happen overnight—powers that no longer need to be exercised in Brussels being returned to the member states. This is not a new idea; the member states made a commitment with the Laeken declaration in, I think, 2004 that powers would flow back to the member states. So far it has not happened, so we are taking a commitment that the European Union has already made and asking in this negotiation to put robust mechanisms in place to operationalise that commitment. We are suggesting that the national parliaments should be involved in driving the delivery of that commitment, since subsidiarity is an issue that touches directly on the interests of the national parliaments. There is a surprising degree of agreement on this. Even in the Commission there is recognition that there is a clear case for Brussels focusing on the things that it really needs to do to make a difference; and in accordance with the principle that many member states, including the UK, adopt, it is better to deal with things as close to the citizen as it is practical to do. In many cases, powers that are currently held in Brussels could perfectly well be devolved back to the member states, or even down from the member

states to regional or local authorities, to exercise without any detrimental impact on the functioning of the European Union. That is what we want to see happening.

The Chairman: Given that the REFIT programme is already in place, for example, and First Vice-President Timmermans is going around looking for these kinds of changes, and given, as you said, that this is not a private British agenda—a lot of member states agree—what is the value added of the negotiation process? Would this have happened anyway now, albeit that it did not happen in the past, or do you think there is a positive virtue in putting it through the lens of the negotiations now reaching their conclusion in Brussels?

Philip Hammond MP: First of all, we do not think that it is entirely a coincidence that the Commission is proactively engaging with some of these agendas. This is an agenda that the UK has pushed very hard. It is an agenda that I think the Commission early on and to its credit decided that it wanted to embrace, partly at least in response to the pressure from the UK to address these areas. But there is also no doubt in my mind that the economic recession has caused a rethink in a number of European Union countries that perhaps would have said in 2006-07 that the most important thing for them was protecting the European social model but are now saying that the most important thing for them is creating economic growth and jobs and protecting standards of living in their countries.

What we are adding here is the bit that Lord Borwick quoted from the Prime Minister about baking this into the DNA of the European Union. It is not enough that one Commission comes along that has a certain agenda. It is not enough that we have the good fortune to have Frans Timmermans, who is a thoroughly sensible person as First Vice-President of the Commission. We need to institutionalise this agenda so that ensuring the European Union's continued competitiveness in the global economy becomes a principal, if not the principal, driving force and work programme of future Commissions. We are looking here to institutionalise a process, and this runs as a theme across these negotiations. We talked earlier about the yellow card process. This Commission said at its inception that it would respect yellow cards delivered by national parliaments, which is very good, but that is not enough. We do not need this to be at the discretion of an individual Commission; we need it to be a standing institutional arrangement for the European Union, Commission after Commission, whatever the personal views and preferences of the individual Commissioners or Presidents of the Commission.

The Chairman: To summarise in a sentence, you need to ensure that the Commission both gets it and keeps on getting it.

Philip Hammond MP: Yes, we need to bake it into the DNA of the institution.

The Chairman: Lord Mawson has a quick point on that. I ask for a bit of restraint on the part of my colleagues, but please go ahead.

Lord Mawson: The sub-committee that I sit on is looking at the whole question of digital platforms, and one is beginning to get a sense of how the internet is becoming a defining principle of our age, which has massive implications for the need for innovation. In the middle of all this, there is a challenge to the very practicalities of the institutions of government, in Europe and elsewhere, about how you make sure you have the Civil Service and the skills in the system that deal with the modern world as it is, because if these things are going to happen, how do we ensure that the practical skills are there? When I listen to some of the discussion on digital platforms, there is lots of talk with lawyers but not actually many people on board who have the real business and innovation skills in the system to know how to deal with the modern world that we are all now entering. How do you deal with that practicality?

Philip Hammond MP: Making the European Union economy more open to innovation is one of the big challenges, and it is a multifaceted challenge: it is about the European Union being willing to act quickly and effectively to change regulations where regulations are standing in the way of innovation; it is about ensuring that small business, because that is where most of the innovation takes place, has a clear voice on European Union regulation and legislation; and it is about making sure that in the way we operate at national level, at European Union level, at every level that we are focused on the need to sweep away restrictions that prevent that innovation process. That includes things like reform of capital markets to make it possible for innovative businesses to raise funding in the European Union in the way they do in the United States. We in the UK can be proud that we are much better at this than almost anywhere else in the European Union, but not so proud that we are much worse at it than the United States. We have to try to draw on the model that works in the United States and adapt it for European Union conditions to ensure that the European Union is one of the great centres of innovation for the digital age. If I may say so, one of the things that the European Union would lose if it was unwise enough to allow the British people to exit would be its greatest powerhouse of business innovation.

The Chairman: Lord Caithness, a quick supplementary.

Earl of Caithness: Could you write to us please, following your answer to Lord Borwick, on how you plan to control the European Parliament? You mentioned the Commission, but if you could write to us about controlling the excesses of the Parliament, that would be helpful.

