

SELECT COMMITTEE ON  
THE EUROPEAN UNION

EVIDENCE BY THE MINISTER FOR  
EUROPE FOREIGN AND  
COMMONWEALTH OFFICE, ON THE  
BRUSSELS EUROPEAN COUNCIL

WITH EVIDENCE

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# FOURTH REPORT

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17 DECEMBER 2002

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

ORDERED TO REPORT

## **EVIDENCE BY THE MINISTER FOR EUROPE FOREIGN AND COMMONWEALTH OFFICE, ON THE BRUSSELS EUROPEAN COUNCIL**

1. In recent years it has been our practice to take evidence regularly, normally after the six-monthly meetings of the European Council, from the Minister for Europe at the Foreign and Commonwealth Office.

2. Accordingly, in this Report we make available, for the information of the House, the oral evidence given to us by The Rt Hon Denis MacShane MP, Minister for Europe, on the outcome of the Brussels European Council held on 24/25 October 2002.

3. The key topics are:

- Bilateral air services agreements: QQ 28-30
- Bosnian Policing: QQ 16, 17
- Charter of Fundamental Rights: QQ 6, 7, 9
- Common Agricultural Policy: QQ 21-23, 25, 26
- Constitutional treaty: QQ 6, 8-10
- Convention on the Future of Europe: QQ 3-6, 8, 10
- Enlargement: QQ 4, 5, 11, 12, 20, 22, 33
- European Security and Defence Policy: QQ 31, 32
- EU/US relations: Q 35
- Financial Services Action Plans: Q27
- Stability and Growth Pact: Q 14
- Illegal immigration: QQ 15, 18, 20, 26
- Kaliningrad: QQ 18, 19
- Nuclear safety: QQ 33, 34
- Turkey: QQ 13, 31, 32
- UK abatement: QQ 23-25

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APPENDIX  
**European Union Select Committee**

The members of the Committee are:

Baroness Billingham

Lord Brennan

Lord Cavendish of Furness

Lord Grenfell (Chairman)

Lord Hannay of Chiswick

Baroness Harris of Richmond

Lord Jopling

Lord Lamont of Lerwick

Baroness Maddock

Lord Neill of Bladen

Baroness Park of Monmouth

Lord Radice

Lord Scott of Foscote

Earl of Selborne

Lord Shutt of Greetland

Baroness Stern

Lord Tomlinson

Lord Williamson of Horton

Lord Woolmer of Leeds

# MINUTES OF EVIDENCE

TAKEN BEFORE THE EUROPEAN UNION COMMITTEE

TUESDAY 26 NOVEMBER 2002

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Present:

Billingham, B.  
Brennan, L.  
Cavendish of Furness, L.  
Grenfell, L. (Chairman)  
Hannay of Chiswick, L.  
Jopling, L.

Maddock, B.  
Neill of Bladen, L.  
Pearson of Rannoch, L.  
Scott of Foscote, L.  
Williamson of Horton, L.  
Woolmer of Leeds, L.

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## Examination of Witnesses

MR DENIS MACSHANE, a Member of the House of Commons, Minister for Europe, MR SIMON FEATHERSTONE AND MR NICK BAIRD, Foreign and Commonwealth Office, examined.

*Chairman*

1. Minister, thank you very much indeed for giving of your valuable time to come and meet us here. Congratulations on your appointment to this very important post. We look forward to seeing you on many occasions. I hope that you will feel the same way, having been through this little exercise today. Maybe you would like to introduce your two colleagues to us.

(*Mr MacShane*) Thank you very much, my Lord, and may I congratulate you on your election to this chairmanship. I hope our discussions will prove fruitful. On my left is Mr Simon Featherstone and on my right is Mr Nick Baird, both of whom deal at the highest level in the Foreign Office with matters we will be discussing this afternoon.

2. Would you like to make an opening statement to us?

(*Mr MacShane*) Only in the sense that I am a new boy. My view of Europe is that it should be a process of discussion and education rather than fixed positions. I have enjoyed sitting behind this table in previous incarnations as Parliamentary Private Secretary and thought that the questions and the testing, sometimes almost to near destruction, of aspects of European Union policy by this committee and others has been extremely productive and useful. That is all. I would rather get on with the business if that is possible.

3. I think that in the course of our questions you will be bringing out for us what the main priorities are for the EU over the next six months. I would rather like to go straight on into the question of the Convention if I may. As you are very well aware, the arrival of Joschka Fischer at the Convention and now Dominique de Villepin seems to be raising the stakes quite considerably. I am wondering what practical measures Her Majesty's Government are taking to keep the UK's role in the Convention running smoothly.

(*Mr MacShane*) I welcome the fact that the Foreign Ministers of Germany and France are now on the Convention, just as I welcome the fact that Peter Hain is keeping Britain's Convention seat. I have never really understood the theory that says, "The Minister is dead. Long live the Minister", and

the new chap is meant to pick and run with everything. Peter Hain's presence on the Convention I think will retain continuity and Mr Fischer and Mr de Villepin will have to come and feel their own ways into the Convention as well. We (the Foreign Office) are collaborating very closely with Peter Hain. He has taken a member of his private office from the Foreign Office on a temporary secondment into the Welsh office and the same team of officials that also report to the Foreign Secretary and ultimately to the Cabinet Office and the Prime Minister will keep supporting Peter, as indeed will all the officials working at UKREP in Brussels. It releases me, if I may say so, to do more travelling around Europe to discuss in the capital cities British thinking and ideas on the Convention.

*Lord Cavendish of Furness*

4. Minister, in the early days of the Convention much was made of re-connecting with the voter but recently observers have been commenting, which I think is substantiated by the papers that come in front of us now, that the notion of re-connecting with the voter seems to have been dropped. Could you give me your impression and the impression of your colleagues on whether in fact this remains an aspiration or is it too onerous to re-connect?

