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The Commission's Annual Policy Strategy for 2008

Report with Evidence

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FOREWORD—What this Report is about

For national parliaments to influence effectively the development of EU policy, it is essential to engage with proposals as early in their development as possible. In this Report, we scrutinise one of the Commission's principal strategic planning documents, the Annual Policy Strategy for 2008.

This Report focuses on examining the Annual Policy Strategy (APS) as a strategic document. We welcome the Commission's improvements to its Annual Policy Strategy documents, but we believe that there are flaws in the APS which prevent it from being as useful a tool as it could be. We make recommendations for its further improvement, and we present specific points regarding particular proposals in the APS for 2008.

We consider that in future the APS needs to be clearer about its purpose. The Commission should provide more background to its proposals, and explain the status of each of the proposals or priorities listed. The APS needs, above all, to be more strategic. It should explain which policy areas have moved up the Commission's agenda, and which have moved down. We also criticise the clarity of the structure of the APS.

We have concerns about the way in which the APS is constructed in the Commission and scrutinised in the European Parliament: the APS should provoke a political dialogue about the 'bigger picture' regarding the EU's key priorities for the coming year. We recommend that the Government should press the Council to make public its comments on the APS.

The APS should be a presentation of the Commission's strategic thinking to the other institutions. The Commission should include more explanation and justification of its priorities and proposals. It should explain the financial constraints around the APS and the relationship of the APS to the budgetary procedure should be made clear. Political priorities must be matched in budgetary terms, and we recommend that the Commission, Council and European Parliament should forge a closer link between the budgetary and legislative processes.

We reiterate our support for work in the area of Better Regulation, and we encourage the Commission to create a new annual report discussing how the institutions can make further progress on this agenda.

We make this Report to the House for debate.

The Commission's Annual Policy Strategy for 2008

CHAPTER 1: THE BACKGROUND TO OUR INQUIRY

1. For national parliaments to influence effectively the development of EU policy, it is essential to engage with proposals as early in their development as possible. A key to this is scrutiny of the Commission's principal strategic planning documents, the Annual Policy Strategy and the Annual Legislative and Work Programme.¹
2. Published each spring, the Annual Policy Strategy (APS) summarises the main priorities and orientations that the Commission is looking to include in its Annual Legislative and Work Programme (ALWP), which is published each autumn.² The APS serves as a basis for consultation within the European institutions and beyond, and scrutiny of the APS therefore presents a key opportunity for influencing the Commission's thinking on cross-cutting and strategic policy matters.

BOX 1

Overview of the contents of the Annual Policy Strategy for 2008

- The APS for 2008 highlights four key challenges as the Commission's cross-cutting priorities: tackling climate change; ensuring the availability of sustainable, secure and competitive energy; implementing the Lisbon strategy for growth and jobs; and managing migration flows to the EU.
- The APS sets out the Commission's other key actions for 2008 under the five-year strategic objectives of the Barroso Commission, which are prosperity, solidarity, security and freedom, and Europe as a world partner.
- The Commission also describes its priorities regarding Better Regulation and improving communication.
- Finally, the APS outlines the Commission's general framework for human and financial resources for 2008.

3. For this, our first inquiry into the APS, we released a Call for Evidence, and held oral evidence sessions with Commissioner Margot Wallström, Vice-President for Institutional Relations and Communication Strategy; with Klaus Welle, *chef de cabinet* to the President of the European Parliament; with the leaders of the Labour and Conservative delegations to the European Parliament, Gary Titley MEP and Timothy Kirkhope MEP; and with the

¹ The APS for 2008 is Commission document number COM (2007) 65 final, and Council document number 6788/07. The APS for 2008 can be found at http://ec.europa.eu/atwork/synthesis/index_en.htm

² The Annual Legislative and Work Programme can be found at http://ec.europa.eu/atwork/programmes/index_en.htm In our Report on Public Awareness of the Scrutiny Role of the House of Lords, we concluded that enhanced scrutiny of the Commission's Annual Legislative and Work Programme was desirable, and we now publish an annual report on the ALWP ("EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords", 32nd Report (2005–06), HL 179, p.32, <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldcom/179/179.pdf>).

Minister for Europe, the Rt Hon Geoff Hoon MP.³ In addition, each of our seven policy-based Sub-Committees examined the APS on the basis of their areas of expertise.⁴

4. In this our first Report on the APS, we focus on examining the document itself. Chapter 3 presents specific points regarding particular proposals. We welcome the Commission's improvements to its Annual Policy Strategy documents, and its commitment to further refinements.⁵ However, we believe that there are flaws in the APS for 2008 which prevent the document from being as useful a strategic tool as it could be. Commissioner Wallström has made it clear that she wants to receive input from the national parliaments into the process of policy formulation which is based on the APS and the ALWP, and has said: "It is important that the Commission pays close attention to what you have to say."⁶ In this Report, we inform the House, the Government and the European institutions about the ways in which we believe this process of policy formulation could be improved.⁷

³ All the written and oral evidence received is published at the back of this Report.

⁴ Their analysis is included in the third chapter of this Report.

⁵ Commissioner Wallström said "We have learned from the process ... We are slowly but steadily getting there" (Q 28).

⁶ Commissioner Wallström's speech presenting the APS for 2008 to the XXXVII COSAC Conference of Community and European Affairs Committees of Parliaments of the European Union, Berlin 15 May 2007, <http://www.cosac.eu/en/meetings/Berlin2007/plenary/aps.pdf>

⁷ The Commission has said that it welcomes comments on the Annual Policy Strategy and Annual Legislative and Work Programme from national parliaments. Commissioner Wallström said: "I take what you say very seriously because we can conclude after having worked on establishing an agenda for increased co-operation with the national parliaments that it has been a success so far ... You can give your views on what you want on the Annual Policy Strategy ... We welcome that and think it is important"(Q 56).

CHAPTER 2: THE COMMISSION'S ANNUAL POLICY STRATEGY FOR 2008

What is an Annual Policy Strategy for?

5. Although the Annual Policy Strategy itself states that it “presents the Commission’s proposals for key initiatives to be taken forward in 2008”, we found that our witnesses seemed to have differing views of what the document sets out and of the Commission’s purposes in publishing it.⁸
6. Commissioner Wallström saw the APS as an aspirational statement, in which “We [the Commission] explain our intentions”, and “define our main policy priorities and key initiatives”, with a view to “a dialogue with the European Parliament where we can focus on the political priorities, the bigger picture” and discuss whether the Commission’s priorities are “the right ones” (QQ 21, 48).⁹ However, Gary Titley MEP, Leader of the European Parliamentary Labour Party, said that the APS “is not meant to be a major policy development piece of work but really a sort of annual check-up on where we are going in relation to what has gone on before and what the Commission has set out in its five year strategy” (Q 85). Timothy Kirkhope MEP, Leader of the Conservatives in the European Parliament, and Geoff Hoon MP, Minister for Europe both saw the APS more in terms of a snapshot than a forward vision, with the Minister considering it “a good snapshot of where the European Commission are in terms of what they would like to say” and of “how the EU is moving” (QQ 12; 121, 127).
7. Overall, national parliaments are not clear about what the purpose of the APS is: at the May 2007 meeting of COSAC (the Conference of Community and European Affairs Committees of Parliaments of the European Union), “Some parliaments ... asked what the actual objective of the APS was.”¹⁰
8. The APS seems to perform a number of different roles, providing an update on the current situation of EU policy, and prioritising previously agreed EU policy areas, as well as proposing key new initiatives for the coming year. The matter is further complicated by the Annual Policy Strategy’s role as the ‘white paper’ for the subsequent Annual Legislative and Work Programme, and by the relationship between the APS and the budgetary process (explored below). We recognise this multi-dimensionality, and understand that tackling these different dimensions in separate documents might not be helpful.
9. However, the confusion as to the purpose of the APS, and as to whether the APS puts forward the Commission’s ambitions for the next year or presents a more factual assessment of the state of play, might make holding a constructive debate on the priorities of European Union action and on what should feature in the Commission’s Legislative and Work Programme more difficult. **We accordingly consider that future Annual Policy Strategies need to be clearer about the purpose of the document and about the**

⁸ The APS for 2008, p 3.

⁹ Commissioner Wallström’s speech presenting the APS for 2008 to the XXXVII COSAC (Conference of Community and European Affairs Committees of Parliaments of the European Union, Berlin 15 May 2007 <http://www.cosac.eu/en/meetings/Berlin2007/plenary/aps.pdf>

¹⁰ Minutes of the XXXVII COSAC, Berlin, 14–15 May 2007, p 6, <http://www.cosac.eu/en/>

specific status of each of the priorities or proposals listed. The Commission should provide more background to its proposals so that the reader can more easily understand whether, in including a particular point, the Commission is prioritising a long-standing objective, re-affirming or updating such an objective, or tabling an entirely new initiative for discussion.

Towards a more strategic Strategy

10. We consider that in its current, unclarified form, the breadth of the APS (necessary for its role as the discussion document for the ALWP) makes it difficult to see the document as a genuine 'strategy'. **If the Commission focussed its APS on only a few key strategic goals, the clear priority given to these goals would lead to more effective debate and delivery, these goals could be more easily communicated, and the European Union would be better understood.** This concern is a shared one: at the May 2007 COSAC meeting, "Some delegations questioned the practicality of the large number of objectives as laid down in the APS".¹¹ Commissioner Wallström said: "We have learned from the process and we have chosen to try to strip it down more and more ... a strategy ought to be very precise" (Q 28). We encourage her in her efforts.
11. **We consider that the Annual Policy Strategy should provide the clear overarching strategy of the Commission's vision for the coming year. It should also indicate, for each area of this strategy, what are the key policy intentions that the Commission will prioritise to achieve that end.**
12. Details of the legislative programme should be left to the ALWP, but in the APS it is important both that the strategy should be linked to pragmatic proposals and that the proposals should be given strategic context and the vision behind them explained. A clear example of where such an approach would be helpful is in relation to criminal justice. This important policy area receives only a brief mention in the APS for 2008, which provides little context for a genuine debate on criminal justice priorities.¹²
13. As already outlined, to unlock the full utility of presenting the Commission's strategy for the European Union, it is necessary that the reader should understand the importance of the Commission's decision to list a particular proposal or policy area as a priority. To this end, **we believe that the Annual Policy Strategy should explain which policy areas have moved up the Commission's agenda in the past year (as well as which have moved down), and how the Commission's thinking has developed.**
14. To emphasise the Commission's clear strategic thought behind its APS, the structure of the APS is important. While we understand the Commission's decision to group its proposals under the headings of its five year strategic objectives, such an approach is not helpful to the institutions and parliaments trying to engage with the APS, given the breadth of these objectives (for example, under the title of "Solidarity", it is hard to see much of a connection between implementation of the REACH legislation and the European Year of Intercultural Dialogue).¹³

¹¹ Minutes of the XXXVII COSAC, Berlin, 14–15 May 2007, p 6, <http://www.cosac.eu/en/>

¹² The APS for 2008, pp 9–12.

¹³ The APS for 2008, pp 8–10.

15. **The clarity of the structure would be improved if the proposals were collected and presented under policy fields so that those looking at the Annual Policy Strategy could quickly find their areas of interest.** We note that the European Parliament has resolved that it “regrets that the APS classifications of prosperity, solidarity, security and external projection represent a ... classification system that is rather arbitrary as regards the classification of policy areas under the different chapters”.¹⁴ The institutions of the EU should, as a general rule, seek to make information more accessible by structuring it in a more instinctive, easily understandable manner (i.e. by policy area). The Commission should also clarify the significance of designating some priorities as “cross-cutting”, and how this designation relates to the ways in which these priorities will be actioned.¹⁵

The production of the Annual Policy Strategy

16. It is our view that the lack of focus in the APS is an inevitable result of the way in which it is constructed inside the Commission. Commissioner Wallström outlined the procedure for us:
- “It is prepared internally within the Commission through a letter circulated by the President to all Commissioners and he invites us and our services to prepare, to look at what we have in the pipeline, what are the plans for the future, and then we present our initiatives, or the main policy priorities, to him and they are analysed and prioritised by the Secretariat-General who then prepares an Annual Policy Strategy for the inter-service consultation. They put all of this together and try to make a structure out of it, a priority list, and then it comes back after the intra-consultation to the College” (Q 25).
17. The APS is, therefore, constructed from the bottom up, with every Directorate lobbying for its own area and point of view to be included, until almost nothing is excluded from the Commission’s ‘strategy’. Gary Titley MEP said that “There is a risk because, in a sense, if you are a Commissioner and people are writing articles about you, you have got to be able to show you have done something”; Timothy Kirkhope MEP thought that “we now have rather a lot of Commissioners and sub-Commissioners ... whilst we have that situation, it is very difficult not to reflect views from all of them” (QQ 106; 5). Furthermore, according to Timothy Kirkhope MEP, “inevitably there is a temptation, almost a necessity, for all the areas of the Commission’s [Legislative and] Work Programme to be reflected in the document” (Q 5).
18. **To counter this problem, we believe that the construction of the Annual Policy Strategy needs to be led from the top: the College of Commissioners should decide on the vision behind the Annual Policy Strategy on the basis of a discussion in which the Commissioners would select both their strategic priorities and the policy areas that must be demoted to make room for them. Further detail for the priorities could then be provided by the Commission services. Commission Directorates-General should not expect to have all of**

¹⁴ European Parliament resolution on the Commission’s annual policy strategy for the 2008 budget procedure, adopted 24 April 2007, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0131+0+DOC+XML+V0//EN&language=EN>

¹⁵ The APS for 2008, p 5.

their proposals included in the Annual Policy Strategy. This should result in a more focussed, strategic, structured and coherent APS. At the same time, there has to be a degree of flexibility to allow for late-emerging priorities to be taken into account.

A well-structured dialogue?

19. **It is crucial to the utility of the Annual Policy Strategy that it should provoke a constructive debate within and between the European institutions and parliaments about the European Union's priorities for the coming year.** This "structured dialogue" should increase engagement with the EU and help the institutions and parliaments to find a common path (Q 25). Timothy Kirkhope MEP thought that this opportunity for debate was "important in terms of our institutional relationships" and "a welcome opportunity for a general engagement in what is going on in the European Union" (Q 12). The dialogue also contributes to the formation of the ALWP: Commissioner Wallström confirmed that "If we see that there is absolutely no endorsement of these ideas then we will have to conclude that it is impossible" (Q 49).
20. The APS is published in February, and shortly thereafter is presented to the European Parliament, which holds a plenary debate on the document. Commissioners then appear before the policy committees of the Parliament, following which the Conference of Committee Chairs meets with Commissioner Wallström to discuss their conclusions. A synoptic document is produced by the Conference on behalf of the Parliament and sent to the Conference of Presidents of political groups in September for endorsement, and then on to the Commission. Commissioner Wallström then comes back to the Conference to discuss this paper, before the Legislative and Work Programme is presented in November and debated in the Parliament in December.¹⁶
21. Commissioner Wallström emphasised the value of this dialogue, but also that it was important that "we do not end up discussing only details on this or that proposal" (Q 21). The Commissioner said: "We have seen that there is a tendency for this structured dialogue to be very much on the detail instead of having the political groups engaged ... [we want] to make sure that the political groups in the European Parliament are better drawn into the preparations because then we will have a better overview and more of a general discussion: are these the priorities, what do the different political groups in the Parliament think about it?" (Q 25)
22. Gary Titley MEP identified the same problem: "The European Parliament has a tendency to look at these communications from the Commission from a technical point of view by committee and I think this is a weakness of the European Parliament which is now becoming a major weakness, because what is needed is a political response and the European Parliament needs to find a mechanism for responding politically and not technically to the Commission's position" (Q 85).