Philip Hammond MP: I do not think I said anything about controlling the Parliament. I said that we recognise that the Parliament will play an important role in this process, and we have engaged with it accordingly.

The Chairman: This Parliament will need to control itself this afternoon, because we have about 15 minutes left of your time.

Philip Hammond MP: I will, of course, write to you.

The Chairman: Thank you. I just ask my colleagues to be as crisp as they can and, indeed, we will understand the Foreign Secretary's answers in the same way.

Q177 Lord Green of Hurstpierpoint: Foreign Secretary, could we ask you to elaborate on the thinking behind the focus on Britain's obligation to work towards ever closer union? You might say that we have to some extent covered the points already, but I would be grateful if you could explore whether this is seen as something that is primarily symbolic, although not unimportant, or whether it is also seen as having an implication for jurisprudence and therefore has a practical effect? If it is primarily symbolic, is that because the phrase "ever closer union" of peoples gets automatically translated into "ever closer political union", and because of that translation we need to worry about what it says? Finally, do we still need to worry about it, given what the second half of the sentence says about decisions being taken "as close to the citizen as possible ... in accordance with the principle of subsidiarity"?

Philip Hammond MP: I could respond to the Chairman's exhortation by saying yes to that question. You are exactly right, of course: it is an important, symbolic statement, because whatever the actual words in the preamble to the treaty say, the phrase "ever closer union" has come to symbolise what I think most people in this country think of as a ratchet effect: that it is a one-way mechanism, a treadmill on which you have to keep running. That has been many people's experience of the European Union: that it feels as though no sooner is

one step taken than the next step is embarked upon. That is not the kind of world that most people want to live in; they want to feel that the institutional structure around their lives is reasonably stable, that they understand it, and that they can plan to work within it. But it also has a relevance to European jurisprudence and, as I am sure Lord Green will know, the European Court of Justice has previously referred to the spirit of the treaties in its ruling, and it is clear that the principle of closer political union is seen as part of the spirit of the treaties. That might be right for some; it is not right for Britain, and we need to be able to make explicitly clear that Britain is not going down that route of closer political union and cannot be dragged into closer political union. By making that explicit, we will allow the British people to focus on the practical issues relating to the economic aspects of the Union, which we think, frankly, are the most important aspects.

Lord Green of Hurstpierpoint: I guess it could be argued, Foreign Secretary, that if this is the correct resonance of that phrase in the preamble, and therefore creates the problem in the British mind, then given everything else that we have been saying about the importance of openness and flexibility for the Union as a whole and not just for Britain, this might need addressing in the interests of the EU as a whole and not just as a piece of British exceptionalism.

Philip Hammond MP: Yes, and while it is tempting to say, “Come on, what’s in a phrase in the preamble?”, I think the answer is that quite a lot of discussion has taken place about this, and there are definitely some individuals, perhaps some member states, who feel very strongly about this. So it is not just symbolic; it is very important symbolically, and for us it will send a very clear and strong message that the European Union has understood that its future has to be about driving jobs, growth and living standards, rather than just some abstract notion of ever closer union.

The Chairman: Again, Foreign Secretary, you are presumably looking for something further in this case than the European Council conclusions of 2014. You want to build on that, but you want an additional reassurance.

Philip Hammond MP: Yes, that is definitely language heading in the right direction, but it is not robust enough.

Q178 Lord Jay of Ewelme: There has been lots of noise around recently, on the BBC and in the Sunday Times and elsewhere, about a plan after the renegotiation to change domestic law to make it clear that Parliament is sovereign and that UK courts cannot be bound by, for example, the EU Charter of Fundamental Rights. The Sunday Times suggests that Michael Gove, borrowing ideas from Boris Johnson, has been asked to come up with some kind of masterplan to put this into effect. Can we expect a Michael Gove masterplan to be unveiled on the startled world in this way?

Philip Hammond MP: I do not know how startled the world should be. Since we made a commitment in our election manifesto to pursue the Bill of Rights, I think that the world should be expecting it in due course. It is indeed the Justice Secretary who is charged with taking this agenda forward—but it is a complex agenda, and it is going to need some very careful consideration across government and beyond. Of course, the EU Charter of Fundamental Rights, we are clear, does not create any new rights in the UK, unless they are provided for in domestic law. The wider issues about the ECHR and how it interacts with our own constitutional arrangements, the observations that have been made about how the constitutional arrangements of some other EU countries—notably Germany—seem to have an interesting interaction with their EU obligations, are all interesting and important points that the review that is being carried out by the Justice Secretary will want to cover. But this

is not fundamentally an EU issue; the ECHR and the Council of Europe are quite separate, of course, from the European Union.

Q179 Baroness Armstrong of Hill Top: There is speculation about will happen if the British public vote to leave the European Union, but I cannot recall the Government saying anything about that. Can you take us through whether there is any thinking, and what that thinking might be, on the timescales and legal issues and what processes there might be? Some people have talked about Norway and its experiences. Where do the Government sit with all that?