(*Mr MacShane*) I think the question of re-connection or connectivity, as it is sometimes called in the Convention jargon, remains a top priority and I expect that that also lies behind the thinking of the French and German governments who have joined with us in each putting one of their most senior Cabinet ministers on the Convention. I would say that some of the ideas that are emerging, particularly to connect national parliaments to the oversight of Europe, the Congress proposal from M Giscard d'Estaing, the extra proposals to allow national parliaments to have their word on EU legislation before it goes forward, are serious ways of connecting Europe as a whole back through national parliaments in particular. It is an important issue for me and I think for many members of both Houses to the voters. This morning I was there with the Minister of Europe from the Polish Government and she laid great stress on that need to connect Europe

26 November 2002]

MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD

[Continued

Lord Cavendish of Furness *contd.*]

to the Polish people who will of course have soon in a referendum to endorse the accession agreement of Poland to the European Union.

*Chairman*

5. I was reading that 70 per cent of the Polish people, it would appear, who are going to vote say that they will vote yes but things could go horribly wrong. Maybe we will come on to that when we get on to the enlargement issue. One of the issues in the Convention which is of great interest to the Committee is the vexed issue of the Council Presidency. Could you advance some of your views on that to the Committee?

(*Mr MacShane*) It is an idea that Britain has put forward and I think there is considerable support for it. People want to see both a strong Commission and a strong Council. People accept that under the present rules the idea of waiting for 12½ years before any individual country can take its turn at the Presidency does not make sense. People accept that a Council chairman, probably a senior political figure, obviously no longer involved in national office, could act as a chairman for team Presidencies, could act as a spokesperson for the Council, not really a “Mr Europe” but as a point of discussion and contact between different European countries and the Union institutions. There is also discussion of whether or not and how he or she might be appointed, confirmed or elected. I do not know if you want me to go into that. It is there on the table for discussion and it is welcomed, I think, as a very serious British contribution. Not everybody is in agreement with it but that discussion goes on.

*Lord Scott of Foscote*

6. Minister, I wondered if you could help us with the state of play on the negotiations for a constitutional treaty of Europe? We know that Giscard d’Estaing has produced a skeleton constitution and we know that Professor Dashwood has produced a draft constitution as a basis for further discussion. There has been considerable discussion on the issues of whether the proposed constitution should have a bill of rights by the incorporation of the Charter or by the European Union’s accession to the Human Rights Convention, or both. What I am not at all clear about, and I wondered if perhaps you could help, is what the Government’s approach to these issues is at the moment, what its negotiating stance is.

(*Mr MacShane*) I would commend the very good essay of the Foreign Secretary, Jack Straw, in *The Economist* of perhaps six weeks or two months ago with a very handsome cartoon of him looking like Thomas Jefferson to illustrate it where the Foreign Secretary said, Yes, Europe does need a constitutional settlement that defines what Europe does, what the nations do, what other component, political and governing, elements within the Union do, so we have crossed that Rubicon in the sense that in the past many British ministers threw up their hands in horror at any notion of a constitution. We have put forward not a government proposal but we

did ask Professor Dashwood to put forward some ideas. M Giscard d’Estaing has put forward a draft text which everybody is looking at and getting to grips with. There are many professional working groups discussing it. There is the issue of the Charter of Fundamental Rights. There is the issue of status of any constitution. I think that that debate will be open. People want a Europe that works. That probably is my general impression of what the rest of Europe wants and the British Government, which sees a constitution in essence as a set of rules by which people can live together in harmony and tolerance, believes that a declaration of a constitutional set of rules would be a good thing.

7. Including the Charter?

(*Mr MacShane*) The issue of the Charter again is being discussed. I have looked at the Charter pretty closely and, as originally drafted, of course, we were happy with it as a declaration. Now work is being put into it to include what are called in the jargon horizontal protections because if I may, my Lord, give a specific example, I raised with German friends, who are terribly keen on the Charter being fully incorporated, the fact that under the German *Grundgesetz* or *Verfassung* (their constitution) about four million sector workers, including for example firefighters, are banned from going on strike. I said, “Under Article 28 [I think it was] of the Charter, the right to strike is guaranteed to all European citizens, so that means of course that your four million public sector workers now have the right to strike.” “Oh, no, Dr MacShane. The Charter cannot be superior to German law.” If one actually looks, and I think the key one is Article 51(2), it says that the Charter does not establish any new power or task for the Community or Union or modify powers or tasks defined by the treaties. If one looks within the existing Charter—this is ahead of any modifications—there are protections to say that it does not supersede national laws or that it should be applied in accordance with national laws. If we can get that kind of protection in we may be a lot closer to finding the Charter acceptable, but I do stress that that is hard, grinding, detailed work. My friend, your colleague, Lady Scotland, is the lead on this. Lord Goldsmith, of course, has a very keen interest in it, and work progresses.

*Lord Williamson of Horton*

8. This is another variant of the many premature questions which you will receive before next June, and it is on this point about the constitutional treaty. The constitutional treaty, however it is drawn up, of course has to go through all the procedures of a treaty. We are completely amending the system. It has to come back here, it has to be cleared by the parliaments and everything has to be done with it, so it is a central part of the results of the Convention. I wonder whether you have thought a little about how this is going to be handled in relation to public opinion? I am sorry to come back to it but these things can prove controversial even though the Government itself may support the approach. This is going to be a big event, this part of the result of the Convention, probably the biggest event, and I do

26 November 2002]

MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD

[Continued

Lord Williamson of Horton *contd.*]

think that it does need a little bit of thought about how this is going to be handled with public opinion even as early as this. I do not know if that is a fair comment.