¹⁶ The timetable for the dialogue between the Commission and the European Parliament on the APS and ALWP is set out in Annex 2 of the Framework Agreement on relations between the European Parliament and the Commission, concluded by the two institutions in May 2005 and available at: http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/docs/framework_agreement_ep-ec_en.pdf

23. We believe that the way in which the APS is scrutinised by the European Parliament, in “salami-slices” examined by separate committees, compounds the problem of the lack of a coherent vision in the APS by diluting any strategic overview (Q 92). Gary Titley MEP felt that, if the APS is examined in this way, “each committee then throws in its favourite topics and there is a failure to get an overall perspective which then ends up often producing nothing more than shopping lists” (Q 92). While we recognise that examination of the different policy areas by different committees is inevitable, **an APS which is both constructed and deconstructed predominantly ‘by committee’ is unlikely to be strong on the strategic content necessary to provoke the “bigger picture” debate desired by the Commission; it is necessary that the committees should work to coordinate their scrutiny and to focus on broad priorities rather than specific proposals** (Q 21).
24. Klaus Welle, *chef de cabinet* to the European Parliament’s President Pöttering, admitted that the current system is not perfect. “There is still an objective problem with the position we have in the Parliament and this is that we have two procedures to come to a final conclusion. We have the expert procedure, coming through the committees ... but equally we have a resolution in plenary in December which is motivated by the political groups and is ... setting political priorities. Additional work is still needed in the house to reflect how we can better link these two exercises—how the preparatory work that is being done by parliamentary committees becomes fruitful and can be accepted by the political groups” (Q 71).
25. It is important that the political prioritisation exercise that constitutes the APS should be met by a political response, in order that the agreed priorities for the EU can be manifested in the proposals of the subsequent Legislative and Work Programme. **There should be a strong political lead to the European Parliament’s scrutiny of the Annual Policy Strategy. We recommend that the European Parliament consider methods by which a more political response to the Annual Policy Strategy could be generated.** The production of such a response could be focused on the forum of the Conference of Committee Chairs, as suggested by Gary Titley MEP (Q 101). **One possibility would be for the European Parliament to complement the work it does on the APS in committee by holding a plenary debate and adopting a resolution on the APS in September. This would allow the political groups to express their opinion on the APS before the Commission produces its ALWP.¹⁷ The Parliament may also wish to consider whether the Commission should enter into a political dialogue with each political group as part of its engagement with the Parliament as a whole.**

Should the Commission juggle balls or pitch them?

26. The agreement of the European Union’s priorities for the coming year involves finding a compromise between many different forces. As Commissioner Wallström pointed out, it firstly involves a balancing of political directions, for which a constructive dialogue with the political

¹⁷ In 2007, the APS was debated in plenary only on the day on which it was presented to the European Parliament (13 March 2007), and no resolution was adopted. The debate can be read at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20070313+ITEM-006+DOC+XML+V0//EN&language=EN>

groups in the European Parliament is essential (Q 26). Furthermore, the Commission is itself bound by its five-year strategic objectives, and working alongside multi-annual plans such as the Lisbon Strategy. Nor is the Commission the only source of ideas: as Commissioner Wallström said of the Commission, “sometimes we struggle very hard for our right of initiative ... we have to be flexible to the European Parliament and the Council and sometimes we have to accept that they come with new proposals” (Q 28). The Council has its own agendas and priorities, which are set by the six-month Presidencies of Member States, on the basis of national concerns and collaborative 18-month programmes. Gary Titley MEP emphasised that “six-month presidencies are not designed for coherence of development” (Q 104). Moreover, the other Member States also have to be satisfied: the Minister for Europe explained that there is “a dynamic process of exchanges of views and information” between the Commission and Member States, while national parliaments will also have opinions (Q 142).

27. The coordination of this wide variety of different interests is difficult. With regard to an inter-institutional agreement on the priorities of the EU following the publication of the APS, Klaus Welle said “There are no tripartite efforts in this area and I think that is a weakness” (Q 80). The Council commented on the APS for 2008, but their comments are not public and have not been shared with the European Parliament. **We recommend that the Government should press the Council to make its comments on the Annual Policy Strategy public in order to aid inter-institutional discussion and add to transparency.**
28. In addition, Gary Titley MEP linked this to the proposed introduction of a permanent Council President, which would enable the Council to agree consistent priorities and “could work with both the Commission and the Parliament to provide much greater strategic analysis of where the European Union should be going” (Q 104).
29. Given the number of bodies involved in the formation of the EU’s priorities, it is all the more important that the Annual Policy Strategy should clearly explain whose viewpoint it represents and what part it is intended to play in this dialogue. Furthermore, **where the Annual Policy Strategy includes cross-cutting priorities where competence is shared, discussion of the EU’s role in these areas and how it interacts with Member States’ action is essential.**
30. We believe that instead of trying to find a compromise between the different points of view the Commission should use its APS to clearly state its ambitions for the coming year. Timothy Kirkhope MEP thought that “perhaps we should not be over-balancing here, we should be stating clearly what is necessary and where our priorities ought to lie” (Q 4). **The Annual Policy Strategy should be a presentation of the Commission’s strategic thinking to the other institutions, provoking a political debate and providing the Council with options to discuss.** The Commission should not feel bound to reflect the priorities of the European Parliament or Member States in constructing its APS, as the right place for these priorities to be expressed is through the structured dialogue leading towards the ALWP; nor should it feel bound to include the priorities of incoming Council Presidencies, although the Commission and Council Presidencies should both be aware of the ambitions of the other in

preparing their respective work programmes.¹⁸ In addition, the better structured APS with improved explanation of the Commission's thought which we advocate above will itself make the Commission's own position more apparent.

Justifying action

31. As we have highlighted, we would like the APS to be an opportunity to get inside the Commission's mind and see the Commission's vision of the priorities for the European Union in the coming year. The Commission's key proposals should be accompanied by some explanation of the rationale behind them, the arguments for action, and the context of the proposals in terms of the Commission's objectives.
32. **The Commission should provide a clear justification for its key proposals, explaining why the European Union should act in these areas and setting out the limits on such action.** When setting out priorities or proposals where there are concerns regarding Community competence in the field, such as the initiatives following from the "Social Reality Stocktaking" of 2007, the Commission should be clearer about what action is specifically not contemplated.¹⁹ Potential confusion about a bold-sounding proposal such as "implementing a centralised database of fingerprints" might be averted if the Commission provided more explanation about what was intended.²⁰
33. The Commission should also refrain from dedicating too many resources to planning for implementing controversial proposals where concerns about the need for European Union action have not yet been resolved: we register our unease regarding the Commission's pledge to undertake preparatory work to ensure that the contentious European Institute of Technology (EIT) will become operational in 2009.²¹ (Commissioner Wallström defended the Commission on this point by explaining that the EIT was on the Commission's 'wish list' of proposals that would have to be dropped if they met sufficient opposition, but the reader of the APS would understand little difference between this proposal and, for example, the implementation of the already-agreed REACH legislation; there is a need for such differences to be clear).²²
34. **The Commission should therefore explain the 'added value' it envisages in its key proposals, as well as considering, in preparing its Annual Policy Strategy, how individual proposals fit into its general strategy and financial framework and how it will ensure delivery of them.** To the Minister for Europe, it seemed "that if there is anything at all missing here—and it is a very comprehensive statement on a series of ambitions—it is how you do it" (Q 126).

¹⁸ Timothy Kirkhope MEP suggested increased consultation with the European Parliament before the publication of the APS (Q 5); the Minister for Europe confirmed that the Commission consults the national governments in its preparations (QQ 142–146).

¹⁹ The APS for 2008, p 9.

²⁰ The APS for 2008, p 12.

²¹ The APS for 2008, p 6; see also our Report "Proposal to Establish the European Institute of Technology: Interim Report", 13th Report (2006–07), HL 69, <http://www.publications.parliament.uk/pa/ld200607/ldselect/ldcom/69/69.pdf>

²² The APS for 2008, pp 8–9.

Matching resources to ambitions

35. As the Minister for Europe pointed out, it is important to know that “sufficient and adequate resources” are available to back up the Commission’s ambitions (Q 126). Unfortunately, we found it impossible to understand the financial situation from the APS itself. The Commission’s tables showing the allocation of financial resources are, in the Commissioner’s own words, “confusing” and “totally incomprehensible” (Q 42). We join with the European Parliament in calling for the Commission to “explore possibilities for a better presentation, facilitating easier and better understanding of the different financial programming and budget documents”.²³
36. If the Commission’s priorities cannot be seen to be financially feasible, there is a danger that the APS will look woolly and unconvincing. Again, our apprehension in this area is echoed by other national parliaments, which questioned the practicality of the APS “with regard to the budget” at the May 2007 COSAC meeting.²⁴
37. We are concerned that the Commission, in stating its priorities for the coming year, appears to be playing a zero-sum game. As Commissioner Wallström confirmed, the Financial Perspective for 2007–13 has been agreed, and the changes within its framework are “marginal”; when asked whether this meant that if the Commission wanted to spend more on one category it would have to spend less on another, the Commissioner answered: “That is absolutely true” (QQ 41, 45). Klaus Welle told us that “up until now this has not occurred as a problem”, but the lack of clarity itself is problematic, and we note that the European Parliament has resolved that “as a result of very small margins under the different ceilings of expenditure, the EU’s capacity to react to policy changes in budgetary terms is extremely limited” (Q 70).²⁵
38. Bearing in mind the constraints imposed on the Commission by the way in which the budget is drawn up by the budgetary authority (the Council and the European Parliament), **we urge the Commission to explain clearly in its Annual Policy Strategy the financial constraints around the APS, and the ways in which the Commission can (or cannot) change its spending priorities within this framework. Political priorities must be matched in budgetary terms, and to this end it would be helpful if the Commission would declare which areas of action are receiving less funding in order to allow the Commission to prioritise others.**
39. We also note that where “final adoption is still pending” or there is “late adoption of the corresponding legal bases”, the Commission intends to shift resources to other projects, and that a concern has been expressed in the European Parliament about the circumstances under which such a shift

²³ European Parliament resolution on the Commission’s annual policy strategy for the 2008 budget procedure, adopted 24 April 2007, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0131+0+DOC+XML+V0//EN&language=EN>

²⁴ Minutes of the XXXVII COSAC, Berlin, 14–15 May 2007, p 6, <http://www.cosac.eu/en/>

²⁵ European Parliament resolution on the Commission’s annual policy strategy for the 2008 budget procedure, adopted 24 April 2007, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0131+0+DOC+XML+V0//EN&language=EN>

might occur.²⁶ It would be helpful if the Commission would further clarify the position.

40. In his evidence to us, Gary Titley MEP stated that “throughout discussions about what the European Union can do, and the Council are particularly guilty of this, there is always insufficient attention to where the money is going to come from to do it and how you are going to get there” (Q 87). When we questioned Klaus Welle about how the APS-ALWP process and the budgetary procedure are linked, as they logically should be, he noted that this was “a very legitimate question, because the whole concept of the Annual Policy Strategy is based on the assumption that the legislative agenda and the working agenda should enjoy the necessary financial means, so obviously both things need to come together” (Q 68). In Klaus Welle’s view, “they are not yet sufficiently interlinked” (Q 68). He told us that “The Parliament is discussing how best to organise its budgetary debate in the autumn and whether that should be more closely linked with legislative planning, and whether the commitment of the European Commission to field its full team of Commissioners when it presents the Annual Legislative and Work Programme in the autumn could not be used to develop something in a new format, where the wider public might be able to see financial means and legislative measures brought together in a major orientation debate once a year” (Q 68).
41. **We recommend that the Commission, Council and European Parliament should forge a closer link between the budgetary and legislative processes.** We note that the European Parliament has resolved that it “regrets the lack of interaction between the Legislative [and] Work Programme and the budget procedure; ... insists upon a better coherence between the two procedures; [and] reminds the Commission of its commitment ... concerning an improved matching of legislative priorities and budgetary decisions”.²⁷ The Commission reiterated at the May 2007 COSAC meeting that it envisions “a better connection between the budget and political priorities”, and we welcome this attitude.²⁸ **We would not want the Annual Policy Strategy to become dominated by a financial bidding process. Nonetheless the relationship of the Annual Policy Strategy to the budgetary procedure should be made clear, within the current financial perspective.** We are also interested in the opinion of Gary Titley MEP that “every [European Parliament] committee should not just spend time arguing about their interest in the budget but afterwards they

²⁶ The APS for 2008, p 19. For example, according to the APS “the increased financial resource allocation for initiatives under Heading 1a and Heading 3a will not have an effect on the margins under these headings, as the increases will be offset by reductions for other programmes for which implementation is likely to be delayed in the first few years” (The APS for 2008, p 23). In the European Parliament’s debate on the Annual Policy Strategy for 2008, held in Strasbourg on 13 March, 2007, Kyösti Virrankoski (ALDE), the European Parliament’s *rapporteur* for the 2008 budget, said “In terms of budgetary policy, it is regrettable that the Commission intends to find the money for the new expenditure by postponing the financing of existing programmes. [The European] Parliament should make a careful appraisal of this move, which could lead to its own priorities being undervalued”, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20070313+ITEM-006+DOC+XML+V0//EN&language=EN>

²⁷ European Parliament resolution on the Commission’s annual policy strategy for the 2008 budget procedure, adopted 24 April 2007, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0131+0+DOC+XML+V0//EN&language=EN>

²⁸ Minutes of the XXXVII COSAC, Berlin, 14–15 May 2007, p 6, <http://www.cosac.eu/en/>

should be given responsibility for monitoring and expected to produce quarterly reports on the implementation of the budget” (Q 110).

42. We recognise that “the Commission are caught between the Council and Member States, who set out the Financial Perspectives, and the Parliament which in most of these areas is the budgetary authority”, and we take on board the point made by Gary Tittley MEP that “Ultimately the responsibility has to lie with the Council” (QQ 107–108). **We therefore urge the Government to work to ensure that the Council assists in any effort to increase the correlation between political priorities and financial resources.** We welcome the Minister’s statement that “we want to carry on the process that has been underway for a number of years of ensuring that the resources that are available to the European Union and how they are spent matches the political priorities set in this document and set out by the British Government” (Q 125). Our Economic and Financial Affairs Sub-Committee will be conducting its annual scrutiny of the budget in the coming months.²⁹

Communicating the Commission’s priorities

43. In the Annual Policy Strategy for 2008 the Commission has, for the first time, included a list of communication priorities for the coming year.³⁰ **It seems obvious to us that one important conduit for communicating the Commission’s priorities and increasing engagement with the debate about the priorities for the EU should be the APS itself, and we are therefore disappointed that the Annual Policy Strategy for 2008 lacks the degree of clarity that would help the broader audience.** Commissioner Wallström admitted that “We can look and understand but if somebody comes in who is not a Commission official it might not be that easy” (Q 43). We hope that our recommendations regarding the structure of and explanation behind the APS will help to improve its accessibility to a wider public.
44. We welcome the Commission’s commitment to improving communication, but we would prefer the Commission to produce a more focused, strategic APS and work to communicate its few key priorities well than to produce such a long and broad list of proposals and attempt to communicate well on only a few of them. Beyond this, the Commission should place particular emphasis on the tangible results of its work, and could improve communication by taking a more structured approach, communicating on particular policy areas in the same way in which we would like it to focus the APS in a more coherent structure.

Better Regulation and the Annual Policy Strategy

45. The APS for 2008 includes a section entitled “Better Regulation—at the Heart of the Commission’s Daily Work”, and the ALWP included a list of simplification initiatives for the first time in 2006.³¹ On the subject of Better Regulation, the Minister for Europe told us: “I am assured that the Commission have begun to make real progress ... they have started

²⁹ For more information about the work of Sub-Committee A, go to http://www.parliament.uk/parliamentary_committees/s_comm_a.cfm

³⁰ The APS for 2008, pp 16–17.

³¹ The APS for 2008, pp 15–16.

extremely well” (QQ 140–141). **We welcome the Commission’s continuing commitment in this area, and reiterate our support for Better Regulation and, indeed, for deregulation where appropriate.**³²

In particular, we welcome the emphasis now being placed upon impact assessments.

46. In discussing Better Regulation, Klaus Welle said that “we are in a process to try to integrate simplification into the APS procedure” (Q 75). He recommended that “there should be a proper consultation mechanism and at the stage of the Annual Policy Strategy the simplification programme for the next year should be available” (Q 70). He thought this was “crucial”, because it was essential that the Commission should take into account the views of the Council and the Parliament “if the simplification agenda of the Commission is to have more success than in the past” (Q 70). Accordingly, “That is where the Annual Policy Strategy could develop a lot of additional importance” (Q 70). **We agree that it is logical for the Commission to put forward its simplification proposals at the same time as its policy priorities, in order that both may be properly discussed before they are integrated into the ALWP. To maintain the strategic nature of the APS, this list of specific proposals should not be included in the APS, but published in a separate ‘Annual Better Regulation Agenda Report’ alongside the APS.**
47. Regarding Better Regulation, Klaus Welle said that in his view, it was “very often the Council which is the weak link in this whole exercise” (Q 75). Whilst progress had been made on issues such as comitology and transparency, he suggested that work is necessary in the areas of impact assessments and legislative planning.
48. He contrasted the approach of the Commission and European Parliament to impact assessments with that of the Council: on impact assessments, “at least” the Commission had separated the conducting of impact assessments from the drafting of the legislation, and given it to an independent internal body (Q 75). He explained that the Parliament has established a budget line of €700,000 with which to undertake impact assessments on substantive amendments using external expertise. With regard to the Council, though, he was less positive: “I have doubts whether the Council, which likes to stress the importance of impact assessments, has in fact yet developed a proper mechanism to conduct such assessments on substantial amendments itself” (Q 75).
49. Klaus Welle was very critical of the Council’s approach to coordination with the European Parliament on legislative planning, stating that “the Council up until now simply refuses to be part of a joint programming exercise” (Q 75). He suggested that, “the Council needs more actively to involve itself in the programming efforts of the other institutions and so contribute to transparency” (Q 75).