Philip Hammond MP: We have said that although the referendum is not legally binding, it will be politically binding—and if there is a referendum decision that Britain should exit, we will serve a notice under Article 50 of the treaty of Rome and begin the process of negotiating exit arrangements. That is uncharted territory, because no country has done it before. Various people talk about the Norwegian and Swiss model. We should not delude ourselves: Norway and Switzerland are important but tiny economies, and in Norway's case a very unusual economy in that it has an extraordinarily high GDP per capita based on its good fortune to be sitting on a sea of gas. Both countries pay a very high price to retain access to the European single market. Indeed, both countries are required to comply with all EU regulations, including regulations on freedom of movement, establishment and settlement and to make a financial contribution to the European Union equivalent to that which they would have had to make if they were member states. I imagine that those who are arguing for Britain to leave the European Union are not arguing for Britain to do so and to carry on paying the sub and being bound by all the regulations, restrictions and free movement principles. So they would not recommend the Swiss or Norwegian models, I am sure. It is impossible to know what kind of arrangements could or could not be negotiated, were an Article 50 notice to be served. We are in the realms of pure speculation at that point. What I can say is that this will not be an immediate and probably not a quick process. For that reason, the Government have not found it necessary to do any contingency work in this area. We would expect there to be a period of years, certainly, during which these discussions would take place and any arrangements that needed to be made could be put in place.

Q180 The Chairman: Thank you, Foreign Secretary. We are beginning to work towards the close of this session. At the end, we will offer you a transcript for any corrections—and I shall make a verbal one now on your behalf, because you said Article 50 of the treaty of Rome, when I think that you meant the Lisbon treaty.

I have one final question on behalf of the Committee, and it is partly an impression. It was clear to us from a number of discussions with representatives of other member states and around the way in our travels that there was a fairly warm welcome to the Prime Minister's references in his November Chatham House speech to the changed global environment. Some of that, as we all know to our distress, is not welcome—terrorism, for example. But it is a risky world out there, and particularly welcomed were his references to the growing security threats facing European countries, and European Union countries. I noticed that the Prime Minister picked up some of those themes again in his speech in Davos recently. As Foreign Secretary, will you make the case that it is in the United Kingdom's vital national interest to continue to work closely with European Union partners in responding to these challenges together?

Philip Hammond MP: The UK enjoys probably an unrivalled web of networks, if you can have a web of networks. We are a permanent member of the Security Council, a member of NATO, a member of the European Union and the Commonwealth, and we use all those organisations to the full in furtherance of our national interests and the pursuit of our national security. There are undoubtedly areas where the European Union adds weight to our ability to operate. For example, as Russia has developed an asymmetric approach to warfare and strategic challenge, so the European Union has discovered the power of economic sanctions; that is a competence that the European Union holds, not the individual member states. It is clear that, used properly and consistently, the power to impose economic sanctions by a bloc that represents 25% of the world's GDP is a powerful tool, short of military action but well ahead of words of exhortation. The European Union has shown its value in being seen to be a relatively neutral partner and not aligned with one of the great power blocs—for example, in the Iranian nuclear talks, where the EU played a very important role. The Iranians would not have got where they did, I think, if it had not been for the EU's ability to facilitate. The EU also has a role to play in complex stabilisation situations where it is not just about some kind of military or peacekeeping intervention; it is also about delivering good governance, capacity building and post-conflict reconciliation, along with reconstruction and development assistance—what the EU calls the comprehensive approach. We very much advocate the European Union building on this particular area of expertise, where we think it has a niche capability that complements very well what NATO does in high-end war fighting. We are very keen to avoid duplication and very keen to encourage complementarity.

The Chairman: Thank you for that insight and, more generally, for your time this afternoon and for the thoughtfulness of your answers, which is greatly appreciated. We look forward to encouraging you to come again perhaps on a future occasion. It has been very valuable to us and we are very grateful.

UK Green Party MEPs—Written Evidence (VEU0009)

Introduction

We are writing as the UK's Green Party Members of European Parliament in response to the House of Lords EU Committee inquiry on 'Visions of EU reform'.

The Greens advocate staying in the EU. We believe that we flourish when we work together on the shared problems we face – from tackling climate change to promoting human rights and sustainable development as well as safeguarding our protections at work. We celebrate freedom of movement for all the benefits it brings to the UK but also the opportunity it gives British people for generations to come to widen their horizons and live, work or study in other EU countries.

As Green MEPs, we are already fighting for positive reform to the EU to make it more democratic and more accountable to citizens - reforms which are also needed at Westminster. We believe reform is best achieved from within, and indeed some of the reforms we advocate are only achievable with the partnership of our EU neighbours - action to constrain powerful transnational corporations, for example, is best taken at EU and international level.

The Prime Minister is not the only voice for calling for changes – and his reform agenda does not represent a consensus on the long-term direction of the EU. It is our view is that the vision of the EU advocated by Mr Cameron reflects primarily the interests of big business and his should not be the only voice setting the terms of this debate.