(*Mr MacShane*) My Lord, I completely agree with you, believe me, and I worry and have worried for some years about the handling of public opinion on all matters European. Britain does not have a written constitution. I suppose the last decent stab at it was the 1688 Bill of Rights which you will find quoted on a number of public buildings all over Europe as the first great constitutional settlement on offer to parliaments in Europe before Mr Montesquieu came along and took the story a bit further forward. I think that people do want a clear set of rules. What a constitution should do is provide clarity. I agree that constitutional courts and other courts then existing interpreted that clarity but people I think will appreciate at the end of this process a clear statement, and let us not forget that it is for the Convention to propose but for governments to decide and any future agreement on the re-writing of the treaties as you rightly allude to will have to be agreed by unanimity. I do not think it will be us alone who have care in this matter. France is very proud of its constitution. It was set up before the French constitutional court. I do not think France will sign up for much that is seen as it were as overriding the very careful checks and balances in the fifth constitution.

*Lord Neill of Bladen*

9. Minister, could I take you back to the Charter for a moment? Some of us were having an interesting discussion with Lady Scotland yesterday. Can I put to you a very elementary point about this? We have got the European Convention on Human Rights with a very big body of case law developed by the Strasbourg court. We have now got the Human Rights Act which makes that effectively primary English law. Now you have this Charter. Either that is the same or it is saying something different from the Convention. I think you have already given an example from Germany which showed that it says something more. But under the horizontal provisions, 51(1) I had in mind, the amended version of 51, it is immediately proposed to restrict the more extensive ambit of the Charter by saying it is not to go beyond the competence within the Union. In other words everything that could be done, I am putting to you, under the Charter could already be done by virtue of the treaties plus the Convention, so why bother about a Charter?

(*Mr MacShane*) My Lord, I think you may have a profoundly valid point. Bagehot wrote a whole book called *The English Constitution* based on precedent, statute, and case law. It is not the European tradition and I think people are fed up with picking their way through the different treaties, the different obligations upon European states, not just by the conventions that you mentioned but a whole range of international treaties, and they would like a clear guiding set of rules. That is what one—from a British point of view; I do stress that—would hope that any final constitutional declaration or constitution

without the Charter would incorporate and we are working towards that. I did remember hearing one of my predecessors here say that at the end of the day anybody could cite any important document to a judge deciding a constitutional issue. What we are trying to do I think is to get into territory where the rules define competences and then the competent bodies get on with administering the rules, but I fully accept that ultimate 100 per cent clarity in law, as anywhere else, is probably difficult to achieve.

*Lord Pearson of Rannoch*

10. This is following on from Lord Williamson's question when you agreed that the conventional's constitutional treaty may require a certain amount of careful handling with public opinion in this country. I wonder if you could see any case, in view of the significance of what may come out of the Convention, for departing what has been the process by which the European treaties have been built up over the years, which is really using the treaty making power of the royal prerogative to agree matters in Brussels and then bringing them to Parliament for ratification under the pressure that if Parliament does not agree with them we would by then be in breach of our treaty obligations? In a nutshell, in view of the importance of what may be put forward by the Convention and before it is agreed at the next IGC, do you see a case for Parliament here not only expressing an opinion on what may have been decided but actually deciding it and in practice giving the Government the executive permission if you like to go ahead with whatever has been proposed, or do you just see that the same old system of treaty making powers being used and then it being brought to Parliament more or less as a *fait accompli*?

(*Mr MacShane*) Chairman, I am a very strong parliamentarian and I have been surprised in the short time that I have been in this job by the amount of time (which I fully welcome) that I am required to spend formally at committees like this, on the floor of the House in Westminster Hall, in an adjournment debate and informally with colleagues of all persuasions discussing matters European and explaining that aspect of policy. That dialogue and conversation I actually find very fruitful. The short answer to Lord Pearson's question is that Parliament has got the power at any stage, it seems to me, to demand of the executive an account and to table some motion which can overturn, reject, review or consent to what has been decided. I cannot envisage that changing in any way.

*Chairman*

11. I would like to move on to enlargement if I may. Forgive me if I am introducing a topic which you might not have been expecting on enlargement, but I understand that today a so-called sweetener package has been agreed, probably a net £1.3 billion, to help particularly with border controls, nuclear safety, and of course a topping up of direct payments to farmers. Some people think that the proposal put by the Danish Presidency on that latter issue may have been a bit too generous. Could you tell us if you

26 November 2002]

MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD

[Continued

Chairman *contd.*]

feel that this package will go some way to satisfying the acceding countries in their concerns about not being net contributors to the European Union in the first year of their membership?

(*Mr MacShane*) I certainly hope so. I have made a point of visiting applicant countries, four only so far, on the spot, but also of having intensive bilateral meetings in other capitals and in London with ministers representing as many applicant countries as possible. You are quite right. All of them are concerned: The Prime Minister of Poland made that point forcibly in a speech he delivered this morning. We all knew that in the closing days of the negotiations there would be some margin of manoeuvre to try and help countries with specific problems, but there are a couple of underlying principles we should not forget. First, with respect, my Lord, the Brussels Council has said that no country will be worse off for joining the European Union. That is an absolutely fundamental point. Secondly, the amount of direct payments to farmers will be at the rate of 25 per cent for existing members. What can happen within countries' budgets in terms of what they decide to do with some EU money that they have been allocated (what is in the jargon called a top-up payment) is for them. In all my talks I have said that the European Union is not a zero sum game, that there are opportunities to be seized and that, if anything, they should be seeking to break away from a more subsidy oriented view of the European Union to one that develops new industries and new economies, creates new jobs that can drive both new and existing EU Member States forward. But, as I say, there are genuine concerns and a lot of pressure on the applicant countries about the terms of accession and if this helps smooth the path to what I think will be a historic and successful Council in Copenhagen then I certainly would welcome it.

12. Can you confirm that any top-up arrangements that may be announced today will not mean that the ceiling of €40 billion for the period 2004–2006 will be broken and that it can all fit into that total of €40 billion? I see your officials nodding.