³² At the COSAC meeting of May 2007, Commissioner Wallström said that the Commission was “committed to exercising this responsibility [to initiate legislation] to the highest possible standards. That means making proposals after full consultation and after detailed impact assessment. It also means legislating only when it is the best option”. Commissioner Wallström’s speech presenting the APS for 2008 to the XXXVII COSAC, Berlin, 15 May 2007, <http://www.cosac.eu/en/meetings/Berlin2007/plenary/aps.pdf>. Timothy Kirkhope MEP expressed to us his support for deregulation: QQ 1, 7–8. See our Report, “Ensuring Effective Regulation in the EU”, 9th Report (2005–06), HL 33, <http://www.publications.parliament.uk/pa/ld200506/ldselect/lducom/67/67.pdf>.

50. An area of Better Regulation in which the European Parliament could enhance its role, according to Klaus Welle, is transposition: “parliamentarians could play a bigger role here so that there is a feedback mechanism on how legislation that has been passed affects the citizens once it hits the ground” (Q 75).
51. Finally, Klaus Welle made reference to “discontinuity” (between the term of the European Parliament and the term of the Commission) (Q 75). He noted that progress will have been made if the Commission would be willing to give a proper response to the screening exercise undertaken by the European Parliament after each set of European elections (Q 75).
52. **We recommend that the Commission’s Annual Better Regulation Agenda Report should look at the quality of EU legislation, and the steps that the European institutions will take in the coming year to continue their progress on the Better Regulation agenda.**
53. **We are disappointed that the Commission, in its Annual Policy Strategy for 2008, does not mention the need to give greater prominence in impact assessments to fundamental rights and ensuring human rights compliance of its proposals, and we encourage the Commission to maintain a focus on this as it works on its strategic review of Better Regulation in the EU.³³ We urge the Commission, the Council and the European Parliament to continue their work on the Better Regulation agenda and continue to improve the quality of EU law-making.**

Conclusions

54. We welcome the improvements that the Commission is making to its Annual Policy Strategy documents, and we hope that our recommendations will be helpful to the further development of the EU’s strategic planning.
55. In his evidence to us, Klaus Welle said that the President of the European Parliament felt that “it can only be welcomed if national parliaments have a view early on of what is going to happen in the European Union”, and accordingly, in the third chapter of this Report, we draw attention to some proposals of particular interest (Q 72). We intend to continue to publish our views on the Commission’s APS in the coming years. **However, our scrutiny and analysis of the APS needs to be assisted by a comprehensive Explanatory Memorandum from the Government. The EM should do more than summarise the proposals listed by the Commission; it should present the Government’s initial thoughts on these proposals and priorities, and provide a preliminary assessment of the policy implications. The Government should also push the Commission to provide a more strategic, coherent, well explained and substantiated Annual Policy Strategy that would form the basis for this assessment.**
56. On behalf of the Commission, Commissioner Wallström said “we hope that more and more of the national parliaments will ... arrange a debate where the priorities are being discussed”, and, in accordance with our stated desire to hold an annual debate on the floor of the House about the priorities of the European Union, **we make this Report to the House for debate (Q 25).**³⁴

³³ See our Report, “Human Rights Proofing EU Legislation”, 16th Report (2005–06), HL 67, <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldcom/67/67.pdf>.

³⁴ “EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords”, 32nd Report (2005–06), HL 179, p.32; in a debate on the Committee’s Report on Subsidiarity: Early Warning Mechanism on 15

CHAPTER 3: THE CONTENT OF THE APS FOR 2008

57. As an essential part of our inquiry, each of the House's seven sectoral Sub-Committees on the European Union analysed the APS according to their areas of specialism. In addition, we invited written submissions commenting both on the APS as a whole and on individual proposals. We will be keeping the helpful comments provided by our Sub-Committees and in written evidence in mind during 2008 and during the Committees' scrutiny of the proposals that the Commission brings forward. In the meantime, **we urge the Commission to consider these points and we will draw them to the attention of the Commission officials drawing up the Annual Legislative and Work Programme for 2008.**

Points raised by our Sub-Committees

*Economic and Financial Affairs, and International Trade*³⁵

58. Our Economic and Financial Affairs Sub-Committee considered that it would be worth following the Commission's strategic review of the Economic and Monetary Union, and the Commission's plans to improve its functioning.³⁶
59. The Sub-Committee would be interested in monitoring the Commission's efforts to conclude and implement the Doha Development Round, and the Commission's intention to complement global discussions with bilateral negotiations for a new generation of trade agreements with important emerging economies.³⁷

*Internal Market*³⁸

60. Our Internal Market Sub-Committee welcomed the Commission's proposed actions in taking forward the Energy and Climate Change Package as a step in the right direction.³⁹
61. The Sub-Committee considered that the enforcement of competition and internal market rules in the energy sector will prove controversial.⁴⁰
62. The Sub-Committee would be interested in following the conclusion of the Single Market Review, and have chosen to conduct an inquiry into this subject, as well as monitoring legislative proposals that emanate from the Review.⁴¹

December 2005, Government spokesperson for the Foreign and Commonwealth Office, Baroness Royall of Blaisdon said: "It would mark a welcome step forward if Parliament were to debate the EU's annual and multi-annual work programmes ... Early debate on European proposals in regional and national parliaments should help to ensure early and informed public debate, generating wider public awareness" (HL Deb. 15 December 2005, col. 1483).

³⁵ For information about the work of the Sub-Committee specialising in this policy area, Sub-Committee A, go to http://www.parliament.uk/parliamentary_committees/s_comm_a.cfm.

³⁶ The APS for 2008, p 8.

³⁷ The APS for 2008, pp 13–14.

³⁸ For information about the work of the Sub-Committee specialising in this policy area, Sub-Committee B, go to http://www.parliament.uk/parliamentary_committees/lords_s_comm_b.cfm.

³⁹ The APS for 2008, p 5.

⁴⁰ The APS for 2008, p 5.

⁴¹ The APS for 2008, p 8.

63. The Sub-Committee considered that the internal market aspects of the Commission's possible revision of the Integrated Guidelines of the Lisbon Strategy, in the context of a strategic report on the first cycle of the Strategy, would also be worth following.⁴²

*Foreign Affairs, Defence and Development Policy*⁴³

64. With regard to the Commission's intention to take forward initiatives to implement the EU Maritime Policy, our Foreign Affairs, Defence and Development Policy Sub-Committee questioned whether the security aspects of the Policy had been sufficiently addressed as part of the proposal.⁴⁴
65. The Sub-Committee considered that the Commission had an important role in EU policy on the Middle East, and felt that the APS was rather thin in this area, although the rapidly changing situation 'on the ground' was recognised.⁴⁵
66. The Sub-Committee also noted that the current institutional arrangements make achieving an integrated and coordinated EU policy in such areas more difficult, as discussed in our Report "Europe in the World".⁴⁶

*Environment and Agriculture*⁴⁷

67. Our Environment and Agriculture Sub-Committee felt that in general, the direction suggested in the environment, agriculture and fisheries policy fields was sound, although the Sub-Committee noted that it was crucial that the horizontal priority of Better Regulation was applied to these fields.⁴⁸
68. The Sub-Committee welcomed the importance that the Commission had placed on climate change.⁴⁹
69. The Sub-Committee noted that energy crops were not specifically referred to in the section on sustainable energy, and emphasised that sustainability and the development of energy crops must be undertaken in harmony.⁵⁰
70. The Sub-Committee believed that the impact of the proposal to develop a legal framework for risk assessment by the European Food Safety Authority of GM food and feed must be particularly carefully considered.⁵¹
71. On the Common Fisheries Policy, the Sub-Committee welcomed the proposed major recast of the control framework, but questioned how effective this could be without work on tackling the extreme variability of

⁴² The APS for 2008, p 5.

⁴³ For information about the work of the Sub-Committee specialising in this policy area, Sub-Committee C, go to http://www.parliament.uk/parliamentary_committees/lords_s_comm_c.cfm.

⁴⁴ The APS for 2008, p 7.

⁴⁵ The APS for 2008, p 14.

⁴⁶ "Europe in the World", 48th Report (2005–06), HL 268, <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldcom/268/268.pdf>.

⁴⁷ For information about the work of the Sub-Committee specialising in this policy area, Sub-Committee D, go to http://www.parliament.uk/parliamentary_committees/lords_s_comm_d.cfm.

⁴⁸ The APS for 2008, pp 9–10.

⁴⁹ The APS for 2008, p 5.

⁵⁰ The APS for 2008, p 5.

⁵¹ The APS for 2008, p 12.

penalties applied across the EU for equivalent infringements of fisheries rules.⁵²

72. The Sub-Committee supported the Commission's view that the CAP Health Check was an integral part of work on the development of the future CAP in the long term.⁵³

*Law and Institutions*⁵⁴

73. Our Law and Institutions Sub-Committee was concerned that the APS did not mention the need to give greater prominence to fundamental rights and ensuring human rights compliance of its proposals. This need should be addressed by the Commission as part of its strategic review of Better Regulation in the EU and its commitment to develop further its human rights compliance methodology.⁵⁵
74. The Sub-Committee noted that the APS did not focus in any great depth on areas relevant to its law and institutions remit. This was not surprising, given the difficulties encountered in the criminal justice field. The wider evaluation of the Hague Programme might also impact upon the direction of EU criminal justice in the future.⁵⁶
75. The Sub-Committee considered that it would be interested to see what action was envisaged in terms of promoting fundamental rights: the APS did not set out any detailed action and it seemed likely that efforts would be focussed on protecting children and children's rights.⁵⁷
76. The Sub-Committee noted that the APS did not provide any detailed civil justice programme for the coming year.⁵⁸

*Home Affairs*⁵⁹

77. Our Home Affairs Sub-Committee noted the Commission's continuing belief in a need for EU common rules regulating at least the conditions of admission for some key categories of economic immigrants. The Sub-Committee had been sceptical in the past about the need for a common regulation of admission to the EU for work purposes.⁶⁰ It was important to ensure that a more detailed assessment of the need, or lack of need, for common rules was made a part of the impact assessment that would precede any legislative proposal in this field.⁶¹
78. The Sub-Committee also noted the Commission's argument that there was a need to complement the decentralised exchange of fingerprint data

⁵² The APS for 2008, p 9.

⁵³ The APS for 2008, p 9.

⁵⁴ For information about the work of the Sub-Committee specialising in this policy area, Sub-Committee E, go to http://www.parliament.uk/parliamentary_committees/lords_s_comm_e.cfm.

⁵⁵ The APS for 2008, pp 15–16.

⁵⁶ The APS for 2008, p 11.

⁵⁷ The APS for 2008, p 11.

⁵⁸ The APS for 2008, p 11.

⁵⁹ For information about the work of the Sub-Committee specialising in this policy area, Sub-Committee F, go to http://www.parliament.uk/parliamentary_committees/lords_s_comm_f.cfm.

⁶⁰ "Economic Migration to the EU", 14th Report (2005–06), HL 58, <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldcom/58/58.pdf>.

⁶¹ The APS for 2008, p 6.

under the Council Decision on stepping up cross-border cooperation (the Prüm Decision) with a centralised criminal fingerprint database. The Sub-Committee had recently completed an inquiry on the Prüm Decision, in which problems arising from different thresholds in the collection of data and storage limits were highlighted.⁶² The Sub-Committee considered that the development of any centralised system should be based upon harmonisation of the criteria for collection of data and a common definition of the serious offences to which the data would relate. In addition, the relationship of the database to the second generation Schengen Information System (SIS II) needed to be addressed.⁶³

*Social Policy and Consumer Affairs*⁶⁴

79. Our Social Policy and Consumer Affairs Sub-Committee expressed a high level of regret that the Commission already appeared to be planning the implementation of the European Institute of Technology before the proposal had been agreed by the European Parliament and the Council.⁶⁵
80. In the light of the Sub-Committee's inquiry into mental health, the Sub-Committee felt that the Commission should intensify its work during 2008 on developing aspects of its coordinating role.⁶⁶
81. With regard to labour law, the Sub-Committee considered that the Commission should seek particularly to address the ongoing problems with the Working Time Directive.⁶⁷
82. The Sub-Committee saw the Social Reality Stocktaking Exercise as a potentially useful undertaking that must, however, demonstrate genuine added value.⁶⁸
83. The Sub-Committee felt that if work on patient safety and home health monitoring was to be included in the Annual Legislative and Work Programme, it would need to clear that EU action in this area was justified and would add value.⁶⁹
84. The Sub-Committee also considered that any Commission work on social services of general interest would have to have due regard to the operation and financing of social services in each Member State.⁷⁰

⁶² "Prüm: an effective weapon against terrorism and crime?" 18th Report (2006–07), HL 90, <http://www.publications.parliament.uk/pa/ld200607/ldselect/ldcom/90/90.pdf>.

⁶³ The APS for 2008, p 12.

⁶⁴ For information about the work of the Sub-Committee specialising in this policy area, Sub-Committee G, go to http://www.parliament.uk/parliamentary_committees/leuscommg.cfm.

⁶⁵ The APS for 2008, p 6; "Proposal to Establish the European Institute of Technology: Interim Report", 13th Report (2006–07), HL 69, <http://www.publications.parliament.uk/pa/ld200607/ldselect/ldcom/69/69.pdf>.

⁶⁶ The APS for 2008, p 8; "Improving the mental health of the population": can the European Union help?" 14th Report (2006–07), HL 73, <http://www.publications.parliament.uk/pa/ld200607/ldselect/ldcom/73/73i.pdf>.

⁶⁷ The APS for 2008, p 10.

⁶⁸ The APS for 2008, p 4.

⁶⁹ The APS for 2008, p 12.

⁷⁰ The APS for 2008, p 10.

Points made in written evidence submissions

General points

85. The standing committee on European Cooperation Organisations of the Senate of the States-General of the Netherlands was satisfied with the Commission's overall ambition and four policy priorities (p 59).
86. The Commission for Racial Equality (CRE) welcomed the Commission's statement that there was a political consensus in the Commission on the policies it needs to deliver in the social, economic and environmental fields. It felt that the APS contained a number of significant and positive proposals in the social and equality fields (p 51).
87. The Equal Opportunities Commission (EOC) welcomed the Commission's focus on major challenges such as energy and climate change, the Lisbon Agenda and migration (p 52).
88. Gary Titley MEP welcomed the extent to which "the agenda is now very much what we would call a UK agenda ... very much about practical policies which will make a practical difference" (Q 85).
89. The Minister for Europe said that the Government "believe that the Commission programme, which is much closer to a UK Government than ever before, is in the right direction because it emphasises the importance of maintaining the competitiveness of the European economy whilst at the same time delivering fairness and social justice" (Q 122). He said that "the emphasis on tackling climate change, on immigration flows, on dealing with energy security, on security against crime and terrorism is very much the agenda that this Government wants to see the European Union have" (Q 127).
90. Timothy Kirkhope MEP supported the general priorities of the Barroso Commission, particularly the emphasis on Better Regulation, delivery of results, economic reform and environmental protection. He felt that the priority given to institutional reform was the biggest failing of the APS. The APS stressed several of the right priorities, but Better Regulation should have been given greater emphasis, and he wanted a specific commitment to 'deregulation', as well as better impact assessment (p 1, Q 1).
91. The City of London Corporation supported the work being done on Better Regulation and impact assessments (pp 50–1).
92. Gary Titley MEP welcomed the inclusion of communication priorities in the APS, considering it "a huge breakthrough that we are talking about that in the Annual Policy Strategy" (Q 91).
93. The Immigration Law Practitioners' Association (ILPA) welcomed the Commission's communication commitments (p 57).
94. Timothy Kirkhope MEP had concerns regarding the cost and value of the commitment to improving communication (p 3, Q 6).

Written evidence regarding economic and financial affairs, and international trade

95. Timothy Kirkhope MEP had serious concerns over the Global Adjustment Fund. He felt the Doha trade round should be the Commission's top strategic priority as a response to globalisation. He wanted a reformist ethos

to be reflected in the reviews of the budget and single market, and the Lisbon Agenda (pp 1–2, QQ 1, 16).