Greens advocate reforms to the direction and institutions of the EU which will benefit people and protect our environment, reflecting the position of a growing EU-wide progressive movement for a pro-social Europe. This paper outlines the Green vision for a reformed EU.

The Direction and Principles of the EU

The call for evidence document makes reference to the five principles underpinning the Prime Minister's "vision for the EU in the 21st century": Competitiveness; Flexibility; That power must be able to flow back to Member States; Democratic accountability; and Fairness for Member States within and outside the Eurozone.

While some of these principles – flexibility (in some respects), democratic accountability, fairness – are to be welcomed, the detail and substance of Mr Cameron's EU reform agenda expose an intention to take the EU in a direction which we would see as harmful to people and our environment.

The Prime Minister would like to see a greater focus on EU trade deals with the rest of the world, streamlining regulations in the interests of business and removing so-called 'red tape' from EU legislation.

There is a real danger that reform in this area could undermine social and environmental standards currently arising from EU legislation, and act as a brake on future progressive

environmental and social legislation. It would be an error to aim to compete by lowering standards rather than working to raise standards elsewhere.

The Greens believe EU social and environmental standards should be given primacy over single market rules and competitiveness. EU legislation protects our rights at work, safeguards us against discrimination, and gives us protection as consumers. These rights are set out in the EU's Charter of Fundamental Rights and are legally protected within the context of EU legislation.²² Our rights as EU citizens enable us to travel, study, work or retire in other EU member states. Greens defend these rights and protections and want them strengthened, not taken away or watered down.

We wish to see stronger EU environmental protection and climate action. Currently around 80% of UK environmental legislation originates with the EU. EU climate, energy and environment policy requires the UK and the other 27 Member States to reach minimum levels on emissions reductions, pollution and renewables. We want the EU to strengthen and lead the way on these objectives – for example in the recent commitment from the Parliament (in the Pargneaux report) to achieve 100% renewable energy by at least 2050. The EU has the potential to raise the bar on environmental action globally.²³

We would also like to see stronger EU protection of our rights. We champion EU legislation which protects our rights at work, safeguards us against discrimination, and gives us protection as consumers. These rights enable UK nationals to travel, study, work and retire in other EU Member States, and to be eligible for relevant welfare benefits whilst in those Member States. Just as these rights benefit UK nationals, they should benefit all EU nationals. Greens defend these rights and protections and want them strengthened, not taken away or watered down. We therefore oppose David Cameron's proposal for a four-year prohibition on EU nationals receiving in-work benefits and social housing in the UK. This is a counterproductive proposal which could also have consequences for UK nationals living in other EU countries or for UK nationals returning to the UK after time spent abroad – especially if the Prime Minister aims to abide by Treaty obligations on the principle of non-discrimination on grounds of (EU) nationality. We also oppose his proposals to restrict child benefit for EU nationals. The EU principle of freedom of movement is an important one, and we believe that Mr Cameron's proposals in the area of benefit reform undermines this principle and are populist without being fair.

We want to see Eurozone decision-making based on principles and rules aimed at delivering a people-centred economics within environmental limits. We acknowledge that decisions taken regarding the Eurozone can impact upon non-Eurozone EU economies. We also believe that EU membership should not require a pathway to mandatory Euro membership. However, we do not equate 'protecting the City' with 'protecting the UK's best interests' and question whether seeking reforms for the UK which amount to special protections for the city of London and the financial services sector are actually in the best interests of UK and EU citizens, rather than vested interests. In fact the UK's long-term economic interests are better served, we believe, by a diversification away from over-reliance on financial services.

The Greens are working for stronger EU action on banking regulation and tax justice.

Despite UK opposition, the EU has taken action to strengthen banking regulation and cap bankers' bonuses. Greens MEPs have led this agenda and want it to go further. We need an EU-wide financial transaction tax to curb speculation and raise revenue from the financial sector, and tougher EU rules to close tax loopholes and tackle tax fraud and evasion. We consider this to be good for the general health of the economy and the financial sector in particular.

Reform of the European institutions

Working for a Europe which puts the protection of people and our environment above big business also means reforming the institutions to ensure they are more democratic and accountable to citizens. As Green MEPs, we advocate – and are already leading the way on – achieving institutional reform in four key areas:

1/ Creating a stronger, more effective European Parliament

The Greens would like to see a strengthening of the powers of the European Parliament in relation to the Commission and the Council.

The European Parliament is elected by proportional representation across the whole EU and has a strong democratic mandate. It needs greater legislative and scrutiny powers in relation to the other EU institutions.