(*Mr MacShane*) I turn to officials for specific advice on that. There is always a bit of a teeming and labelling, to use an expression from the steel industry in any government budget, but the very clear message that I have been given is that the overall package is not going to be increased, that the 25 per cent capital direct payments will not be changed, but there may be elements at the margin case by case, for example, in one country they had a very obscure alcoholic liqueur that the Government there was very concerned about. I must say it threw me—not that I drank it, but the issue rather threw me. I do not know if you want more information from one of my officials but they have been told, not just by us but also by other countries, that that is a little bit of help for the final slipway into Europe but that is the deal.

*Lord Jopling*

13. Minister, can I ask two related questions surrounding the position of Turkey? First of all, with regard to Cyprus, what prospects and how important is it to get a Cypriot agreement between Greece and

Turkey arranged before the Copenhagen Summit and to what extent do you think that that is going to be made impossible by virtue of Turkey having a new government and, on the other hand, the real contrived, extended convalescence of the Turkish Cypriot leader in New York? It seems to me, having been in Istanbul just ten days ago, that the Greek Government has given a green light to the latest proposals and Costas Simitis seems to be getting on very well with the Turks, which is hopeful. How important is it to settle this before the Copenhagen Summit and what happens with regard to Cyprus if that has not been settled at that stage? The second question is with regard to what the Government's attitude is to Turkish accession to the EU, particularly following the Giscard outburst. Again, it seemed to me that there was a very strong counter-attack raised by the Turks following Giscard's comments and could you tell us how the Government sees Turkish accession in the next few years?

(*Mr MacShane*) My Lord, on the first question, I have had discussions with colleagues, principally from Greece and Cyprus, with the Cypriot Foreign Minister this morning over breakfast and the Prime Minister and Foreign Secretary have been meeting with Turkish leaders, including Mr Erdogan. We had told all of our *interlocuteurs* that this is a convergence of the currents of history. They have got an extraordinary chance to seize the possibility of a settlement in Cyprus based on Kofi Annan's very detailed proposals which do not satisfy, cannot satisfy, every demand of every side. We have been encouraged by the fact that the new Turkish Government under the leadership of Mr Erdogan has said that it wants a settlement on Cyprus. I understand Mr Erdogan or some of his colleagues may be in New York as I speak, or en route, and I see a shake of a head from a very knowledgeable head on the Committee in this matter, my Lord. The question of Mr Denktash one has to leave to Mr Denktash but undoubtedly this is a terrific moment and, as I said to the Cypriot Foreign Minister this morning, "There is more room for some discussions up to the end of February but if you slip past Copenhagen without a clear commitment to a settlement and without bringing all the people of Cyprus on board"—Mr Clerides has certainly indicated support and Mr Simitis certainly has, as you have indicated—"then our successors in years to come will be discussing the Cyprus problem". Linked to that undoubtedly are the European Union aspirations of Turkey. I believe strongly that they should be encouraged. I wrote an article to that effect in *The Observer* on Sunday. It is where the British Government has been for some time. We recognise the difficulties. We recognise that any question of entry would be long and arduous and negotiations would be difficult, but General de Gaulle called for a Europe from the Atlantic to the Urals, and Ankara, let alone Constantinople (Istanbul as it is now called), lies to the west of the Urals and it is towards Europe that Turkey should look. It is the duty of the European Union in my view to open the door to Turkey and ultimately to promote peace and prosperity in the Eastern Mediterranean, including particularly Cyprus.

26 November 2002]

MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD

[Continued

Lord Jopling *contd.*]

Chairman: Can we move on to the European economy, and particularly to the growth and Stability Pact? I understand that the Commission will be very shortly presenting its own reform proposals where presumably they are going to try and come up with an answer to how to combine long term fiscal discipline and short term flexibility, and we shall be very interested to see what proposals they come up with.

*Lord Cavendish of Furness*

14. The rules governing the Growth and Stability Pact, Minister, have attracted a lot of criticism and have been treated even with contempt by some Member States. Do you think the rules can be amended and is there scope for that?

(*Mr MacShane*) As the noble Lord says, my Lord, the Growth and Stability Pact is now firmly in the frame for discussion and there is the dilemma of those countries that have got a very sensible and rigorous fiscal and monetary policy, which I believe include the United Kingdom and the Eurozone members of the Growth and Stability Pact that have played by the rules, and those countries that have not are now feeling that the corset is a bit tight and needs relaxing. I think that the British position of having some flexibility is the right way forward. The Government (and the Chancellor in particular) has made clear that it wants a prudent interpretation of the Growth and Stability Pact and that it wants sustainability and public investment over the economic cycle to be taken into account. I think more people are coming round to thinking that some of this British thinking is probably the right way forward.

*Lord Brennan*

15. Minister, clearly mobility in all directions is of importance in Europe, but as to illegal immigration I have two questions. First, how do you assess developments in the near future and after enlargement on a European border guard and any other measures to control such immigration and, secondly, what are the plans within Europe to reach agreements, if they can be reached, with the countries that will be adjacent to an enlarged Europe to control and measure immigration?

(*Mr MacShane*) We are not expecting any imminent developments on the discussions about a European border guard. Those discussions are going on and I think we will have further progress to report early next year. There is a commissioner looking at an Italian feasibility study into a European border guard and of course the Justice and Home Affairs Working Group to the Convention have looked at this but without coming up with any real conclusive agreements. We believe strongly that we need a clear, well controlled European border and that was discussed with our Polish friends today and in other meetings because Poland will now become the first eastern border of the European Union. We are having to talk to transit countries. We have got to look at the source of immigration. Yesterday I chaired a meeting on organised crime in south east

Europe, the Balkans, and there of course mass movement of people, legal and illegal, is a huge problem. It is constantly under review and I think that generally the issues of security, immigration and people movements are right at the top of the agenda and the French Interior Minister, M Sarkozy, will be visiting London to discuss this with our Home Secretary, Mr Blunkett next Monday.