Written evidence regarding the internal market

96. Timothy Kirkhope MEP welcomed the Commission's determination to focus on the implementation of REACH, and thought the implementation of the Services Directive required careful monitoring, as did the proposed action plan on urban transport (pp 2–3, Q 1).
97. The City of London Corporation expressed interest in the following up of the Single Market Review. It had grave concerns about the potential outcome of the proposal to introduce a Common Consolidated Corporate Tax Base, and was interested in the review of Economic and Monetary Union. The City supported the building of good relations with the US and other third countries (pp 47–50).
98. The Minister for Europe said that the Government wanted to see the single market completed, particularly in financial services and energy. The Government was resisting the idea of establishing a common tax base for corporation tax (Q 136).

Written evidence regarding foreign affairs, defence and development policy

99. Timothy Kirkhope MEP welcomed the commitment to pursue accession negotiations with the Western Balkans, and supported work on the European Neighbourhood Policy. EU-US relations deserved greater prominence, but moves to improve the visibility of the Commission's external action and develop its external services required careful scrutiny (pp 2–3, Q 1).
100. The standing committee on European Cooperation Organisations of the Senate of the States-General of the Netherlands considered that European Neighbourhood Policy partner countries should not be allowed to participate in European Agencies (p 60).
101. Regarding external relations in the APS, the Minister for Europe said that the APS was "a fair summary of where the EU is at the present time in terms of the coherence and effectiveness of these external policies and we do not have any specific disagreements ... it demonstrates actually the success of our external policies and the coherence of the approach that EU Member States have been able to develop in quite a range of areas." He also expressed support for the European Neighbourhood Policy (QQ 131–133).

Written evidence regarding environment and agriculture

102. Timothy Kirkhope MEP felt that the predominance of climate change in the APS was right. He welcomed the CAP health check, but urged more fundamental reform (pp 1–2, Q 1).
103. Research Councils UK (RCUK) welcomed the focus on sustainable energy and climate change (p 58).
104. The standing committee on European Cooperation Organisations of the Senate of the States-General of the Netherlands supported the Commission in its ambition to guarantee a sustainable, competitive and secure supply of energy (p 59).

Written evidence regarding home affairs

105. The Centre for European Policy Studies (CEPS) raised concerns regarding the extent to which the European Area of Freedom, Security and Justice was being increasingly centred on security; the proposal for a centralised database of fingerprints; the issue of 'forum-shopping' regarding EUROJUST; the relationship between EUROJUST and EUROPOL; issues regarding cross-border cooperation; and the Commission's plans to address radicalisation and the discourse of integration (pp 43–45).
106. On the issue of migration, the CEPS highlighted concerns regarding FRONTEX and Rapid Border Intervention Teams, and practices of border control (pp 45–47).
107. ILPA thought that the right of family reunification ought to be a high priority in the APS, and that the APS should include the objective of ensuring that all citizens of the Union receive equal access to social benefits in all Member States. It expressed concerns regarding directives on labour migration, and conditions of entry and residence of seasonal workers and remunerated trainees, and raised points about the tackling of illegal immigration and illegal work, particularly with regard to FRONTEX. It would welcome the rapid conclusion of the Visa Code, and urged revision of the visa black list and settlement of facilitated visa agreements with more countries. It welcomed the Commission's support for the right to asylum, and supported further development of the legal instruments in the common European asylum system, but was concerned about the level of cooperation in this field. It also supported enlargement negotiations with Croatia and Turkey, and had concerns regarding attitudes towards citizenship rights for nationals of new Member States (pp 54–56).
108. The CRE was interested to note the Commission's new policy regarding violent radicalisation, and was concerned that any new policy should pay serious consideration to potential discriminatory effects (p 52).
109. Timothy Kirkhope MEP thought that the push for a common European asylum system, FRONTEX and work on managing migration needed careful monitoring, particularly regarding Qualified Majority Voting and legal bases. He was concerned about the development of a policy to tackle radicalisation (p 52, Q 6).

Written evidence regarding social policy and consumer affairs

110. The CRE welcomed the proposal to follow up concretely on the Commission's paper on Europe's social reality. It considered the proposal to extend and reinforce the Commission's equal opportunities policy particularly significant. It welcomed especially initiatives designed to prevent discrimination outside the labour market. It also welcomed the proposal to reconcile work and family life (pp 51–52).
111. The EOC also welcomed the Commission's plans to extend and reinforce equal opportunities policy. It felt that gender equality needed to be mainstreamed into the Commission's APS, meaning that the APS for 2008 should have been linked to the 2006–2010 roadmap for equality between men and women, to ensure that progress would be secured. According to the EOC, the APS should have referred to the European Gender Institute, and should have given a gender dimension to the Lisbon Strategy, the Green Paper on modernising labour law, Commission impact assessments, and

'flexicurity'. The Commission's framework for human resources should also have referred to gender equality (pp 52–53).

112. Timothy Kirkhope MEP had serious concerns over the European Institute of Technology. He felt that labour market flexibility needed to be promoted, did not support emphasis given to the proposed modernisation of labour law, and felt that Europe should not go ahead with the idea of 'flexicurity'. He had concerns about any initiative by the EU to extend its competence into social security, and about the proposed action plan on drugs. Regarding the social policy stocktaking, he said that "this is a classic example of an area where frankly the Commission should certainly not be involved but I am rather dubious as to whether Europe as a whole should be involved" (pp 1–3, Q 2).
113. The RCUK was pleased to see the strong emphasis on research and technological development, and thought that the proposed European Institute of Technology was a significant initiative, although a number of outstanding questions remained and consultation would be essential. The RCUK felt that a clear distinction should be maintained between the EIT and the 7th Framework Programme, within which the European Research Council was a significant initiative. It noted that Joint Technology Initiatives were not mentioned, and felt that proposals on health and safety should also be followed closely (p 58).

CHAPTER 4: OUR CONCLUSIONS

What is an Annual Policy Strategy for?

114. We consider that future Annual Policy Strategies need to be clearer about the purpose of the document and about the specific status of each of the priorities or proposals listed. The Commission should provide more background to its proposals so that the reader can more easily understand whether, in including a particular point, the Commission is prioritising a long-standing objective, re-affirming or updating such an objective, or tabling an entirely new initiative for discussion. (para 9)

Towards a more Strategic Strategy

115. If the Commission focussed its APS on only a few key strategic goals, the clear priority given to these goals would lead to more effective debate and delivery, these goals could be more easily communicated, and the European Union would be better understood. (para 10)
116. We consider that the Annual Policy Strategy should provide the clear overarching strategy of the Commission's vision for the coming year. It should also indicate, for each area of this strategy, what are the key policy intentions that the Commission will prioritise to achieve that end. (para 11)
117. We believe that the Annual Policy Strategy should explain which policy areas have moved up the Commission's agenda in the past year (as well as which have moved down), and how the Commission's thinking has developed. (para 13)
118. The clarity of the structure would be improved if the proposals were collected and presented under policy fields so that those looking at the Annual Policy Strategy could quickly find their areas of interest. (para 15)

The production of the Annual Policy Strategy

119. We believe that the construction of the Annual Policy Strategy needs to be led from the top: the College of Commissioners should decide on the vision behind the Annual Policy Strategy on the basis of a discussion in which the Commissioners would select both their strategic priorities and the policy areas that must be demoted to make room for them. Further detail for the priorities could then be provided by the Commission services. Commission Directorates-General should not expect to have all of their proposals included in the Annual Policy Strategy. (para 18)

A well-structured dialogue?

120. It is crucial to the utility of the Annual Policy Strategy that it should provoke a constructive debate within and between the European institutions and parliaments about the European Union's priorities for the coming year. (para 19)
121. An APS which is both constructed and deconstructed predominantly 'by committee' is unlikely to be strong on the strategic content necessary to provoke the 'bigger picture' debate desired by the Commission; it is necessary that the committees should work to coordinate their scrutiny and to focus on broad priorities rather than specific proposals. (para 23)

122. There should be a strong political lead to the European Parliament's scrutiny of the Annual Policy Strategy. We recommend that the European Parliament consider methods by which a more political response to the Annual Policy Strategy could be generated. (para 25)
123. One possibility would be for the European Parliament to complement the work it does on the APS in committee by holding a plenary debate and adopting a resolution on the APS in September. This would allow the political groups to express their opinion on the APS before the Commission produces its ALWP. The Parliament may also wish to consider whether the Commission should enter into a political dialogue with each political group as part of its engagement with the Parliament as a whole. (para 25)

Should the Commission juggle balls or pitch them?

124. We recommend that the Government should press the Council to make its comments on the Annual Policy Strategy public in order to aid inter-institutional discussion and add to transparency. (para 27)
125. Where the Annual Policy Strategy includes cross-cutting priorities where competence is shared, discussion of the EU's role in these areas and how it interacts with Member States' action is essential. (para 29)
126. The Annual Policy Strategy should be a presentation of the Commission's strategic thinking to the other institutions, provoking a political debate and providing the Council with options to discuss. (para 30)

Justifying action

127. The Commission should provide a clear justification for its key proposals, explaining why the European Union should act in these areas and setting out the limits on such action. (para 32)
128. The Commission should explain the 'added value' it envisages in its key proposals, as well as considering, in preparing its Annual Policy Strategy, how individual proposals fit into its general strategy and financial framework and how it will ensure delivery of them. (para 34)

Matching resources to ambitions

129. We urge the Commission to explain clearly in its Annual Policy Strategy the financial constraints around the APS, and the ways in which the Commission can (or cannot) change its spending priorities within this framework. Political priorities must be matched in budgetary terms, and to this end it would be helpful if the Commission would declare which areas of action are receiving less funding in order to allow the Commission to prioritise others. (para 38)
130. We recommend that the Commission, Council and European Parliament should forge a closer link between the budgetary and legislative processes. (para 41)
131. We would not want the Annual Policy Strategy to become dominated by a financial bidding process. Nonetheless the relationship of the Annual Policy Strategy to the budgetary procedure should be made clear, within the current financial perspective. (para 41)
132. We urge the Government to work to ensure that the Council assists in any effort to increase the correlation between political priorities and financial resources. (para 42)

Communicating the Commission's priorities

133. It seems obvious to us that one important conduit for communicating the Commission's priorities and increasing engagement with the debate about the priorities for the EU should be the APS itself, and we are therefore disappointed that the Annual Policy Strategy for 2008 lacks the degree of clarity that would help the broader audience. (para 43)

Better Regulation and the Annual Policy Strategy

134. We welcome the Commission's continuing commitment in the area of Better Regulation, and we reiterate our support for Better Regulation and, indeed, for deregulation where appropriate. (para 45)
135. We agree that it is logical for the Commission to put forward its simplification proposals at the same time as its policy priorities, in order that both may be properly discussed before they are integrated into the ALWP. To maintain the strategic nature of the APS, this list of specific proposals should not be included in the APS, but published in a separate 'Annual Better Regulation Agenda Report' alongside the APS. (para 46)
136. We recommend that the Commission's Annual Better Regulation Agenda Report should look at the quality of EU legislation, and the steps that the European institutions will take in the coming year to continue their progress on the Better Regulation agenda. (para 52)
137. We are disappointed that the Commission, in its Annual Policy Strategy for 2008, does not mention the need to give greater prominence in impact assessments to fundamental rights and ensuring human rights compliance of its proposals, and we encourage the Commission to maintain a focus on this as it works on its strategic review of Better Regulation in the EU. We urge the Commission, the Council and the European Parliament to continue their work on the Better Regulation agenda and continue to improve the quality of EU law-making. (para 53)

Conclusions

138. Our scrutiny and analysis of the APS needs to be assisted by a comprehensive Explanatory Memorandum from the Government. The EM should do more than summarise the proposals listed by the Commission; it should present the Government's initial thoughts on these proposals and priorities, and provide a preliminary assessment of the policy implications. The Government should also push the Commission to provide a more strategic, coherent, well explained and substantiated Annual Policy Strategy that would form the basis for this assessment. (para 55)
139. We urge the Commission to consider the points brought out by our Sub-Committees and written evidence and we will draw them to the attention of the Commission officials drawing up the Annual Legislative and Work Programme for 2008. (para 57)
140. We make this Report to the House for debate. (para 56)

APPENDIX 1: LIST OF WITNESSES

The following witnesses gave evidence. Those marked * gave oral evidence only. Those marked † gave written and oral evidence.

- Centre for European Policy Studies (CEPS)
- City of London Corporation
- Commission for Racial Equality (CRE)
- * Rt Hon Geoff Hoon MP, Minister for Europe
- Immigration Law Practitioners' Association (ILPA)
- † Mr Timothy Kirkhope MEP
- * Ms Shan Morgan, Director of EU Affairs, Foreign and Commonwealth Office
- * Mr Tomas Niklasson, Secretariat-General, European Commission
- * Mr Sten Ramstedt, Member of Cabinet, European Commission
- Research Council UK (RCUK)
- * Mr Anthony Smith, Director of European Political Affairs, Foreign and Commonwealth Office
- Standing Committee on European Cooperation Organisations of the Senate of the States-General of the Netherlands
- * Mr Anthony Teasdale, Head of Strategy and Political Bodies, Cabinet of the President, European Parliament
- * Mr Gary Titley MEP
- * Commissioner Margot Wallström, Commission Vice-President, European Commission
- * Mr Klaus Welle, Head of Cabinet to the President of the European Parliament (Dr Hans-Gert Pöttering MEP)

APPENDIX 2: RECENT REPORTS FROM THE SELECT COMMITTEE

Session 2005–06

Evidence by Commissioner Franco Frattini, Commissioner for Justice, Freedom and Security on Justice and Home Affairs Matters (1st Report, Session 2005–06, HL Paper 5)

Correspondence with Ministers: June 2004–February 2005 (4th Report, Session 2005–06, HL Paper 16)

Ensuring Effective Regulation in the EU (9th Report, Session 2005–06, HL Paper 33)

Evidence from the Minister for Europe—the European Council and the UK Presidency (10th Report, Session 2005–06, HL Paper 34)

Scrutiny of Subsidiarity: Follow-up Report (15th Report, Session 2005–06, HL Paper 66)

The Work of the European Ombudsman (22nd Report, Session 2005–06, HL Paper 117)

Annual Report 2005 (25th Report, Session 2005–06, HL Paper 123)

Ensuring Effective Regulation in the EU: Follow-up Report (31st Report, Session 2005–06, HL Paper 157)

EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords (32nd bis Report, Session 2005–06, HL Paper 179)

The Brussels European Union Council and the Priorities of the Finnish Presidency (44th Report, Session 2005–06, HL Paper 229)

Annual Report 2006 (46th Report, Session 2005–06, HL Paper 261)

The Further Enlargement of the EU: threat or opportunity? (53rd Report, Session 2005–06, HL Paper 273)

Session 2006–07

Evidence from the Minister for Europe on the Outcome of the December European Council (4th Report, Session 2006–07, HL Paper 31)

Government Responses: Session 2004–05 (6th Report, Session 2006–07, HL Paper 38)

The Commission's 2007 Legislative and Work Programme (7th Report, Session 2006–07, HL Paper 42)

Evidence from the Ambassador of the Federal Republic of Germany on the German Presidency (10th Report, Session 2006–07, HL Paper 56)

Minutes of Evidence

TAKEN BEFORE THE EUROPEAN UNION COMMITTEE

TUESDAY 1 MAY 2007

Present	Blackwell, L	Marlesford, L
	Bowness, L	Roper, L
	Cohen of Pimlico, B	Sewel, L
	Geddes, L	Thomas of Walliswood, B
	Grenfell, L (Chairman)	Tomlinson, L
	Harrison, L	

Memorandum by Mr Timothy Kirkhope MEP (Submitted in a personal capacity)

1. Although much of this paper highlights a number of shortcomings of the APS and the areas in which it could be improved, I should stress that I am supportive of Jose Manuel Barroso as President of the Commission. His priorities as President, with the important exception of stress placed on reviving the Constitution, are in general terms, the right ones. A strong emphasis on less and better regulation, focus on more effective delivery of results and a high priority given to economic reform and strong but practical environmental protection are hallmarks of his term as Commission President and this is welcome. It is certainly the case that this Commission is a vast improvement on its predecessor.

2. Overall, the 2008 APS document stresses several of the right priorities but also contains a significant number of significant failings. On the positive side, it restates the Commission's commitment to a reform agenda, which is welcome, both for 2008 and, hopefully, as an indication of a longer term direction of travel for the Commission. On the other hand, it is disappointing that the Commission's commitment to the better regulation agenda and to progressing the Doha round of trade talks are not given greater emphasis, and there are serious concerns over the Globalisation Adjustment Fund and the Institute of Technology. Both are expensive projects of highly questionable and unproven value, and both raise significant questions with regards to subsidiarity and proportionality. I wholly endorse the conclusions of the interim report of Sub-Committee G on the EIT. The Globalisation Adjustment Fund is a fundamentally wrong-headed initiative and clearly raises serious questions over subsidiarity.