The European Parliament should be given powers in the following five areas:

- 1. The power to initiate legislation.**
- 2. The power to amend and veto the Commission's work programme and to appoint, censure and dismiss individual Commissioners.**
- 3. The right for European Parliament committees to demand papers and testimony from the Council and the Commission.**
- 4. Appointment and scrutiny powers over the European Central Bank, particularly the appointment of the ECB President and Board.**
- 5. The right for the European Parliament to decide its own seat.**

2/ Greater openness and transparency in EU institutions

The Greens believe decision-making at all levels must be democratic and transparent, with institutions and decision-making processes accessible to citizens. We advocate the following key reforms across EU institutions

Council:

- **Council should make decisions by qualified majority, not unanimity.** In decision-making Member States should seek to build consensus and recognise diversity across the EU, but the process should not permit individual Member States to unreasonably withhold consent.
- **Council should publish all voting records.** In the interests of democracy and transparency citizens need to know how their government ministers are voting in EU meetings.

European Central Bank:

- **Increase democratic oversight and scrutiny of the ECB.** Give the European Parliament appointment and scrutiny powers over the ECB. It should have at least the same level of democratic oversight and scrutiny as the US Federal Reserve.

3/ EU action against the dominance of powerful corporations.

We believe that the extent of lobbying has led to a situation where the EU institutions have been captured by big business. Around 80% of stakeholders officially recognised by the Commission represent corporate interests, giving them unacceptable levels of access to EU decision-making which undermines democracy.

In order to tackle the undue influence granted to corporate lobbyists in EU decision-making, Greens have been at the forefront of campaigns advocating stronger rules on transparency and ethics for lobbying.

A legally-binding EU lobby register:

To tackle the power of private vested interests at EU level we urgently need a compulsory and legally-binding EU lobby register, requiring lobbyists to be fully open and honest about all their lobbying activities. This is called for by over 100 European NGOs.²⁴

Block the 'revolving door':

The 'revolving door' phenomenon – whereby top EU officials, Commissioners, and MEPs, leave their EU jobs to work for big business – grants big business inside-knowledge, vital contacts, and powerful influence. This increases the corporate dominance of EU decision-making and serves to make the EU more remote from citizens' concerns and the public interest.

The revolving door problem also exists at UK level, and action should be taken at all levels to counter it. At EU level revisions are needed to Commission, MEP and EU staff rules/codes of conduct.²⁵

Transparency in trade deals:

Trade deals, such as the current EU/US trade deal (the Transatlantic Trade and Investment Partnership - TTIP), are all too often shrouded in secrecy. Negotiations take place behind

closed doors between unelected officials, with limited access to documents for democratically elected representatives, let alone members of the public.

We advocate a European Parliament watchdog to monitor and make transparent trade deal negotiations. Trade deal scrutiny and transparency is also needed at the national level.

4/ Creating a citizen's Europe with greater democracy

Greens strongly oppose the inappropriate centralisation of power, whether at continental or national level. We believe European citizens should have a greater say in EU decision-making, and would like to see stronger, democratic regional and local decision-making, and further devolution.

In this regard, the Greens advocate the following measures:

Lowering the European election voting age to 16 in order to enfranchise young people into civic society through including them in the decision-making process supported by political education and information.

Strengthening participatory democracy by improving the European Citizens' Initiative:

The ECI is a direct way for citizens to participate in EU politics and has been championed by Greens. There is no comparable mechanism in UK national politics.

Establishing a legal base for EU-wide referenda: to give European citizens a say on the future of Europe.

Introducing a written constitution for the EU: This should be agreed by referendum across Europe, and should outline the basic rights of citizens across the EU and the scope and limits of its powers. Greens also want a written constitution for the UK for the same reasons.

A greater role for national/regional parliaments in EU affairs via a Green card provision for parliaments: National and regional parliaments need greater oversight of their government's actions in EU matters. We need better avenues of co-operation between national and regional parliaments and the European Parliament. Under EU subsidiarity rules, 'yellow/orange card' provisions operate for national parliaments to object to draft EU proposals, which can lead to them being amended or withdrawn. One of the Prime Minister's reform demands is a 'red card for national parliaments' provision to strengthen the hand of national parliaments to block unwanted legislative proposals. If a 'red card' provision were to be proposed or brought in, we advocate the introduction of a 'green card' provision for parliaments to indicate support for, and possibly initiate, legislative proposals.

30 November 2015

UK Green Party Members of the European Parliament:

Keith Taylor, Green MEP for South East England

Jean Lambert, Green MEP for London

Molly Scott Cato, Green MEP for South West England

[I eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2010.083.01.0389.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2010.083.01.0389.01.ENG).

ii The UK Green MEPs response to the Government's Review of Competences between the UK and EU on Environment and Climate Change policy in 2013 provides further information: http://www.keithtaylormep.org.uk/wp-content/uploads/Review-of-Competences-Environment-and-Climate-Change_Keith-Taylor-and-Jean-Lambert-MEPs1.pdf

iii www.democracy-international.org/100-ngos-demand-legally-binding-lobby-regist and <http://www.alter-eu.org/lobby-transparency-across-the-eu>

iv www.alter-eu.org/block-the-revolving-door

Manfred Weber MEP and Brian Hayes MEP—Oral Evidence (QQ 140-150)

Manfred Weber MEP and Brian Hayes MEP—Oral Evidence (QQ 140-150)

[Transcript to be found under Brian Hayes MEP](#)