*Chairman*

16. You mentioned the conference on organised crime which prompts me to put this question to you. I understand that there is some problem about whether or not the money is going to be forthcoming to pay for the European Union taking on the policing of the Bosnian police on 1 January when it becomes a European responsibility and that the European Parliament has been very sticky on this. They are not prepared to agree this unless they get greater powers of scrutiny overall on foreign and security policy. Do you or your officials have any view on whether or not this money is going to be forthcoming?

(*Mr MacShane*) I have a whispered communication, my Lord, that it was resolved in conciliation yesterday. You are right; I did seek papers on this and it was one of the areas where the European Parliament was in its dialectical process with the Council and the Commission. If it would be helpful to the Committee I am very happy to write in detail on the outcome of yesterday's meeting.

17. But there has been conciliation?

(*Mr MacShane*) That is what I am advised, my Lord.

*Lord Jopling*

18. I suspect that whatever you saw, Minister, on organised crime, south east Europe is nothing compared with what exists in Kaliningrad which is one of the major areas of problems over immigration and illegal immigration. Would you not think that the proposal which has had some support for having closed trains going between Kaliningrad and the rest of Russia really opens the way to becoming a vehicle of very easy illegal access into the European Union following its enlargement to cover Poland and Lithuania? Would the Government think there was any merit in looking at an alternative scheme which I think some people have been proposing, certainly I have, that instead of having closed trains one might follow the example of some of the very cheap international air carriers with which we are familiar in this country, like easyJet, to provide a cheap air shuttle between Kaliningrad and the rest of Russia which maybe the European Union could help with in terms of finance, which would save problems with illegal immigration, it would avoid problems of people getting on trains and then jumping off them for one reason or another? Do you not think that a cheap air bridge might provide a way of getting round this quite serious problem?

(*Mr MacShane*) My Lord, the term "sealed train" in the context of Russian history should worry us all after the head of the German general staff once put a certain gentleman into one and sent him up to the

26 November 2002]

MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD

[Continued

Lord Jopling *contd.*]

then St Petersburg and he caused a great deal of mayhem for the rest of the century. I am attracted to the idea of easyLith or easyJet flying between Vilnius and the different countries of Russia. I was in Vilnius with the Lithuanian Government discussing—

19. I am talking about Kaliningrad.

(*Mr MacShane*) I know, but then you go through Kaliningrad. I am not quite sure I am ready to lay an extra burden on the European Union of financing it and if the gentlemen who run Ryanair and easyJet think there is a profitable market to be made between Königsberg and the rest of Russia, well, good luck to them. In the meantime we have to deal with the very real problem, the human problem, and there are two parts of Russia; no-one is disputing that, then the facilitated transfer document (FTD) proposal which has been agreed between Russia and the European Union does seem to me to be the right way forward. I myself wonder whether the fears are as real as we might imagine. Russia through the Ukraine and Belarus has got many other borders if it wants to send Russian people to come into Europe. The sealed train proposal is being studied at the moment and when that study is done that will help guide us in final decisions, but of course it may be too expensive to upgrade the track in order to have a train trundling through the Lithuanian countryside and Kaliningrad and Russia at the kind of speed that we are certainly used to in continental Europe.

*Lord Scott of Foscote*

20. I wonder what part the Eurodac fingerprinting system is going to have in enabling illegal immigration into the European Union to be identified and controlled? As I understand it the system is supposed to be instituted early next year. I have heard expressions of disbelief as to whether it will be practical to expect the Member States on the eastern boundaries of the Union to intercept and to put through the Eurodac fingerprinting system the influx of immigrants in their areas, bearing in mind that if they do that they will have, under the proposed Dublin 2 Convention, the primary responsibility of dealing with their asylum applications. What is the current thinking on these problems?

(*Mr MacShane*) My Lord, I am stumped and I fear my officials might be stumped. We will have to write to you on the Eurodac fingerprinting question directly. Generally on immigration past experience has shown that enlargement has, if anything, led to a decrease in immigration. In France, for example, in 1986 there were 109,000 Spanish citizens working. In 1996 that number had gone down to 35,000. Oddly enough, I believe that as the accession states join the European Union their people will want to stay there, investment we hope will flow there, trade will flow there, but the control generally on people movement is an enormous issue. The fingerprint system was the guaranteed single solution. I fear I do not have it much more firmly in front of my mind but if my Lord will permit me I will send him a note on this.

Chairman: Thank you very much indeed, Minister. We will look forward to that. Now, I am afraid that there is no escaping the CAP in a

conversation like this and Baroness Billingham has a question on that.

*Baroness Billingham*

21. First of all, Minister, a very warm welcome to you and yes, I am going to have to bring you back to this crucial and central issue of the common agricultural policy which the majority of us in this room seem to have been discussing for many years. Just by chance, Sub-Committee D, of which I am a member, has just concluded a report on the common agricultural policy. The thing that struck me most was the great divergence of the opinions that came and I hope that the report will cross your desk at some time and you will have a look at it because not only would the conclusions make interesting reading but the opinions that were contained within them were absolutely fascinating. My question is against the statement in the House of Commons on 28 October which followed the Brussels European Council when the Prime Minister said, "Fundamental CAP reform remains on the agenda", so my question to you is, what is the Government's latest view with the Copenhagen Summit only three weeks away?