3. The Commission is justified in asserting that there is a large measure of consensus on the need for joint action on energy, research and demographic change (p.3). It is perhaps surprising that climate change is not included in this list, but perhaps this is simply a reflection of the fact that the APS Communication was drafted before the March summit. Tackling climate change does feature prominently in the priority actions (p.5), as indeed it should. After the headlines and promises EU leaders made on this issue at the March Summit, there will rightly be close scrutiny of the action the EU takes to follow up and deliver on these pledges. Yet while the Commission's proposed activities on climate change seem to be the right responses to the challenges identified, it cannot be similarly claimed that the Globalisation Adjustment Fund and the European Institute of Technology are appropriate policy responses to the challenges identified.

4. The priority given to working towards an institutional settlement (p.3 & 4), is perhaps the biggest failing of the Annual Policy Strategy for 2008. This is not to contend that the Nice Treaty provides the perfect and final institutional settlement for the EU—there will of course need to be some institutional reform at some point in future. Nonetheless, the current attempts to revive the EU Constitution, or achieve something along similar lines, are quite mistaken. The EU should be concentrating on delivery of substance not wasting energy squabbling over divisive issues of process. I welcome the fact that the Tri-partite Committee of MPs, MEPs and Peers will be examining this issue at its next meeting on 14 June.

5. It is regrettable that the Better Regulation Agenda and a commitment to progress the Doha Round of world trade talks do not feature more prominently as key priorities for 2008. Better Regulation is mentioned in passing in the introduction (p.4) and although the main document (p.15) contends it is "at the heart of the Commission's daily work" this is unfortunately not yet true, or the issue would not be buried away as "priority action 2.6" on page 15! Moreover, I would personally prefer to see the Commission committed specifically to "deregulation", rather than the more euphemistic term "better regulation". Proper and thorough regulatory

impact assessments are one of the central components of this agenda, and there are a number of items included within the APS itself where impact assessment has so far been inadequate, as I have indicated in other parts of this paper. Nonetheless, this comment should not be seen as an attempt to denigrate the Commission's work in this area. Commissioner Verheugen deserves great praise for forcing this issue onto the agenda and for working hard to keep it there, which is clearly an uphill struggle. It is vitally important that the European Parliament and national parliaments keep up the pressure on the Commission to maintain focus on this area if the potentially great benefits of cutting back excess EU red tape are to be achieved by 2009.

6. As far as the Doha Round is concerned, this of course related to an area of exclusive Commission competence and one where the benefits of more liberalised global trade both to Europeans and to people in the developing world could be enormous. As a response to globalisation, progress on Doha should be the Commission's top strategic priority, rather than the short-term, futile and populist Globalisation Adjustment Fund.

7. Among other initiatives worth highlighting, the Commission's own reform agenda is welcome (p.4), not least as it is to be hoped that a similarly reformist ethos is reflected in the reviews of the budget and single market (also p.4). Both must be ambitious and far-reaching. Reform must also continue in the context of the Lisbon Agenda (p.5). The economic picture in Europe has improved since the Lisbon process was renewed in 2005, but the urgency of on-going economic reform must be maintained. The 2007 review report will be important in this context. There is a risk of course that progress on economic reform may be undermined by Commission action in other areas, not least in the area of social policy where labour market flexibility must be promoted, not restricted. In this context, I have already highlighted the shortcomings of the Globalisation Adjustment Fund and any initiative by the EU to extend its competence into social security, for example by taking it upon itself to promote "flexicurity" (p.9) similarly raises important subsidiarity issues. The debate over what "modernising European labour law" (p.10) must also be watched very carefully as what is understood by "modernisation" varies considerably, as do views on how such modernisation should be brought about. Clearly, the EU must move away from its outdated "social model"—those of us who have been arguing for many years that this model is holding back Europe's economic progress do now seem to be in the ascendancy. But this welcome progress will be squandered if there are attempts to impose, top-down, some alternative "social model" from EU level: this is an area where individual Member States should be free to determine their own approach.

8. On the CAP, the "health check" (p. 9) is welcome as the 2003 reforms were important and must indeed be monitored. Regrettably, the fiasco over Single Farm Payments in the UK may not show a very healthy situation in the UK! Hopefully, the health check will not gloss over these problems and lessons may be learnt. Of course, more fundamental reform of the CAP is necessary and so the health check must be conducted in synergy with the preparation of the budget review. Similarly, the "major recast" of the CFP framework is overdue, but again may not go far enough.

9. The Commission's stated determination to focus on the implementation of REACH (p.8) is welcome and significant. REACH was a major legislative initiative, so implementation will be complicated so must be carried out carefully and sensitively, but also thoroughly. More generally, willingness on the part of the Commission to concentrate on implementation and enforcement is welcome—this has not always been done well. Renewed focus on follow-up and delivery is very important and could be extremely beneficial in terms of improving legislative quality and outcomes. The other major legislative item of 2006—the Services Directive—is another dossier that must be carefully monitored through its implementation phase so as to be sure that the expected benefits are indeed delivered.

10. On the Justice and Home Affairs front, the push for a common European asylum system (p.11), FRONTEX (p.12) and work on managing migratory flows (p.6) must be monitored very carefully. These are of course very sensitive areas that are best dealt with by co-operation rather than harmonisation. Harmonisation is almost always a flawed approach in this sphere and one which Conservatives will continue to oppose. The pressure to move to Qualified Majority Voting in this area and the willingness of governments, including the British Government, to take a rather cavalier approach to the use of legal bases and institutional propriety when making decisions is a source of considerable concern.

11. On the EU in the World section, the commitment to pursue accession negotiations with the Western Balkans (p.13) is of course extremely important although it does seem curious that the need for on-going progress on Turkey is not referred to—although again this may simply be due to the fact that the document was drafted at a time of impasse which now, happily, seems to have passed. The European Neighbourhood Policy is also extremely important and the Commission's work in this area deserves support. It is disappointing that there is not greater reference made to the need to foster and enhance EU-US relations, particularly through working on proposals for a genuine transatlantic marketplace. However, there will need to be careful scrutiny of the commitment to improve the visibility of the Commission's external action and to develop the

political and diplomatic culture of its external services (p.14). This risks seeking to implement the Constitution (ie creating and EU diplomatic service) and so acting without a proper legal basis.

12. Finally, there are a number of initiatives that are of questionable value that should certainly be subject to careful scrutiny on the basis of subsidiarity, for example: the proposed action plans on Urban Transport & Drugs (p.6); the development of a policy to tackle radicalisation (p.12); and social reality stocktaking (p.17). These initiatives must also be subject to thorough cost/benefit analyses. It is similarly doubtful that the cost implications of the Commission's commitment to improving communication (p.16) can be justified. The way for the EU to become more popular is by delivering on issues where it can add value, not by spin and what amounts to "focus group politics". There is bound to be suspicion that the prominence given in the APS to the Globalisation Adjustment Fund is a response to a recent a survey showing that EU citizens are concerned about the so-called "social dimension" of the EU.

27 April 2007

Examination of Witnesses

Witnesses: **Mr Timothy Kirkhope**, Member of the European Parliament and **Mr James Temple-Smithson**, examined.

Q1 Chairman: It is a pleasure to welcome you, Mr Kirkhope, a familiar figure to all of us who have had the pleasure of seeing you in our tripartite meetings in Brussels and here in Westminster. Also, it is very nice to see Mr Temple-Smithson with you as well. As you know we are engaged in an inquiry into the Annual Policy Strategy and we have a few questions to put to you about that. We are very grateful to you for coming here to see us because I know it will not be possible to see you when we are in Brussels next Thursday. Five of us will be there for a discussion with Margot Wallström, Klaus Welle and Gary Titley MEP on the Annual Policy Strategy. I should explain that the Select Committee here attaches great importance to this. It is taking a good look at the Annual Legislative and Work Programme and then the Annual Policy Strategy as the precursor of the following Work Programme. We are very grateful for the opportunity to draw on some of your wisdom as a senior member of the European Parliament who is very experienced in these matters, to help us as we look how the strategy is drawn up and how you handle it at a parliamentary level. We are on the record and the session is being webcast. We will be sending you a transcript of our conversation afterwards so that you can make sure that what you say has been correctly reflected. Can I begin by asking you whether there is anything you would like to say by way of introduction?

Mr Kirkhope: My Lord Chairman, first of all, I want to say thank you very much indeed for offering me the opportunity to come and meet with you and to answer your questions. It is also very kind of you to allow me to do it here rather than in Brussels because of the pressure I have later this week. It is very good of you to arrange that. I know it is slightly out of sequence with your agenda, but it seems you had a very exciting session before. I would like to say in introduction, first of all, I do welcome very much indeed, as do my colleagues, the increase in engagement between the House of Lords EU

Committee and members of the European Parliament. I and my colleagues have been very strong advocates of greater involvement with national parliaments in the EU process and, in particular, for joint scrutiny. I think it is very good to have that increase in dialogue and interaction. I am very proud of my members, I have a great number of MEPs who occupy influential positions within the European Parliament. I have seven committee co-ordinators at present from the group on which we sit. I have got a committee chairman and I have got three committee vice chairmen so I think between us we probably can be of assistance to you and provide a useful insight. The Lords EU Committee reports and the regular newsletter are of great interest to Conservative MEPs. I know that some members here benefit from a newsletter that comes from us in the other direction, although ours is, I am afraid, rather more party-political so it would not be of interest necessarily to everybody. I know several of my colleagues have given evidence to the Committee in recent months—John Bowis gave evidence to your inquiry into mental health services which reported last week. In addition, the tripartite meetings which you have referred to earlier are very well established and very useful and we are looking forward to the next one on 14 June. I would like to also thank the permanent official Richard McLean and indeed his Commons opposite number Martyn Atkins who have been talking to us recently about the way in which the Parliament's processes work. Having said that, and just for one or two minutes more, if I may, of your indulgence, I want to say this, from my perspective, what we want to see, looking at this particular report on Europe and the Work Programme, we Conservatives want to see much more positive reform. That agenda is one which we have consistently and vigorously supported. We think that this particular report does move us along better than previous ones in the sense that the President of the Commission, Mr Barroso, seems to

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be someone worth supporting because he does have the right general priorities for Europe. He wants to see a more effective delivery with results and he wants to see greater priority given to economic reform and strong but practical environmental policies. That is the area where we are particularly concerned. Although the 2008 APS document does stress several of the right priorities, we also think that it contains a significant number of shortcomings, things that we think are “out of tune” with the general reform approach. The commitment to better regulation is welcomed although we would like to see that re-designated as *deregulation* with a lot more action in that particular area. We think there are serious concerns over distractions such as the Globalisation Adjustment Fund which has a grand title but seems to us to have a lot of protectionism around it. Also, the Institute of Technology—the report which you published in April is extremely interesting. We would certainly concur with many of the things that you said in that report but we think the Institute is something which is a distraction. We also believe that the issue regarding social policy and some of the elements which are still being pushed are unacceptable from our point of view. We may be taking our eye off the ball on that too much; and also there is the continuing question of institutional settlements and the constitution. Of course it is well known that my party is opposed to the European Constitution. It is fair to say that treaties always have to be looked at, there have to be changes in treaties as time goes on, but I think our clear position is that anything in terms of constitutional treaty or a constitution which moves more powers away from our national parliament, or indeed from our national institutions to European institutions, would have to be subject to a referendum, a democratic consideration by the people of this country. Apart from those points, we would like to emphasise again that there have been some great successes, the implementation of REACH is something that is very welcome and significant. I think the Services Directive in which a number of my colleagues, particularly Malcolm Harbour in this case, have been very much involved in trying to liberalise the European economies, we are very happy with it. We are however unhappy in the field of Justice and Home Affairs with the driving forward of the harmonisation process, the “in and out”, “hokey-cokey” approach of the British Government towards the Schengen Agreement which does not seem to make sense at all. In terms of the EU and the world, my final point if I may, we do welcome the whole approach to enlargement and the right kind of enlargement process, and the commitment to the accession negotiations with the Western Balkans is very important. It is interesting to note that in the report there is not a lot about Turkey and the ongoing

progress or otherwise, although admittedly as we sit here today, there is a lot of domestic excitement in that country but hopefully that is a matter which can be resolved. I think that is probably enough for me to start with and I am very happy to take your questions.

Q2 Chairman: Thank you very much, indeed. I will not say that was provocative, but it was extremely illustrative of some of the views of your party and that is very helpful to us. In that spirit, if I might, I am assuming the omission of a social element from the APS does not give you sleepless nights.

Mr Kirkhope: No, indeed. Seeing we are on the internet, maybe this is part of my ongoing “blog” for the day, but one of my big problems is to try and grapple with the terms like “social reality stocktaking”, that is a rather good example of what one should not do or even say. It is the Commission’s initiative. I am afraid this is a classic example to me of an area where frankly the Commission should certainly not be involved at all—indeed I am rather dubious as to whether Europe as a whole should even be involved. This is clearly an issue for national competence, and it is merely one example. I would say also to you that general issues like policies to tackle radicalisation, for instance, are areas where we must be very careful. Are they going to help or are they not? My view is that we should be polarising our thoughts around making Europe survive into the future and it can only survive, in my submission, if it concentrates very hard on the world competition that there is now and on economic issues which, I am afraid, are too often left aside.

Q3 Chairman: I should interpose here, since you mentioned the European Institute of Technology, that Baroness Thomas of Walliswood who chaired that inquiry is with us here at the table and I saw a very warm smile on her face as you mentioned your own feelings on that subject. We have two Liberal Democrats around the table here. I know that the ALDE group in the Parliament felt that the devotion of only three lines to the subject of the future of Europe in the Policy Strategy was rather surprising. If I could venture a personal opinion—certainly not on behalf of the Committee, each Member will speak for himself or herself—I thought the crafters of the APS were wise not to do more than to devote that small amount of space to it, given the fact that we do not know yet where we are going.

Mr Kirkhope: If I may say so, my Lord Chairman, I think the world is littered with visions, we need to be quite sure when we have a vision that it is a vision which has some real accountability behind it, and I hope I make that clear. The Commission having its own vision for the future of Europe grates with me anyway. I feel that the Commission with its particular

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status should not really pursue an opportunity of that kind and, indeed, because the vision is very much tied to the issue of how we run Europe in the future this is more an area where democratically elected politicians should have sole entitlement whether or not to develop visions. Institutionally, it certainly seems quite clear to me that the Nice Treaty on which we are, of course, reliant in many ways, is not perfection. I would not contend that Europe can go on forever relying on the Nice Treaty, particularly as we go through the enlargement process. We will need to look again at the institutions and I know for a fact that my Party is never reluctant to look carefully at the ongoing institutional developments in Europe and to comment on them, but I do think that if we do, it is a process which we have to look at more in line with the terms of the Laeken Convention. You may recollect, my Lord, that I served on the Convention which drafted the Constitution. That convention was set up by that Laeken Convention which had set out very clearly—I have not got the words in front of me, but it is something one should always read—what the charge from Laeken was for that convention and its work. My colleagues and I would have no problem whatsoever, I suspect, in organising our institutional arrangements to meet with those objectives given to that convention, which were to make Europe simpler, more understandable to the citizen, more polarised, on the real problems, more relevant and obligated to look again at economic competitiveness and issues of that kind as a matter of the greatest priority.

Q4 Chairman: If you leave aside the institutional arrangements, do you feel that the Annual Policy Strategy, as it is crafted, does, in fact, contribute a little bit towards the aims or the charge that was given by Laeken to the convention?

Mr Kirkhope: Yes, I do. I opened my remarks by saying that I personally have some admiration for the President of the Commission, I think the President of the Commission is a good one. In fact, the Commission, albeit with its democratic deficit, is as good a Commission as we are likely to see, certainly better than some past ones. There are a lot of areas where they have been quite clear, they have talked of the need for competition and for us to make sure that we are interested in the environment and doing more about it. They are interested in freeing up trade even more, the issues and relationship to the Doha Round, for instance, I think that is very important indeed. I am quite satisfied that they have done quite a lot in terms of the modernising or reforming of Europe in what they have said in the document. It is just that there is a continuation of that social agenda, it is part of the balancing act when they prepare such a report. My view is that perhaps we should not be over-balancing here, we should be stating clearly what is necessary and where our priorities ought to lie. In

general, I like the tone but I have those particular concerns.

Chairman: We will come on in a little while to the input that the parliament has into the crafting of it but, first of all, I would like Lord Blackwell to ask a question.