Glenis Willmott MEP, Catherine Bearder MEP and Ashley Fox MEP—Oral Evidence (QQ 126-133)

Glenis Willmott MEP, Catherine Bearder MEP and Ashley Fox MEP—Oral Evidence (QQ 126-133)

[Transcript to be found under Catherine Bearder MEP](#)

Professor Derrick Wyatt QC—Written Evidence (VEU0004)

I am providing this evidence in my personal capacity. It can be summarised as follows. The vision of the EU and its reform described in the Prime Minister’s Bloomberg speech (“Bloomberg”) is in large part a reaction to the EU’s failure to live up to its own vision of itself. The Bloomberg vision is a valid vision of what the EU has been designed to be, rather than a vision of a radically different Europe. The UK government’s vision has been for the most part translated into achievable reform objectives, such as a red card for groups of national parliaments seeking to block unwanted EU legislation. A possible exception is the reform proposal for migrant benefits, which is a justified proposal, but might not be achievable.

1. I have said that the EU has failed to live up to its vision of itself. One way it has done this has been to fail to behave like an organisation of limited, attributed powers. It has always been important to the UK that the treaties upon which the EU is based define the powers transferred from the Member States to the EU institutions, and that the EU institutions work within those powers. The EU, like its predecessors, professes to be an organisation of defined and limited powers. Yet in practice the EU lawmaking institutions have interpreted their own powers generously. The Court of Justice has failed to curb the jurisdictional excesses of the political institutions, and has instead given EU lawmaking powers a remorselessly expansionist interpretation.⁶² This is part of the problem to which Bloomberg is intended to provide a solution.

2. Along with wide powers ever more widely interpreted, has come excessive lawmaking. Too many EU officials and MEPs behave as if European integration can be measured in terms of the volume of decision-making transferred from national or regional authorities to EU level. When EU officials and MEPs call for “more Europe” they mean yet more centralised decision-making. In the case of eurozone management, this might well be necessary. But not across the board. It is not surprising that Bloomberg says that regulation is excessive, and that frustration deepens as decisions are taken further and further away from those affected by them.

3. Once again, the EU has failed to live up to its own standards. It was to address the problem of excessive legislation at EU level that the EU constitutional model has been re-balanced over the years. De-centralising values were agreed and written into the treaties. These values were subsidiarity, designed to ensure that decisions are taken as closely as possible to the citizen, and respect for national identity, and for essential state functions. The significance and legitimacy of national parliaments is recognised in the EU legal order by, in particular, giving those parliaments some of the responsibility for ensuring compliance with the principle of subsidiarity, though the powers they currently wield are very weak. Strengthening those powers would enhance the democratic legitimacy of the EU.

4. The de-centralising values of the EU legal order have been resisted or ignored by the EU law-making institutions, and unenforced, and even infringed, by the Court of Justice. The EU political institutions have failed to abide by subsidiarity by the expedient of interpreting

⁶² Wyatt, *Is the European Union an Organisation of Limited Powers?*, in Arnall et al (editors) “A Constitutional Order of States: Essays in Honour of Alan Dashwood”, Hart Publishing, 2011, page 3.

its requirements in such a way that EU proposals can always be presented as being compliant.⁶³ Subsidiarity has thus been deprived of effect, and the Court of Justice has been complicit through inaction in this side-lining of a core democratic value of the EU legal order.⁶⁴ The Court of Justice has itself failed to respect national identities by expanding the concept of Citizenship of the Union to the extent that it claims to determine the very scope of national citizenship.⁶⁵

5. The result of emasculating the principle of subsidiarity is that EU legislation is made which need not be made at EU level at all. By that I mean EU legislation which regulates subject matter which lacks a transnational dimension which lies beyond the reach of the national lawmaker, and requires an EU wide solution. Take for example EU legislation in the environmental field. Much EU environmental law *does* address subject matter with transnational elements requiring regulation at EU level, but much, equally, does not.

6. The EU declares that it is a Union in which decisions are taken as closely as possible to the citizen. More than that, it is an *ever closer* union in which decisions are, nevertheless, taken as closely as possible to the citizen. This is the EU's vision of itself. Yet the vision is flawed in its practical expression. The centralising aims of the Union are pursued, while the de-centralising counter-balances of the system lie dormant on the statute book. Decisions taken at EU level are not taken closely to the citizen at all. Decisions with zero or little value added for being taken at EU level rather than national or local level deprive national decision-makers of their powers and deprive the EU of democratic legitimacy.