(*Mr MacShane*) One of the difficulties with the CAP is that there is almost no division within the British political community, if I may put it like that, on that issue. From the *Trotskyist Social Worker* to the *Daily Mail* there is complete unity on CAP reform. Even our Conservative colleagues will agree with Labour colleagues. Perhaps there are one or two members of the NFU who might be slightly nuanced but I am not an expert on that matter. I have often thought that we really should not talk to ourselves about CAP but learn to speak French, Italian, Spanish, Irish and take the argument out to partners elsewhere. I am encouraged by statements, for example, from Commissioner Lamy, that France needs to reform the CAP, editorials in *Le Monde* on why CAP does not make sense, but I am also discouraged when in Spain, Italy and other European countries at the most extraordinary commitment to CAP, not from horrible bad protectionist people but from people who see that preserving the Tuscan countryside, the small hill vineyard farmer in Spain and so on is important. We have to keep up that pressure. What I can report to you is that an important achievement out of the Brussels discussion was that efforts to drop reference to the mid term review, to the Fischler proposals, were defeated, efforts not to include reference to the Doha round were defeated, so the mid term review is there on the table. We want to see an evolution of CAP. We want to see CAP reform quite quickly but if you say to every one of our partners from this day to the next, "we are going to abolish it", we will not get very far. We have got unavoidable international obligations as a Union in front of the Doha round, the financing of the sustainable development process in Cancún next year, the obligation to take forward the Johannesburg sustainable development process, to look at agricultural subsidies world wide. These are legal obligations, not just political declarations, and Britain will be in the forefront of trying to build

26 November 2002]

MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD

[Continued

Baroness Billingham *contd.*]

a greater consensus around CAP. I am asking all my friends and colleagues of all parties and all persuasions not to debate inside this country CAP reform but to take the argument out to our European partners to build a better consensus on that.

22. Can I just ask one supplementary to that. Do you see any lessening of the link between enlargement and CAP? It has always been thought this was part of the same equation but do you see any change in the philosophy now?

(*Mr MacShane*) Obviously what was agreed at Brussels was that CAP spending would only increase by one per cent, which would be less than inflation, annually up to 2013. So the same amount of money is now going to be spread over 25, not 15 nations. I think by definition that dilutes the impact of CAP. I constantly, at literally every discussion I have with applicant countries, say "Look, at the moment, to quote Oxfam, CAP provides a subsidy of \$2 a day to every cow in Europe. I am a great lover of cows but I would rather we put a bit of European money into human beings, what about it? If you want to keep subsidising your cows, we are not going to have a great future". I will not say I am always listened to but I will maintain that position and so will others. The real trick is for Oxfam to produce their reports in French, for our churches to produce their reports in Italian and persuade the churches in Italy to support CAP reform. On the political consensus, I think there are some hopeful signs but if it is an in your face drop dead on CAP tomorrow, we will not get very far.

*Lord Williamson of Horton*

23. This is an equal opportunities committee and I follow on from the noble Lady, Baroness Billingham. You will have seen that some academics have suggested that there could be a link with the UK abatement and, they ask why do we not reconsider the UK abatement. Your own comment when you said that many Member States have an extraordinary commitment to the CAP implies to me that you agree with my view which is that most of the Member States are not primarily concerned about the money, although they are concerned about it, but they are most concerned about the way in which the CAP supports farming and social objectives. It would seem to me that any re-negotiation of the UK abatement would be batty in these circumstances but I would like to know whether you can confirm that that is the position of the UK Government.

(*Mr MacShane*) The rationale for the abatement has not changed since it was introduced. The figures on European Union financing of budgets are not necessarily the clearest in the world, my Lord, but Britain has been a net contributor and France, until very recently, has been a net beneficiary under the European Union budget and I make the point that over most of those years France was technically in GDP per capita terms a richer country than Britain and the French understand the concept of fair play just as we do. If the abatement were to go we could be contributing as much as 13 times as much as France to the European Union. We have produced detailed figures, columns, charts. I have been as

robust as I can, because this has been raised by applicant countries, in saying even with the abatement Britain actually is a net contributor and, as I said at the beginning of my remarks, if you reduce the European Union to a corner shop profit and loss account, a zero sum game, we will all be losers.

*Chairman*

24. Would you then confirm that the abatement will not be on the agenda when we come to discuss the new financial framework for 2006–13? Is it still taboo and will it still be taboo then?

(*Mr MacShane*) I think the British position is very unlikely to change. I do not want to use the word "never". I think a Foreign Minister did use that word once in the House about the independence of Cyprus in 1956; he did not last long and Cyprus is now independent. The arguments, justification, the rationale remain as strong today as in past years.

Chairman: Thank you.

*Lord Williamson of Horton*

25. Could I just make this point that as far as the CAP is concerned, I am utterly convinced, firstly, that you should not put into the negotiation the UK rebate and, secondly, you will get absolutely nothing for it in relation to CAP.

(*Mr MacShane*) My Lord, advice from all quarters is welcome but advice on that issue from that quarter is more than welcome.

*Lord Cavendish of Furness*

26. Minister, I have an interest as a farmer and take advantage of the CAP without much pride. This is always discussed in such a measured way, understandably without much passion. The Prime Minister talks about it remaining on the agenda as CAP reform. Your language is equally measured. Would you agree with me that the voter, whom we have already touched on, is increasingly seeing the CAP as damaging to the environment, fraudulent, immoral, unacceptable in many ways and discredits the EU in general? Could there not be a more robust approach to the question of the reform of the CAP?

(*Mr MacShane*) My Lord, does going through the thesaurus of very strong adjectives convince the people who take a different position? I am not sure. I have used robust language in the past, do and will do in the future. I was very interested in the Countryside Alliance march which was an extraordinary manifestation on the streets of London and one of the very clear demands, it seemed to me, was for more agricultural support in a bigger CAP rather than a smaller one. I did not see any posters there calling for an end to CAP, transfer payments or subsidies. What we have to do is to build a case, particularly locating it in terms of Third World Development. Sorry to quote myself this morning, having heard a kind of justification of CAP from a Polish interlocutor. You cannot dump wheat or beef on the market of Africa at a subsidised price that undercuts local production and then not expect

26 November 2002]

MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD

[Continued

Lord Cavendish of Furness *contd.*]

the local farmer, peasant, not to say “If that is the European Union’s approach, I will up sticks, get myself up to the shores of Europe and smuggle myself in and become an illegal immigrant or an asylum seeker”. We have to set it in the wider international context. That is what I can promise the Committee I will try to do as Europe Minister, that is what the Prime Minister seeks to do. The finest figures on this I have read in French publications but they were figures, they were facts, they were not angry, stentorian language, I leave that to the *Socialist Worker* and the *Daily Mail*.