Q5 Lord Blackwell: I wanted to follow up, Mr Kirkhope, on the process. If you could explain to us a bit about the process by which we get to this because when I read it the first thing you do is to check whether the things which you think ought to be in it are in it. Having gone through it, it is so comprehensive that I struggled to think of anything that was left out of it. Therefore, it reminds me of a process where every directorate will lobby to have its particular area included, then the Parliament gets involved and by the time everyone has had their point of view you get something that covers everything and anything set against the test of where the priorities and the notion that some of us have of a Europe which maybe does a few things but does them better seems to potentially be going in the wrong direction in terms of trying to assume into Europe every issue that you could put on the table. I am interested in whether there is anything in the process that does focus on the priorities. You mentioned the point about competitiveness; you could say the one thing that the Commission ought to focus on in 2008 is facing up to the realities of economic globalisation. That does not leap out at me as top of the agenda.

Mr Kirkhope: There are two points: one is the process and one is the outcome. As far as I am concerned, I think there is a deficiency in the process. First of all, the involvement of our parliament in this preparatory stage is limited. Indeed, it is actually only when the Commission Communication is published that we have a proper debate in plenary on it. Clearly, there is a lot of scope for some better approach to this and earlier involvement of ourselves but also, may I say, with yourselves, with national parliamentarians at an earlier stage. Although I think it is fair to say there have been some improvements, there has been some evolution and a greater awareness of a need for more people to be consulted who are in the democratic process, I have to say that I am still not satisfied with that actually. I think it is just an example of the historic position of the Commission and its ability to instigate legislation and, indeed, to have responsibility for the preparation of this document. As for the contents of the document, inevitably there is a temptation, almost a necessity, for all the areas of the Commission's Work Programme to be reflected in the document. I think it is extremely difficult. Bearing in mind we now have rather a lot of Commissioners and sub-Commissioners, because that is an inevitable result of enlargement, and the question of debate as to how many Commissioners

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you should have, whether every country should have a Commissioner, I am very open on that debate, but it does seem to me that whilst we have that situation, it is very difficult not to reflect views from all of them. I am just surprised, to be honest with you, that what we get is sufficiently positive and sufficiently polarised in the right direction. I think if one looked at a policy strategy just a few years ago from the Commission, it would be enormously tedious and indeed, from my political perspective, I am afraid I would probably be unable to say very much positive about it at all looking back. This time we have got elements here which I think we should welcome and where there is a genuine sign of a changed attitude, brought about partly by enlargement itself, in the way in which Europe has to do its business.

Q6 Chairman: Just clarify one point for me, you speak of the reluctance of the Commission to engage with parliament before they have produced their Annual Policy Strategy in draft form. I can understand that they would not seek formal meetings with, say, the chairs of the European parliamentary committees or anything like that, but would they at least read the documentation from the committees? This is a question that I think we will certainly put to Margot Wallström when we see her later this week. From your perspective, there really is no communication on this?

Mr Kirkhope: I do not want to be unkind here and I think you should certainly ask Commissioner Wallström about this, but my reading of it is, of course they are aware and they do take soundings, but there is not a formal procedure as I understand it in the Parliament in preparation. There is a formal process once the document is available, as I said, and there is a plenary debate and lots and lots of comments and so on. I have no doubt you will be asking Commissioner Wallström about a brief in relation to communication which I did not mention incidentally but I do feel that is another example of something which we should look at with a rather high level of suspicion. I am not very keen on it. I know that Members in the other place have just been encouraged in various ways to increase their communications with the people they represent with a new budget but I do have some suspicions about too much—I would hate to do it in the present context—of this spin and too much of this putting forward a particular perspective with a lot of money behind it. I think it has to be justified and I am a little suspicious of that in terms of its priority within this programme.

Chairman: Thank you. That is one of the questions we were going to put to you anyway, but we will come back to that in a moment.

Q7 Lord Harrison: My Lord Chairman, as one of the two members sitting around this table supporting the hokey-cokey party that is the Government of this country at the moment, I will not rise to Timothy Kirkhope's provocation but can I dwell on better regulation for the moment? I wonder whether you would agree with his aspiration to change that to deregulation. Whilst I think we would agree that there are many laws, directives and regulations that might be taken away, the emphasis must still be right in promoting better regulation because that has to do with new directives and new powers that are given to the Commission but also in the light of his comments about the ability of this current Commission, would you like to say a little more. I say this in the light of having read a recent internal report of the ACCA accountants who say that the Lisbon strategy and that element of it which contain the better regulation elements has to some degree come to fruition. They feel that there has been an advance in wiggling away some of the excess legislation which should be taken away but also, in the promotion of better regulation. Mr Kirkhope, I wondered from your perspective whether you feel that that is being tackled and whether it might be tackled with greater dispatch.

Mr Kirkhope: I was one of those lucky people to be an original minister on the deregulation task force which the Conservative Government put together in about 1995 under Michael Heseltine. I had to go to meetings from the Home Office and offer up to the "mighty Mr Heseltine" a bunch of regulations which could be dumped in the bin, otherwise I was not allowed to go back to my Home Secretary, Michael Howard, and have any more measures at all coming through the Home Office for the next X months. It was a salutary experience, and it did teach one that deregulation is an essential part of the overall government process.

Q8 Lord Harrison: What I am saying is you want to change better regulation to deregulation. We all support deregulation but it misses out on the as important if not more important better regulation.

Mr Kirkhope: I am prepared to see a twin track approach. Undoubtedly, where you cannot deregulate, you must at the very least make sure that new regulations have got certain positive qualities. First of all, one of those qualities has to be in the vast majority of cases some form of impact assessment. We also argue for "sunset" clauses, and that is an element. I think impact assessment is something where Europe needs to improve its act. Impact assessment, which is made by people who themselves have prepared the proposals, is not independent assessment. I think that is something you have discovered also, was it in the Institute of Technology, I am not sure, but certainly it is an issue in itself and I think we have to be quite careful about this.

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Commissioner Verheugen has been pushing very strongly that we should develop this whole issue of deregulation, as has President Barroso, but I do not think they are mutually exclusive, and I do think that we need to have both and there is no reason why we cannot. My worry is that sometimes we are disguising a continuing surge of regulation for regulation's sake simply by adding that sort of helpful "betterness", as it were because some regulations, I am afraid whatever you do with them, cannot be made better.

Q9 Lord Harrison: Can I push you one step further because when I was in the European Parliament before you, many of us were very keen on having an impact assessment of one kind or another, but I think we were very conscious of the difficulty of having something that was there other than in name. I wanted to invite you to say how can we tighten up to make sure that we get a true view of business and the effect that regulation or a directive might have in its impact on business here in the United Kingdom and elsewhere in the European Union?

Mr Kirkhope: You will know as well as I, as someone who is representing people, we have, particularly in the European area, a considerable amount of pressure on us and a lot of opinions which are pushed upon us. We are not short of information coming from those groups who might suffer as a result of regulation, either joining its movement through the legislative process or indeed subsequently, we do know that. As for making independent assessments, that is slightly different and I do not think we have got in place an adequate process for having those assessments made. It may be that we need some special body to do this. I do not claim to have all the answers about that but I do think it is probably necessary. When we got through something like REACH we had an enormous amount of interest from both sides, I had never seen anything quite so boisterous, from the chemical interests on the one side, to the environmental interests on the other and everything in between. We are not short of people's opinions, but I still think there is room for something where there is an independent assessment, as perhaps there is here and I think that is something we have not achieved yet.

Q10 Lord Geddes: I have got a very specific point, but it may be a bit early. Mr Kirkhope, in your opening remarks you made a comment that interested me and disappointed me and to be quite honest absolutely gobsmacked me when you said that you were—and I wrote it down because it was such an extraordinary statement—"very happy with the Services Directive". How could you possibly be happy with a Services Directive that ignores the country of origin principle?

Mr Kirkhope: I am sorry it gobsmacked you, my Lord, but I think that all these things are fairly relative. The Services Directive, of course, did not achieve as much as certainly my Delegation would have liked to see; we would have liked to see a higher level of liberalisation and faster liberalisation. However, the fact that we did move the Services Directive forward in the way that we did, that we achieved something in the teeth of opposition from a number of left wing politicians and, indeed, groups within the Parliament who wanted that Services Directive to be minimised because of social issues and so on, I think that was a move forward, I was happy with that. I would be happier, of course, if we could go further but certainly it is making a contribution, it is making a contribution to developing our markets to the Single Market process itself and concentrating our minds in that area. I am sorry if I caused you upset, I was not meaning to and I hope that what I said was not quite as enthusiastic as you suggest.

Lord Roper: If I could follow it up because I would draw Mr Kirkhope's attention to the two reports of our Sub-Committee B on the Services Directive where we expressed a very clear view of the sort of directive which we wanted, and I think the Committee felt what we have is a bad piece of regulation and it is going in the wrong direction. On some occasions no progress is better than bad progress.

Lord Geddes: I totally endorse that comment.

Q11 Chairman: I notice that although there is quite a lot of attention paid in the APS to the allocation of financial resources and financial implications of one area and another, there is nothing spelt out about the financing of the European Union as such. Is there just a red line that you come up with which the Commission does not cross when it comes to future financing of the European Union?

Mr Kirkhope: I am not trying to avoid any of your questions at all, but I have to admit at this point that those aspects are more specialised than is the main body of the document which is of course, as we know looking at it, primarily a political one. Members of my Budgets and Budgetary Control Committees—I think you may in fact, my Lord, be hearing from one or other of them in the future, either James Elles or Richard Ashworth—but I do not claim to be sufficiently expert on that.

Q12 Chairman: That is all right. It was just curiosity, we can clear this up when we go to Brussels and talk to Commissioner Wallström, but it struck me that there must be some prohibition on them making any mention of the 2008–09 review. I was just a little puzzled as to why that was. What would you say would be the real contribution of the Annual Policy Strategy? Do you regard it as just a useful indication

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of what may end up in the next Legislative and Work Programme or does it go further than that?

Mr Kirkhope: First of all, I think it is useful. It identifies the key issues, whether these key issues are coming from too many sources is a matter of discussion, I suppose, but it does identify key issues for the coming year. I think it gives—I would say this of course—the European Parliament an opportunity for a debate and that is welcome, it is important in terms of our institutional relationships. Similarly, your desire and the desire of the Commons to examine that document in detail and to take evidence on it, I think is a welcome opportunity for a general engagement in what is going on in the European Union. I said before I would like to see greater consultation and involvement and that would include national parliaments in the process. As I think you know, my Lord, I have been arguing for a long time now that there should be a more formalised relationship, so that at an earlier stage we are able to debate with the involvement of my colleagues from the European Parliament with the Houses here. In order that we have more of a warning system in place and action can be taken before one is suddenly confronted, as I am afraid we too often are, with something that appears to be a *fait accompli*, or something which could have been improved or fended off, if necessary, if an earlier combination of discussions had taken place. I am still very hopeful that we can move that process forward. Various leaders of the House in the Commons have certainly debated with us before on the possibilities and they have all sounded enormously enthusiastic until they have looked at the constitutional questions. That, I am afraid, has thrown the whole process and I agree there could well be complications, but it is important that we know more and talk more at an earlier stage. There are things coming out of the European Union which are, I think, good and there is co-operation in areas where we ought to co-operate, but I am afraid all too often there are things which we know and identify as being completely unacceptable, where rumours abound, and we end up with a situation where, quite rightly, there is a belief in this place that in some way national parliaments are simply being made second class in relation to what is going on in the European Union.

Q13 Chairman: That is, I am sure, music to the ears of all of us around this table anyway because we do face this strange problem where we are able to get in fairly well upstream as far as scrutiny of the Annual Legislative and Work Programme is concerned by talking to the officials as they are in the process of drawing it up, but with the Annual Policy Strategy it seems to be presented to us as a *fait accompli*. I would wholly endorse what you say, that we have to find some system whereby we can get an earlier indication

of what is going to go into it and, hopefully, maybe even have some influence, but I appreciate very much your support in the matter of national parliamentary involvement in this. I have got a number of other questions coming up, is it all right if we keep you until a little bit after six o'clock?

Mr Kirkhope: Yes, certainly. I am entirely in your hands.

Q14 Lord Marlesford: Mr Kirkhope, what I would like to raise with you is going back, in a sense, to an earlier question on the Annual Policy Strategy lacking a social element. Any observer of Europe either from within it or outside it would be very aware that there is a struggle going on between a social Europe and a liberal economic Europe and, in particular, at the moment of course inside France and, maybe to some extent, still inside Germany. The traditional approach to protecting social Europe has, of course, been harmonisation of the social dimension, and harmonisation tends to require a highly controversial issue of a level playing field; highly controversial because, of course, it depends on whose level you harmonise. Do you think that the apparent absence of tackling this fairly fundamental issue in the report suggests that the Commission collectively just find it too difficult to cope with or do you think they feel that they really want to ignore the social Europe element because they see fundamentally the need for Europe to advance further in a more liberal economic structure?

Mr Kirkhope: I do not think that the two things are contradictory in totality. We have a situation where if I have to take a side on this then I am very interested in the liberalisation field because it seems to me that is what we can do well together, working with a Single Market and working in areas where I think there is a greater level of freedom. What I do not like is this over-concentration on the issue called “social solidarity” and then a lot of various terms flowing from that. The level playing field, of course, is something we argue for all the time but one of our problems is not totally under our control; one of our problems is how individual national governments decide to themselves deal with directives, for instance. I have to say I do not want to be disloyal to my country at this point, but I have got to say that we do have a bad record, in my view, of, it is called, gold-plating, I think perhaps it should be called something else, it is a way in which we tend to take away what might start out as being a level playing field and we then make it very un-level from the perspective of our own businesses and our own citizens, and we do that through domestic legislators in the UK rather than through the European process. It is not always the case and it is perfectly right to say that some EU regulations in particular, but also directives, are unfair from our point of view because they are too

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much contrived to take into account the way other countries deal with their social policies, for instance. That is a fair comment partly, but we have to take into account the domestic issues as well. I would also say to you that if we take a look at the attitudes of certain countries that are claiming to be more interested in social policy, often that is a cover for protectionism which is, of course, also a great problem for us. People sign up to things but in fact behind them one finds a level of historic protectionism, attitudes which I am afraid are not conducive to developing the more liberal economic situation that I would like to see. Also debating about modernising European labour law is a very big issue in our Parliament at the moment, but I think there is a general view among the United Kingdom representatives, particularly my own colleagues, that we should in fact be moving from the old out-dated social and employment model into a new approach and modernising European labour law does not actually quite mean what it says, it certainly does not mean that we will have a much “freer” situation. So I am not very pleased at that particular emphasis. The UK opt-out from the Working Time Directive, for instance, which was very important in achieving flexibility, I think that is something which started to get a lot of minds working. I think people are now aware that Europe has to be more competitive and it cannot go ahead with this idea of ‘flexicurity’, as it is called another word that I am afraid is somewhat new in my political dictionary. Social security, and I hope I do not blow anybody’s mind, is absolutely to be an area that must be for Member States to decide for themselves in their own circumstances.

Q15 Chairman: It would appear that the majority of countries within the European Union would agree with that as far as I can make out.

Mr Kirkhope: Yes, they would agree with it but the trouble is, of course, that I think we end up with pressure all the time for some kind of harmonised approach, which I think is unacceptable.

Q16 Lord Bowness: The Lisbon Strategy for growth and jobs is generally accepted across the political divide to be what you might describe as a good thing. Can I ask Mr Kirkhope if he had the opportunity to write this strategy to include the priorities that we would probably all like to see, Lord Blackwell referred to the document that contains everything for everything, what would those priorities be for advancing the strategy, apart from better deregulation, and can it be done by leaving it to the Member States or would it involve more power to European institutions?

Mr Kirkhope: It is very difficult to do a complete agenda, or “re-agendarise” or whatever the word is on that! It does seem to me, quite honestly, that the

most important element from the Lisbon Agenda would be the issue of labour market flexibility, indeed the word “flexibility” seems to me to be a very important one here. You mentioned obviously the question of deregulation or better regulation. Of course, we have talked about that before but the problem we have got is that there are an awful lot of rigid structures still in Europe. Those rigid structures do not present themselves for reform very easily and yet they need to be reformed and therefore “flexibility” is a key word. The Lisbon Agenda has been variously described as having failed completely or having made some progress. My view about this is that it has not failed completely, it had a “hiccup” or two but the President of the Commission is still extremely keen, as one would expect of a former Portuguese free marketeer prime minister, and I think therefore we are inevitably, under whatever heading you might call it in the future, still continuing this process. I did experience for a while on that particular committee where this conflict that we mentioned before, this conflict between those that want to concentrate Europe in a social agenda and those who want to accept that the world is a big place and a very competitive place now and therefore our need for a great level of flexibility. There was certainly considerable conflict there, a lot on political lines but much was also down different nationality lines as well because sometimes—and this is one of the things about Europe which is a bit unusual in a sense compared with normal domestic legislators—in Europe, of course, you are working in extra dimensions as I am sure a number of people in this room know anyway. Those dimensions are the dimensions of nationality, and history, as well as political positions. Of course, that is why it is not exactly easy to equate politically in Europe because there are certain parties in some countries, I do not want to pick any particular party but for instance liberalism would be perhaps something I could mention where there is a vast difference in approach and attitudes depending on where you are a liberal. That was not meant to be a domestic reference at this time, it is a wider European reference.