7. Small wonder Bloomberg laments a lack of democratic accountability and highlights the gap between the EU and its citizens which has grown dramatically in recent years. Small wonder it calls for a "bigger and more significant role for national parliaments." National parliaments are the main source of democratic accountability and legitimacy within the EU. The European Parliament (EP) makes a democratic contribution, but of a different order. There is no European *demos*, or people, as the call for ever closer union among the "peoples" of Europe recognises. The secondary legitimacy of the EP is recognised by the electorates in the Member States, which vote in far fewer numbers for their MEPs than for their representatives in national parliaments.⁶⁶

8. It is only when all this is borne in mind, that Bloomberg can be fairly evaluated. Key elements of it are a plea for the EU to be true to its own vision of itself, rather than an attempt to urge upon the EU an agenda alien to it and driven by "anglo-saxon" eccentricities. Much of Bloomberg can be read as a call for the EU to promote its own de-centralising agenda (subsidiarity and decision-making as closely as possible to the citizen) as strongly as it promotes an agenda of needless centralisation.

⁶³ For detailed substantiation of this analysis, see Wyatt, Evidence to the Balance of Competences Review on Subsidiarity and Proportionality, pp. 3-8, file (entitled *Professor Derrick Wyatt QC*) accessible at <https://www.gov.uk/government/consultations/subsidiarity-and-proportionality-review-of-the-balance-of-competences>

⁶⁴ See Wyatt, Towards a New Judicial Approach for the 21st Century, <http://www.biicl.org/event/1124> at paras. 29-33.

⁶⁵ See Wyatt, note 4, at paras. 36-38.

⁶⁶ <http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tsdgo310&language=en>

9. It is in this context that I address the Select Committee’s question whether the UK government’s vision for the EU is achievable, and how has it been translated into specific reform objectives. An important reform objective is to achieve a “red card” for groups of national parliaments to block unwanted EU legislation, and to see the EU’s commitment to subsidiarity “fully implemented.” This objective is designed to make the EU respect and comply with its own core values. This reform objective should be achievable. I have commented elsewhere on what a successful outcome for this aspect of the government’s renegotiation proposals would look like.⁶⁷

10. The Select Committee asks what the commitment of the EU to an “ever closer union” means, and whether this aim is relevant or achievable. I have argued elsewhere that this formulation has probably had more influence on the case law of the Court of Justice than appears on the face of the Court’s judgments. The formulation has encouraged the Court in a direction which promotes centralising values in the EU legal order, and under-plays de-centralising values.⁶⁸ But there is no evidence that I am aware of that the formulation was in its origin, in the preamble to the Treaty of Rome, anything more than rhetorical flourish. It is nevertheless easy to read into it a sign-post to a federal destiny, and it does suggest that however close the peoples of Europe get, there will always be more closeness still to come. For the eurozone, as regards management of the euro, and all that that entails, that is probably the case. Even apart from management of the euro, “more Europe”, in the sense of more transfers of powers to the centre and more decisions taken at the centre, probably remains the ambition of significant elements of the European political classes, though not in all EU countries, and certainly not in the UK.

11. The virtue or vice of seeking an “ever closer union” lies in the eye of the beholder. The aim is relevant and achievable for those who believe in it and are willing to take action in its name. Paradoxically, one of the mechanisms for “ever closer union” is enhanced cooperation, a mechanism which, in the name of further integration, facilitates the evolution of a multi-speed Europe. The Select Committee asks whether a two-speed or multi-speed Europe is feasible. In my view, the seeds of a multi-speed Europe are too well sown (a multi-currency union, with opt-outs on this and that, and with its mechanism for enhanced cooperation) for it to be concluded that a multi-speed Europe is not feasible. If the UK remains in the EU, the multi-speed element will be more pronounced. But the basis for it already exists, and developing it will strengthen the EU rather than threatening its existence. The President of the European Commission appears to have accepted this in a statement on 18 November. That is a step in the right direction.

12. The Select Committee asks whether the Prime Minister is right that the over-riding priority for today’s EU should be to “secure prosperity”. Taking his statement in context, it is broadly right. But his reference to “over-riding priority” was expressed very generally and contrasted with that other very general priority of winning peace between European nations who had been at war and were now united within the EU. The Prime Minister is certainly right to say that the single market is the core of the EU. The Treaty on European Union

⁶⁷ <https://dellilawblog.wordpress.com/2015/11/20/derrick-wyatt-what-can-the-uk-reformrenegotiation-package-really-hope-to-achieve/> , see heading “A Red Card for National Parliaments”.

⁶⁸ See link in last note, heading “Exemption from Ever Closer Union for the UK.”

declares the aim of promoting economic and social progress, and the Treaty on the Functioning of the European Union has as its “essential objective” “constant improvements of the living and working conditions” of the peoples of the Member States. And the Prime Minister adds to “prosperity” as aims of the EU “stability” and “the anchor of freedom and democracy both within Europe and beyond her shores”. He also refers to the EU protecting our energy supplies, tackling climate change and global poverty, and working together against terrorism and organised crime. This is not a narrow vision of the EU. On the contrary, it is a vision of an EU which would empower its peoples, and would claim a leadership role in the world.