*Chairman*

27. I would like to move on, if I may. We have a couple of questions on the internal market, one which I would like to put to you and one from Lord Woolmer, who is Chairman of the Energy, Industry and Transport Sub-Committee. We have noted that the City of London has sent a very interesting memorandum to Commissioner Bolkestein—I think that Sir Nigel Wicks and Dame Judith Mayhew were the principal authors—saying that there really has to be a big political push behind the development of the Financial Services Action Plan, which seems to have been with us as a discussion topic almost as long as the CAP and appears to be dragging a bit. They are also saying that it is absolutely essential to put market based policies at the heart of the financial services programme. Do you feel that it is dragging and do you agree that we should give it a big political push?

(*Mr MacShane*) Very much so, my Lord. One of my disappointments in recent years has been that although I think Britain has been in the forefront of leading the drive for economic reform and the opening up of markets—and let us in passing welcome the report at least in the press today that there is agreement on energy market liberalisation—we have not always had as much support as I would wish from other Member States or had a really effective champion, for example, in the Commission. The financial services action plan is an example of where we need to get capital markets freed up and we need to see money flowing where it can best earn a return, where it can best generate new economic activity and, above all, jobs in Europe. I will be meeting with my French and German opposite numbers on Friday. I can assure the Committee that that will be one of the key points I will be making to them.

Chairman: Thank you very much. Lord Woolmer?

*Lord Woolmer of Leeds*

28. Minister, the European Court, as you know, on 5 November ruled that a number of bilateral agreements, including Bermuda II, fall foul of EC Treaty rules. What is the Government’s reaction to this and how do you see things moving forward in that area?

(*Mr MacShane*) As with all ECJ rulings, one has to look at them very carefully. We are of the view that the ECJ decision does not preclude Member States from continuing to negotiate bilateral air services

agreements provided that certain conditions are met. In particular, so-called nationality clauses in bilateral agreements that favour airlines owned and controlled by nationals of the signatory country compared to other Community carriers have been found to be in breach of Community law, so we will continue to seek liberal air services agreements with our bilateral partners in the interests of users and UK operators but only where it is possible to incorporate the destinations of carriers owned by nationals of any EU Member States. I have to say, equally, that one of the things that concerns me is the protectionist ruling under US law that foreign majority holdings cannot control a US airline. In fact, I think the upper limit is 25 per cent. We have to keep negotiating for a full liberalisation of air traffic including cabotage but we need equal reciprocity from our friends across the Atlantic.

29. Do you think that is best achieved—and I entirely agree with the objective—by having a common European Union position in negotiation with the United States or in bilateral discussions?

(*Mr MacShane*) Both are relevant. We are moving, we hope, towards a “single skies” agreement which will take us further forward. The discussions will be in some detail at the Transport Council towards the end of next week and this is technical, it is on-going and I can certainly ask for a report from that Transport Council to be made available to members of the Committee.

*Chairman*

30. Minister, would the Government oppose giving the Commission a mandate to negotiate on behalf of the Community as a whole.

(*Mr MacShane*) It is one of the options in discussion between the Commission and Member States. We have got to decide what is the best way forward with respect to British interests. Personally, and I think I speak for the Government, I am not saying that it should be ruled out under all conditions or it is automatically the best way forward, but one of the important issues is how much time it would take to reach Community level agreement with the United States. Members of the Committee refer to the slowness of other negotiations and if we have to protect British interests best by bilateral agreements within the scope and range of EU case law following the ECJ decision then obviously we should seek to do so.

Chairman: Minister, I am moving on. As you may know, Lord Jopling chairs the sub-committee dealing with the common foreign and security policy and I know he has a couple of questions for you.

*Lord Jopling*

31. Minister, can you tell us first of all where you think the NATO summit at Prague leaves ESDP, particularly with renewed proposals for a NATO rapid reaction corps, which in some way parallels the ESDP proposals and also if you can bring us up-to-date on where you see ESDP now? How far has it developed beyond what was rather cynically

26 November 2002]

MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD

[Continued

Lord Jopling *contd.*]

described earlier on as having the capability of getting cats out of trees? And to what extent does the Turkish block still slow down the development of ESDP? To what extent do you think we are escaping from the trap which to some of us seemed a likely outcome of the ESDP in the early days that it was to be left to the French and British to fill the body bags whereas the Danes and Belgians would provide the hospitals and cook houses?

(*Mr MacShane*) I am not sure I have in my mind a count of serving soldiers of the different European armed forces who have died in combat or peace-keeping operations, whether as a result of action, mistakes or the things that happen to soldiers. I am not entirely sure that we should be that dismissive of the professionalism of other European Union countries. I certainly saw that in the Balkans and I think British soldiers and officers would respect the contribution that they make. On a broader question, I actually thought the Prague NATO summit was very positive from the ESDP point of view in that it came up with a united agreement on the proposals to create a NATO rapid reaction force, including obviously France as a member of NATO, and underlined again the point that ESDP and NATO are complementary, not rivals. That is a point continually stressed by our American partners who, if anything, want Europe to shoulder more of the defence and humanitarian and peace-keeping operations that soldiers have to take part in. You are quite right to draw attention to continuing problems in Turkey before they arrived in Ankara and in Athens on the deployment of NATO assets which we insist are necessary before men can be put in the field and a great deal of discussions and pressure, if I can use that term, I do not know how diplomatic it is, have been put on partners in Ankara, not just in Europe but from across the Atlantic to allow the ESDP to move forward.