Lord Harrison: It depends on which part of the United Kingdom you are enquiring about the Liberal Democrats in!

Baroness Thomas of Walliswood: No, no, that is quite unfair! I cannot let that go by!

Baroness Cohen of Pimlico: I think we have all got them!

Q17 Baroness Thomas of Walliswood: I want to say how much I agree with what you said about the relationship between your Parliament and this Parliament. My Committee, Sub-Committee G, certainly benefited enormously from the evidence that Mr Bowis gave us which suddenly made us

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understand what the subject of mental health was all about. He was absolutely brilliant and got us going in an excellent way on what was a very, very difficult subject to tackle. Equally, we did very well with Arlene McCarthy and I presented, very briefly, a report on consumer credit within the Parliament and that was equally interesting. We rather want to see if we can gently keep these contacts going because there is a lot of mutual interest between the various parliamentary systems. These Committees are full of different points of view, I mean the Committees that we are sitting on here, but within my own Sub-Committee a point of view which almost everybody shares as far as the Commission is concerned is that less and better is better than more and not very good. That is a very broad way of putting it but they seem to be in everything and as you say, lots of interesting, clever people putting out lots of initiatives and so on. You think, if you could calm down and do two or three things really well with an impact assessment so that one knew what the impact of it is going to be, then we might get on better and some of the opposition to the work of the European Union might in fact decline slightly.

Mr Kirkhope: I had the temerity during the course of the constitutional convention to write what I call *The Simplifying Treaty for Europe* which was about 40 pages in length which compared fairly favourably in terms of the use of paper with the final product. I did use the term then, “Doing less, but doing it better” and I think that is a very good description of how Europe should proceed. Having said that, I am very glad that you benefited from my colleague John Bowis’ knowledge in his subject area. I am sorry, my Lord, I do not want to go off the subject, I am hoping not to, you would not allow me to, I know, but I want to say that this is something I am particularly pleased about, that my colleagues do work very hard on their subject areas, not quite as hard as you do because the Lords impresses us deeply in its understanding of these matters. Certainly, I am very pleased that the spokesmen who I have appointed and are there in my team are so well briefed and so interested in the subject matters they are responsible for. That is a key point; whichever legislature you might come from I think that is very important.

Q18 Lord Harrison: I wanted to link, very briefly, two comments made by Timothy Kirkhope. One is the fact that the European Parliament does have these cross-currents, as you described them, of national interest, political interest and historical interest, and your earlier comments about the imperativeness for the European Parliamentarians to be talking to the national parliaments, in our case the

Commons and the Lords, because I think it is often ill-understood here how often our colleagues on the continent are much fleet of foot in making sure they understand each other nationally than we sometimes do. Certainly, again, from my experience of 10 years, I was amazed—I would not say gobsmacked—how often they were able to mobilise much more efficiently about something which affected the national interest of that particular parliament or state in a way that we were still left far behind.

Mr Kirkhope: An example of this—I am not going on a begging mission tonight—are my German MEP colleagues, for instance, who have offices in the Bundestag and are constantly in touch with their colleagues there. One or two of you may be cheered slightly to know, despite that, there are a lot of grumbings from some of these MEP colleagues that they are not treated properly and that there is a certain level of disdain and suspicion from their domestic colleagues and their friends in the Bundestag or Bundesrat. I am not going to grumble, but I would say that we all know Europe is one of those subjects which to get involved in, in the way some of my colleagues and I do, not that we are professional masochists, of course, but it is important for us to represent the interests of this country in a robust manner and that is what we try to do. I had the experience of being a whip, as I think you know, my Lord, right throughout the period of Maastricht and so on. Europe, therefore, is a matter which has been on my mind for a long time, but total understanding from colleagues in the UK is perhaps a little bit too much to expect.

Q19 Chairman: Thank you very much indeed. I am afraid we have to close it there, but I want to thank you for your very interesting thoughts, frank comments and your answers to our questions. I was tempted to ask you whether on your journey from the Home Office to the Deputy Prime Minister’s Office for the bonfire of regulations you were carrying a single sheet of A4 or a suitcase. What was the scale? Did you achieve anything when you were doing that?

Mr Kirkhope: I think you have got it absolutely right, your analogy is perfect, because instead of carrying these regulations to the bonfire, the only regulations that I could ever find to take with me related to our fire service. I did not make the connection myself but that, I am afraid, was an easy vehicle, not a fire engine but the nearest to it.

Chairman: Thank you very much. We do thank you very warmly. It has been most useful and we look forward to seeing you at future tripartite meetings. Please convey our best wishes to your colleagues. Thank you.

THURSDAY 3 MAY 2007

Present	Bowness, L. Grenfell, L. (Chairman)	Marlesford, L. Tomlinson, L.
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Examination of Witnesses

Witnesses: **Commissioner Margot Wallström**, Commission Vice-President, **Mr Sten Ramstedt**, Member of Cabinet, and **Mr Tomas Niklasson**, Secretariat-General, European Commission, examined.

Q20 Chairman: Commissioner, we are on the record. May I say what a great pleasure it is to see you here. It is very kind of you to come. I think this is the second time you have been before this Committee in this building and we have also had the pleasure of seeing you in many other meetings and much appreciate the interest you have taken in COSAC too, which is very important to all of us. Before asking you to make an opening statement, which I am sure you probably want to do, let me just explain that we are pursuing the Annual Policy Strategy with some interest. This is a relatively new development for our Committee. We now regularly look at the Annual Legislative and Work Programme and then we move on to the Annual Policy Strategy for the next year. This is very valuable for our Committee because it gives us a good idea of what is the current thinking in the Commission and also assists us in setting our own work programmes down to Sub-Committee level to give us an idea of the kinds of issues we will need to be looking at in some depth in the 12 months to come. We do attach great importance to this. It is of great importance to us because it is a very concrete example of the way in which, thanks to you and your colleagues and President Barroso, the relationship between the national parliaments and the Commission has been greatly fortified and improved. Our looking at the Annual Policy Strategy and the Legislative and Work Programme are demonstrations of our desire to continue that relationship and keep the relationship between the national parliaments and the Commission in good shape and that it has a real meaning and purpose to it, hence the questions that we will ask about how the Annual Policy Strategy is created, how the national parliaments can engage with the Commission on it and to raise one or two more specific issues about the Policy Strategy itself. The floor is yours, Commissioner.

Commissioner Wallström: Thank you very much. Of course, we appreciate that we have everything on record.

Q21 Chairman: Yes.

Commissioner Wallström: We have nothing to hide. I am very pleased to see this strong interest in our Policy Strategy and I appreciate the opportunity to come here and give evidence and answer any

questions you might have. With me is Sten Ramstedt, who in my *Cabinet* is also responsible for contacts with the national parliaments, and Tomas Niklasson from the Secretariat-General who has provided background and all the facts and figures. Thank you very much honourable Lords, ladies and gentlemen. Maybe I could give an introduction to describe the background and then we can go into questions and answers. As you know, the Annual Policy Strategy was adopted by the Commission on 21 February and outlines the policy priorities for the Commission in 2008. It also defines, for the first time I would say, the communication priorities. We have listed a number of communication priorities. It underlines, again, our commitment to Better Regulation, and that is of particular interest to the European Parliament and this is what we often get questions on. I can say to begin with that we appreciate a dialogue with the European Parliament where we can focus on the political priorities, the bigger picture, and that is what the whole process and procedure is designed for, to make sure that we do not end up discussing only details on this or that proposal or why did it come on this date rather than that date, but rather are the priorities the right ones, how can we co-operate and create a good political debate. The APS is the first element in the preparation of the Work Programme for 2008. I have also presented the APS to the European Parliament to launch, as we hope, this constructive and timely dialogue that will feed into our preparation of the Work Programme. We have also had an informal exchange of views with the Council and the Annual PGA Group and we have also presented it to the Permanent Representatives of national parliaments in the European Parliament to make it possible for national parliaments to contribute to the discussion. The strategic objectives defined by the Barroso Commission when we took office remain valid. They are about prosperity, solidarity, security and freedom, and a strong and open Europe in the world, meaning we always have to think about our role in the global context. This summarises the core ambitions of this Commission. Then we have a number of highly important issues that are not confined to just one or other of the strategic objectives but they need to be taken forward in synergy in the cross-policy areas. The first of these is energy and climate change. We need to deliver on

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the very positive results from the March 16 Council and the key elements of this energy package must be put in place. A well-functioning internal market, a vibrant renewables sector, energy efficiency and solidarity and interconnection will all be taken forward. We will also push for strong commitments by the European Union and global stakeholders to reduce CO₂ emissions beyond 2012 when the Kyoto Protocol expires. This was on the agenda for the EU-US Summit, even though I think we have to keep the pressure up on the Americans until the G8 meeting and this might be the occasion when we can hopefully get more out of our partners. The second cross-cutting issue is the Lisbon Strategy for growth and jobs. We can now say that we are making good progress in partnership with the Member States. Next year we will also reflect on how to press ahead with further reforms following on from the Single Market review and the social reality check which will be presented this year. You will find these among the communication priorities. The Commission will also launch a series of initiatives to make sure that the Single Market continues to deliver on its economic promise and allows citizens to reap the benefits. The third horizontal issue is migration. In its various facets it is a key challenge for the EU. Labour migration, if it is properly managed, can make a positive contribution to our economies and our societies. We plan to propose further measures to achieve a common European asylum system by 2010. We will also need further action on preventing illegal migration, combating the ruthless business of human trafficking and protecting our common external borders. The APS also proposes a reallocation of staff. It calls for a limited number of additional staff in line with the Commission's needs for 2003-09 to cover needs mainly due to enlargement. All other priorities will be covered through internal reallocation within the Commission and through efficiency gains. We are putting a lot of strain on our staff with this and I can tell you they complain about the work burden we are putting on them and there are a lot of problems of stress, people cannot sleep and I do not know what, but this is the line we have taken. With respect to human resource needs beyond 2008, the Commission finalised the screening and presented a report on 28 April. This screening report gives three clear messages. It confirms the need for 250 new posts in 2009 as the last reinforcement to cover the needs due to the latest enlargement to Bulgaria and Romania. It states that beyond these posts the Commission will not call for additional posts from 2009-13. It is based on the working assumptions that the Multi-Annual Financial Framework for that period will remain a stable linguistic regime and there will be no additional Commission competences before 2014. Please do not put any extra tasks on us because we will not be able to do those with the staff

we have. Finally, the report also states that the Commission should concentrate on operational activities and indicates priority areas for internal redeployment. These include these cross-cutting issues as well as competition policy, ensuring proper transposition and enforcement of Community legislation, and also closer integration of internal and external policies. These are the political priorities.

Q22 Chairman: The housekeeping.

Commissioner Wallström: Cross-cutting and the staff and allocations, the resource allocation to this. It is tough because we do not have a very high number of staff, of officials, compared with any national or even regional administration, and we cover 27 Member States now. This is the communication challenge. I often ask how does a political body which deals with everything from counting cod in the Baltic Sea to the peace process in the Middle East communicate in 23 official languages. That is the strength of the European Union but it is not that easy to communicate in a simple fashion.

Q23 Chairman: Thank you very much indeed. I think we are all aware of the problem of staffing needs, although obviously it is in the nature of governments to try and limit the output of funds. You may have seen that rather interesting and quite amusing list of 50 reasons to love the European Union that came out.

Commissioner Wallström: I saw that, yes.

Q24 Chairman: One reason which I think staggered a lot of people was that the Commission employs fewer people than the BBC.

Commissioner Wallström: Maybe that can be used against the BBC, I do not know.

Q25 Chairman: Who knows? Maybe the BBC is rapidly recruiting. One of the issues that we would like to ask you about is the way in which the Policy Strategy is drawn up. We are obviously interested in the eventual input that national parliaments might have, but we are particularly interested to know how you interact with the European Parliament between an Annual Policy Strategy coming out and then the Legislative and Work Programme coming later based upon it. What is the European Parliament doing during that period?

Commissioner Wallström: It is prepared internally within the Commission through a letter circulated by the President to all Commissioners and he invites us and our services to prepare, to look at what we have in the pipeline, what are the plans for the future, and then we present our initiatives, or the main policy priorities, to him and they are analysed and prioritised by the Secretariat-General who then

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prepares an Annual Policy Strategy for the inter-service consultation. They put all of this together and try to make a structure out of it, a priority list, and then it comes back after the intra-consultation to the College. That was done in February. It is after consulting all the Commissioners and the services. That is a good exercise. Then we present the Annual Policy Strategy to the European Parliament and launch what is called a structured dialogue on our policy priorities. We are invited as individual Commissioners to go to hearings with respective committees. They meet the Commissioners to discuss the list of priorities and the resources, et cetera, in the different policy areas. Then a report is drawn up by the European Parliament and this is taken into account by the Commission when we set up our Work Programme. We have seen that there is a tendency for this structured dialogue to be very much on the detail instead of having the political groups engaged, which is what we have asked for to make sure that the political groups in the European Parliament are better drawn into the preparations because then we will have a better overview and more of a general discussion: are these the priorities, what do the different political groups in the Parliament think about it? On the national parliaments, we hope that more and more of the national parliaments will also arrange a debate where the priorities are being discussed. To most national parliaments it is a matter of the timetable to make sure that you come in with the right timing and how you can actually influence this whole process. I think this is something that we have to learn by doing, we have to follow this process very closely. I do not know if you have counted, Sten, how many national parliaments have decided to discuss this?

Mr Ramstedt: No, COSAC is going to discuss it.

Commissioner Wallström: COSAC will give us some more facts and figures on how many of this type of debate are being arranged or planned for the future where you can look at the Work Programme or the Annual Policy Strategy.

Q26 Chairman: We had a little bit of a problem about this in COSAC because there was a move to try and get synchronised debates taking place in parliaments so that there would be one day on which all the national parliaments would focus on the Annual Policy Strategy or the Annual Legislative and Work Programme and, quite honestly, it just does not work, we cannot do it that way. Certainly we are interested in seeing if we can get the Policy Strategy debated in our chamber. Just going back a bit, if I may, to the European Parliament, can you give any concrete examples of where the European Parliament has initiated some rethinking on the Policy Strategy by the Commission? What sort of

influence has it had that you can think of on the Policy Strategy?

Commissioner Wallström: On social issues. In some cases, of course, committees will look at the list of initiatives and say, "Why is this not put on the list?" and in some cases they want to take out proposals. This has been done. This follows from the regular dialogue meetings we have with every committee, so it is adjusted on the details. We cannot only satisfy one political direction in the European Parliament, we have to ensure the balance is there. This can come from having a better dialogue with the political groups. Tomas has helped to list some examples of the things that the European Parliament added on to the APS. One was on energy policy and that was followed up through the Strategic Energy Review. There were reports on the ports policy, of course, and the Ports Directive was stopped entirely. There were requests for a legal framework on services of general interest I remember also and those were followed up through a communication. There were requests for measures in the area of flexicurity, as it is called, and that was also followed up in 2007 in different communications. The modernisation of regulation for electronic communication led to a new legislative proposal announced for the Work Programme for this year. Also there was follow-up action to the White Paper on our communication policy and how to promote democracy and human rights. Again, that was followed up by an announced communication in the Work Programme. There are a number of examples of policy areas or priorities for the European Parliament.

Chairman: Good. Thank you very much.

Q27 Lord Tomlinson: I found that very interesting, Commissioner. I am interested in the word "strategy", so that there is a clear strategic direction. You have told us how the European Parliament almost have their shopping list and add little bits to it, but are there any areas where you say to the European Parliament, "No, this will confuse and muddy what needs to be a clear strategic direction if we are going to have something that we can communicate with clarity and simplicity to our citizens"?

Commissioner Wallström: I think that the Lisbon Strategy is an example of where we have tried to make sure that it is not turned back into a Christmas tree or a long, long, long shopping list. We cut it down to call it Jobs and Growth Strategy instead of the Lisbon Strategy, to give it a name which speaks about the content. There is always this temptation to add on a number of things.

Q28 Lord Tomlinson: "Why did we add this? Because we were talking to the Transport Committee", or "Why did we . . ."