13. One feature of the government’s reform/renegotiation aims which is at odds with the EU’s vision of itself, and probably at odds with the policies of other Member States, is the aim of securing treaty changes to allow discrimination against EU migrants in respect of certain in-work benefits, and to terminate child benefits in respect of children resident in other EU Member States. I understand the context all too well. The UK has seen levels of immigration which have caused great concern to many. This concern may bring about the UK’s withdrawal from the EU. The UK government is trying to avoid that consequence. But free movement of persons and non-discrimination on grounds of nationality are essential elements of the internal market. Seeking a permanent licence to discriminate on grounds of nationality, directly or indirectly, against EU migrants, challenges a key principle of the EU legal order, and may be impossible to achieve. If it can be achieved, it will be justified by the overall benefit of allowing the UK to remain in the EU, while allowing EU migrants to continue to live and work in the UK. I have discussed this issue elsewhere, and suggested that a transitional arrangement applicable until net immigration is significantly reduced might be achievable, and would be consistent with the integrity of the internal market because it would be transitional.⁶⁹

23 November 2015

¹ Address by An Taoiseach Mr Enda Kenny TD to the CBI Annual Conference, 9 November 2015. A recent public opinion poll echoes governmental support for Britain to remain within the EU, with 74.6% polled in favour of Britain staying in the EU (Irish Times/Ipsos MRBI poll, 27 November 2015).

² See Laffan and O’Mahony, 2008, pp.1-41.

³ In the most recent Eurobarometer poll, Eurobarometer 83, conducted in May 2015, of those polled, 57% had a positive image of the EU (Ireland came second amongst the EU28, behind Romania). For UK citizens 32% had a positive image of the EU (fourth from the bottom, EU average 41%).

⁴ Department of Foreign Affairs and Trade. 2015. *The Global Island. Ireland’s Foreign Policy for a Changing World*, pps.45, 64.

⁵ Department of Foreign Affairs and Trade. 2015, p.67.

⁶ As acknowledged by Director General Jonathan Faull, Director General of the Task Force responsible for strategic issues related to the UK Referendum, Institute of International and European Affairs, Dublin, 25 November 2015.

⁷ Barrett et.al. 2015. In an assessment of the worst case implications of a ‘Brexit’ on Ireland, the ESRI, a highly respected, independent economic and social research think tank, found that British exit from the EU would be likely to significantly reduce bilateral trade flows between Ireland and the UK to a magnitude of 20 per cent or more, with the impact most evident in the agriculture, food, beverages and basic metals sectors. See: <http://www.esri.ie/pubs/RS48.pdf>.

⁶⁹ See link in note 7, heading “Migrants and Welfare Benefits”.

⁸ Joint Committee on European Union Affairs UK/EU Future Relationship: Implications for Ireland. June 2015, p.38.

⁹ Government support for TTIP is mirrored in Irish public opinion, with 77% of those polled in Eurobarometer 83 (Spring 2015) in favour of TTIP.

¹⁰ As a member with the UK of the Common Travel Area, Ireland negotiated a formal opt out of Schengen and related justice and home affairs policy, with the option to opt in to measures as according to Protocol 21.

¹¹ O'Brennan, 2012, p.91-2; Barrett, 2013, p.8.

¹² Fine Gael-Labour Programme for Government 2011-16.

¹³ Joint Committee on European Union Affairs, January 2015. Of the two yellow cards the European Commission has received from national parliaments (as part of the Early Warning System), the Irish Oireachtas participated in one (2013 on the European Public Prosecutors Office draft legislative proposal). Between 2010 and 2013 the Oireachtas issued 5 reasoned opinions and the political dialogue instrument was used 23 times.

¹⁴ See Honohan and Murphy, 2010.

¹⁵ Gillespie, 1997, p.63.

¹⁶ According to Eurobarometer 83 (Spring 2015), support for the Euro is high in Ireland, with 79% of those polled in favour of Economic and Monetary Union.

¹⁷ The CTA comprises exists between Ireland and the UK since 1922 and was achieved by domestic legislation in the UK and Ireland. Prior to EU accession in 1973, British and Irish citizens had the right to work in both countries (apart from during second world war) and certain entitlements to social welfare payments.

¹⁸ Barrett et.al. 2015, p.vii.

¹⁹ Kenny, C. 2015.

²⁰ In Eurobarometer 83 (Spring 2015), when asked what were the most important issues facing their country at the moment, for the Irish, unemployment and health and social security issues topped the poll (with 43% and 30% respectively), whereas immigration came much further down the list (with 7%). For UK citizens polled, immigration was the issue of most concern (35%).

²¹ Irish Times/Ipsos MRBI poll 27 November 2015.

²²eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2010.083.01.0389.01.ENG.

²³The UK Green MEPs response to the Government's Review of Competences between the UK and EU on Environment and Climate Change policy in 2013 provides further information: http://www.keithtaylormep.org.uk/wp-content/uploads/Review-of-Competences-Environment-and-Climate-Change_Keith-Taylor-and-Jean-Lambert-MEPs1.pdf

²⁴www.democracy-international.org/100-ngos-demand-legally-binding-lobby-regist and

<http://www.alter-eu.org/lobby-transparency-across-the-eu>

²⁵ www.alter-eu.org/block-the-revolving-door