32. Is not the Turkish block on ESDP partly connected to what I asked you about earlier—Turkish accession—and if you were the Turkish Prime Minister you would not lift the block on ESDP until you had got a firm date on Turkish accession, would you?

(*Mr MacShane*) I am not the Turkish Prime Minister and in a sense there are always linkages of one sort or another on all aspects of Europe, NATO and accession—political questions. I think that Europe and, as I say, our partners in the United States want the ESDP to be operational as soon as possible. It makes sense. It is not about cats out of trees, it is about very, very serious work which I am sure many members of the Committee have seen on the ground and it is something that Europe needs to take forward.

Chairman: Minister, I think on the theory that sometimes the longest questions are capable of producing the shortest answers, we have got time for a final question to put to you which is on the nuclear industry. A little earlier in our conversation you were recalling the fact that the top-up package, the sweetening package, contains 600 million euros for nuclear safety in the acceding countries. I know that

my colleague, Lord Woolmer, has a question he would like to ask about nuclear safety.

*Lord Woolmer of Leeds*

33. I hope that you may have had advance notice of the question because it is a rather detailed one. Because the details are so important I hope you do not mind if I repeat it to you now. On 6 November the Commission presented proposals to establish common safety standards for the nuclear industry; to guarantee the availability of funds for dismantling nuclear reactors; and to oblige Member States to decide upon the burial of highly radioactive waste. In a separate proposal linked to nuclear materials with Russia, the Commission also decided to raise the ceiling on Euratom loans to finance safety and dismantling projects in former Eastern bloc countries. The Commission appears to some observers to be using enlargement to promote a proactive nuclear policy in the EU. How does Her Majesty's Government see this?

(*Mr MacShane*) Well, my Lord, we accept that some of the measures being proposed by the Commission are needed to deal with issues that arise from EU enlargement, for example the suggestion that Euratom loans be standardised between existing Member States and those seeking to join. We remain to be convinced that enlargement has created a need for EU specific safety standards. All of the accession states are members of the IAEA and parties to the Convention on nuclear safety, whilst their individual safety commitments to the EU will be fully enforceable under the Accession Treaty and the EU's nuclear regulators are very clear that the IAEA non-mandatory standards are sufficient to deliver nuclear safety within the EU. To bring it back to the political question that you asked me, my Lord, it is for each country to consider its own choice of fuel for its national energy needs. Knowing, for example, the difference between France and Germany on nuclear fuels, the incredible demonstrations against the transport of nuclear fuel through Germany on its railways, which are very, very rarely reported in our press but if you read the German press or watch German television they are huge events of mass demonstrations, I think the idea that there is an EU Commission proactive nuclear policy being promoted is not right. The Commission's proposal should reflect the fact that each of our individual nations has got its own difficult choices to make on the balance of fuels to be used to produce national energy needs.

34. Finally, my Lord Chairman, matters such as the burial of highly radioactive waste as a means of disposal, the potential reprocessing of nuclear waste, are extremely sensitive matters clearly in the former Soviet bloc, but in this country too. How does Her Majesty's Government see that particular aspect of the Commission's proposals?

(*Mr MacShane*) As I said, we are of the opinion that the International Atomic Energy Agency safety standards are the ones that can deliver nuclear safety within the EU and we believe strongly that this is not actually a European Union only problem, it is an international problem. My Lord Woolmer referred

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*26 November 2002]*MR DENIS MACSHANE MP, MR SIMON FEATHERSTONE  
AND MR NICK BAIRD*[Continued]*

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Lord Woolmer of Leeds *contd.*]

to Russia and there are other nuclear stations in different parts of the European Union which are facing decommissioning under pressure from the Union as part of the accession procedures. It is an international problem and it is within each nation's competence very much at this stage to decide within the international safety rules on the nature of the fuel sources that they provide to obtain their national energy needs.

Chairman: Minister, I crave your indulgence for one minute longer. I am conscious of the fact that I omitted to invite Lord Jopling to put a question to you about our relations with the United States.

*Lord Jopling*

35. I am sorry, my Lord Chairman, I did not realise you wanted me to do it earlier. Minister, it has been suggested in the Convention that we might evolve a fully-fledged European foreign policy. Could you tell us what the Government's attitude is to that proposal and especially how you think it might affect the United Kingdom's relationship with other countries and in particular with the United States?

(*Mr MacShane*) I am a strong proponent of the Atlantic partnership and in my speeches as Minister I refer to the Euro-Atlantic community of nations and I think that the anti-European view is as foolish as being anti-American and vice versa, so the United Kingdom has a strong respect for foreign policy players within the EU and I think the EU can only

benefit from a more effective common foreign and security policy, but it is one that in my judgment should be based on partnership not just with the United States but with the other countries and democracies we can work with to promote world security and peace. We worked very closely indeed with the US, for example, in the Balkans. In my former post I had very rewarding discussions with our American partners in Washington and our American partners on the ground in the Balkans and of course in the Middle East with the so-called "Quartet"—the US, the EU, the United Nations and Russia. We believe that these complement and strengthen the UK/US relationship. Our ideas on reforming the Council Presidency and strengthening the role of the High Representative will further improve the ability of the European Union and the United States to work together. If I may again make a personal point, some of my friends in Paris say that London is a bit too pro-American for their liking. I say, "Mes chères amis, try Warsaw, Budapest, Prague, Madrid, Netherlands or even Stockholm if you want to see pro-American capitals or people." The majority of Europe is not up for anti-Americanism just as I believe the majority of British people are not up for anti-Europeanism.

Chairman: Minister, you have been very generous with your time and informative in answering our questions. We have been at it for an hour and a half and I should let you go. Thank you and the people appearing with you very much for your time.