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Commissioner Wallström: Yes. That is a good example of how we tried to strip it down into four very concrete areas: energy; small and medium-sized enterprises; knowledge building and flexicurity issues that we have to invest in. Those are the four priority areas. This is where we will do our part but we also expect Member States to do their part. This is the temptation, you are absolutely right. This is a huge compromise machine and sometimes we struggle very hard for our right of initiative in the Commission but at the same time we have to be flexible to the European Parliament and the Council and sometimes we have to accept that they come with new proposals. We have learned from the process and we have chosen to try to strip it down more and more. For the communication priorities next year, for example, we have to make sure we make it even shorter. You cannot communicate on eight or 10 to be really, really effective. We are slowly but steadily getting there. You are right, a strategy ought to be very precise.

Chairman: Lord Bowness, Lord Marlesford, would you like to come in?

Lord Bowness: I did not want to pre-empt the question really, my Lord Chairman, because you are coming to the Lisbon Strategy later on.

Chairman: It is all right, you can raise it now if you want to.

Q29 Lord Bowness: Fine. Commissioner, you talked about the Lisbon Strategy and alluded to the fact that on some of these things you need the co-operation of the Member States, which is obviously true, but how realistic is it to expect the Member States to implement the Lisbon Strategy without there being any additional powers to Brussels? I make no comment as to whether there should or should not be, but how realistic is it that you can include in an annual programme the Lisbon Strategy with all its objectives without there being any powers backing it up?

Commissioner Wallström: When we reviewed the whole Lisbon Strategy, and that was at the beginning of the mandate of the Barroso Commission, we looked at where we had competences and power to act as the Commission, what initiatives we could take. We identified the list of initiatives that we could undertake and the timetable for that. Then we looked at where the competences of Member States were and where did we trust Member States to take action. It was clear that we needed more of an ownership on the Member States' part. As I told you before, we also cut down on the number of areas that the Lisbon Strategy would cover because if it covered everything it meant what should citizens ask their politicians to do. Can we tell if they follow the plan or not if you have a wide, wide choice? We tried to concentrate on these four priority areas and to ask that Member

States appoint a Mr or Mrs Lisbon so there would be a visible figure who could lead the work. I do not think we can ask for more. We are not in a position to ask for more competences, we can only say that we will deliver what comes to us. For example, on energy we will take the initiatives necessary and we can co-ordinate, we can help. The energy decision of the Council where the energy policy was discussed was a big step forward, but then Member States have to implement it. I do not think we can ask for additional enforcement capacities but rather use the ones we already have and create political pressure. Where we have started to see some results is on the investment in research and development but we are still lagging behind the United States, for example, and this is an area where Member States have to do better.

Q30 Lord Bowness: Can I suggest to the Commissioner, would it not be better for the reliance on the Member States to deliver to be made a lot clearer? It seems to me that your paper puts great emphasis on it, and everybody will be in favour of the Lisbon Strategy and its objectives, but given that you cannot deliver, and I am not criticising the Commission for that, that is just a fact, does it not lead to a certain amount of disillusionment and disappointment amongst people in Europe because they see the European Union as not delivering? They get a paper with a lot of talk about the Lisbon Strategy, they then see that not coming about and they see it is the European Union that does not deliver rather than, in fact, laying the blame on the governments and the Member States. Would it not be better to make the limitations which you have a lot clearer in these documents?

Commissioner Wallström: I think it is a well calculated risk if we enter into an area with a political goal where we do not have the whole power, the whole competence, we cannot deliver everything. We can do a lot and also at the EU level the Commission can definitely take a number of important initiatives, but we also have to trust Member States to implement them. I think one should be fair. Sometimes we have to explain this is for Member States and governments to deliver, but I do not think one should get too much into the blame game either because that will not give high credibility to the whole European co-operation.

Q31 Lord Bowness: Not into the blame game but we might try and avoid taking the blame.

Commissioner Wallström: Yes, that is true. We saw that it was necessary in order to ensure prosperity that we needed to engage in the Strategy. We tried to review it, reform it, strip it down and make it clearer and report better. We have much better proper reporting now. It is a little bit of a name and shame exercise as well. We have tried to create visibility. That is as far as we can go. Sometimes we have to

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explain that this is on Member States to put the responsibility where it should be.

Q32 Lord Marlesford: The Strategy includes the suggestion of developing an external migration policy. This is an issue of considerable interest in the United Kingdom and I am sure in other Member States as well. Can you give us any idea of where you have got to on this, because you refer particularly to Africa. The controversies there have been about internal migration are one thing but the controversies about external migration into the EU are a greater matter.

Commissioner Wallström: You have to work in parallel on several different issues. We have to make sure that we protect our borders, that we have border controls, that we use FRONTEX, as we have already started to do and it has proved very successful, and also that Member States are willing to contribute more and more to that because they have seen the problem of illegal migration, et cetera. We also have to work with the countries from where these migrants come. We do this in regular dialogue and in a regular way where we try to help with the policies, financial help and information. We also have to take action on the criminal acts that are behind this. Very often it is truly criminal gangs that organise these trips, for example, for poor Africans to come to Europe or what have you. In the regular political dialogue with the African Union or any other country where we see a lot of these migration flows we have a political and diplomatic context. Franco Frattini could probably tell you much more. As you see here, we also mention the Schengen Information System, the visa policy, the databases and all the technical things that have come about. A lot has happened in a very short period of time. Again, how to tackle violence and radicalisation we have had a communication on this particular issue. We have seen a much more proactive agenda and activity from the European Union. I cannot give you a lot of the details behind that. As you see in the list there is also legislation for medical devices, a number of reviews, and the centralised database of fingerprints. Frattini could tell you exactly where we are on all of these issues. Those are the types of things in combination, looking at what we can do to prevent flows of illegal migrants as well as making sure that we have a legal migration flow, which are positive for the European Union. We are working with these countries on a regular basis.

Q33 Lord Marlesford: If I may, Commissioner, that brings me to another matter which has certainly been of concern to our European Union Committee in Britain, which is the German Presidency handling of the Prüm Treaty for joint action and exchange of information on fighting crime and terrorism.

Commissioner Wallström: Yes.

Q34 Lord Marlesford: It seems to us, and we are about to publish a report on this, that the method by which the German Presidency is handling this has to some extent taken over the normal Commission prerogative of proposing policies to the Council after consultation with the Parliament and national governments, but we believe it has also been a shortcut to the normal Commission procedures, which we think are very important, of proper cost estimates and impact assessments. Are you concerned about this in the case of the Prüm initiative and, if so, what are you going to do about it? That is the essence of what our report is going to say.

Commissioner Wallström: I do not know enough about the process. You need a specialist to get a proper and totally correct answer. I know that more and more Member States worry about this. I heard this from a group of Swedish visitors today who also asked about the Prüm process.

Q35 Lord Marlesford: It is the constitutional angle really, Commissioner.

Commissioner Wallström: I understand.

Q36 Lord Marlesford: That really you should be in charge of this rather than allowing a Member State that happens to hold the Presidency to be pushing a particular thing on its own agenda rather than through the Commission.

Commissioner Wallström: Could I come back to you and I will give you a totally updated view. I understand that Frattini is engaged in this, we could check with Frattini's people. I would be happy to do that so that I do not give you some blah, blah that is not correct.

Q37 Chairman: That would be excellent. Certainly it would be helpful to the work of our Sub-Committee.

Commissioner Wallström: We can do that and follow up the Commission's position as it is now and what has happened with this process.

Chairman: That is very kind of you.

Q38 Lord Tomlinson: Commissioner, when I read Commission communications I tend to read the figures rather than the written word and, I must say, reading the communication in relation to the Annual Policy Strategy I found some of the figures somewhat confusing in terms of trying to understand what the strategic thrust was in terms of financial allocation to it. If we take Table 2 where you have got those four priorities and policy areas, if we look at energy and transport there is roughly a nine-fold increase over the five year period compared with 2008 and on environment roughly a five-fold increase with two million in the one year and 10 million over the five

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year period. Why is freedom, security and justice consuming so much in 2008 and has so little left for the remainder of that indicative period in terms of financial planning? That is saying to me, as I read it, that this is not a priority, it is something that is disappearing from the radar. How do you explain that?

Commissioner Wallström: It can be explained by the fact that these are changes in the financial resources and it means it is not the full picture. These are only how you correct the figures, you do not see the whole picture.

Q39 Lord Tomlinson: So in terms of communication of a strategy—

Commissioner Wallström: It is not a very good indication.

Q40 Lord Tomlinson: — it is not a very good way of dealing with it?

Commissioner Wallström: No, that is true.

Q41 Lord Tomlinson: Similarly, if I go to the summary of changes in the “Financial Framework” heading a few pages on, 3.2.5, and I look at the various headings there: competitiveness for growth and employment, projection in terms of APS changes zero, and cohesion for growth and employment, APS changes zero. Then there is a 10.6 million increase on preservation and management of natural resources. Then we come to freedom, security and justice, zero APS increase. Citizenship, zero APS increase. That strikes me as saying very clearly in figure terms that these are not having any increased significance.

Commissioner Wallström: The political explanation for all of this is that the Financial Perspective will not change, we agreed that it would remain basically as it was agreed for 2007-13. The changes here are marginal.

Q42 Lord Tomlinson: Or non-existent in some cases.

Commissioner Wallström: In some cases it is not touched. These are the only things that should be added on or changed. It does not change the overall figures. These are only the changes. Maybe you should have had the whole table to be able to compare. It gives only the changes, not the full picture on all the headings, and that is why it looks confusing. I agree, it is totally incomprehensible.

Q43 Lord Tomlinson: In terms of trying to read the strategy from the figures I have to say it is impossible.

Commissioner Wallström: I think you have to read the text as well otherwise you will not understand anything. It is partly explained by the text on what we do and where we do change some of the figures. In most cases they will be same figures that were established in the decision on the Financial

Framework for 2007-13. It is important that people point to these things. We can look and understand but if somebody comes in who is not a Commission official it might not be that easy, so you are right. I think you have to read the text to understand what we are doing.

Q44 Chairman: In that case is it not really a zero-sum game because—

Commissioner Wallström: The Financial Framework.

Q45 Chairman: — the Financial Framework sets the ceiling and if you want to spend more on one category you have got to spend less on another?

Commissioner Wallström: That is absolutely true. There was an agreement to stick to the Financial Framework Agreement and you know how tough it was to get there.

Q46 Chairman: That was a useful exchange because that has helped us understand what is going on. We need to read the text very carefully. Have any of my colleagues got anything on that particular issue? I am aware of the passage of time and I am very anxious to get on to communication priorities but also, on the way there, just a reference to Better Regulation. The APS does not mention the need to give greater prominence to fundamental rights in impact assessments and ensuring the Commission’s proposals comply with fundamental rights. Is this a concern for you at all or not? It is something we are quite interested in. I just do not know whether this is a priority for you, giving greater prominence to fundamental rights in impact assessment. It is a slightly esoteric question.

Commissioner Wallström: The whole concept of Better Regulation has very often been misconceived, misrepresented or even misinterpreted. We keep having this debate in the European Parliament about what is Better Regulation. Some accuse the Commission of not wanting us to scrap existing legislation and they say, “Why are you doing this?” We have presented a list of, I think it is, 68 proposals so far on legislation that we have found outdated and we can simply get rid of. This is an important part of it, to look at things that are not modern, not up-to-date and we can scrap them. We also look at how we can improve the quality of our legislation, how we can make better laws and have better consultation so when we ask people, our stakeholders of different kinds, whether they are small and medium-sized businesses or consumers, we will have a better proposal, a better policy. We have to improve the quality of the things that we actually present to the European Parliament. We have to make sure that we have impact assessments, that when we have a proposal we look at it and ask, “Is this from an economic, environmental and social point of view a

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good proposal? Is it good enough? How can we improve the quality of it?" All of these elements have to be there and have to be taken into account. That is why we have promised that every proposal in our Legislative and Work Programme shall undergo an impact assessment, so it has to be accompanied by an impact assessment. This is what we are living up to. Because there were questions about, "How do you do the impact assessments? What about the quality?" we also established an Impact Assessment Board from November last year. That is to make sure we have a quality check, quality support and control for all of these impact assessments. There is a supervising task for this board. We believe in impact assessments but this has also been learning by doing, that you have to make sure impact assessments are done according to the same criteria and follow international standards for how you make an impact assessment.

Chairman: We certainly welcome the emphasis now being placed on impact assessments. That is a very welcome development and we attach a lot of importance to it.

Q47 Lord Tomlinson: On the Better Regulation, can I just pursue one small question. I was talking to David Arculus on Monday night, who was the Head of our Better Regulation Task Force in the United Kingdom, and he expressed his great frustration with the lack of progress he has made in the United Kingdom in relation to his idea which was one in, one out; if you want a new regulation you ditch one somewhere down the line. How does your 68 out compare with the number of new regulations that are coming in?

Commissioner Wallström: I can give you an example. It does not always work in that mechanical way because if you look at REACH, for example, which I know very well—too well some would say—that one piece of legislation replaces, I think it is, 60 existing Directives and Regulations. We will have a one-stop shop for those who want to know how we regulate chemicals and the place of chemicals in the market. It is in one Directive, even if it is a long one and it has technical annexes and all of those complexities, but it replaces many existing Directives. You need to modernise sometimes and with a modern piece of legislation you can get rid of a lot of the old stuff in one go. In general I think there is more of a move towards more Framework Directives. With 27 Member States we cannot regulate in detail on everything, we have to move towards framework legislation and then leave it to Member States to say exactly how it will be done and the EU sets the target date or the overall goal for objectives and leaves it to Member States as to how to do it and by what measures.

Chairman: Thank you. Let us move for a moment to the European Institute of Technology.

Q48 Lord Marlesford: Commissioner, you will be well aware that one of the sources traditionally, as it were, of criticism of the EU, and particularly of the Commission, was one that the Commission appears to forge ahead with some idea before it has been agreed by the Council of Ministers. Recognising fully your prerogative for putting forward ideas, nevertheless we have always understood that endorsement by the Council is needed before that can be put into practice. The European Institute of Technology has been very controversial. In Britain it has been studied extensively, both by the Lord Chairman's Committee and also debated in Parliament, particularly in the House of Lords, with a lot of considerable expertise, and in general I would summarise by saying that it is being seen as both unnecessary and undesirable. I am talking purely from the UK perspective. Therefore, it is with surprise that you are intending to undertake preparatory work during 2008 to make sure that it becomes operational in 2009, including the appointment of a governing board and the selection of the first knowledge and innovation communities, before the European Parliament and the Council have considered the proposal.

Commissioner Wallström: We explain our intentions in the Annual Policy Strategy. What happens then depends upon a series of factors, including how the European Parliament and the Council will look at our proposals. We will also have to start preparations if they are ever to be realised. We have been very open about this proposal. We have presented it and there is a lively debate. If we get endorsement and the go-ahead from the European Parliament and the Council we will have to be well prepared. We are still depending on progress in both the European Parliament and the Council.

Q49 Chairman: This is really a wish list of what you would like to see happen and then it will be up to the Parliament and the Council.

Commissioner Wallström: If we see that there is absolutely no endorsement of these ideas then we will have to conclude that it is impossible.

Q50 Chairman: You will have to drop it.

Commissioner Wallström: So far we have received a lot of support from other quarters. I know that the debate is a difficult one in the UK.

Q51 Chairman: Thank you very much indeed. In the 10 minutes that are left to us maybe we can divide it between two issues. We are certainly anxious to hear about your communication priorities and I wonder whether in saying something about that you might be able to give us some hint as to how you are going to communicate the whole future of Europe issue as we move up towards an IGC, et cetera, which is

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obviously of great interest to us. After that, if we may, I want to close by coming back to the role of the national parliaments in making inputs into the APS. Would you like to talk to us a little bit about your communication priorities?

Commissioner Wallström: As you can see, in the document we have listed the political items chosen for special communication efforts.

Q52 Chairman: Yes.

Commissioner Wallström: Those are the budget review, Single Market review, social reality, migration, the institutional settlement being part of this, energy, climate change and the EU's role in the world. We have also said the general message is that we have to listen better, we have to explain better and we have to go local, that is we have to become much closer to the citizens. We can use our representation offices in each and every Member State, together with the European Parliament's offices, to make sure that we inform local and regional journalists. We meet with civil society organisations, we can make an open space where debates take place and we also provide all the factual information that citizens might need. We use our information network, our Europe Direct network, including a free call service, and any citizen can call in their own language and ask about anything. Nowadays we even have Europe Direct offices in the UK and very often they are in co-operation with authorities, local authorities, libraries, et cetera, where we provide factual information for citizens. You have a right to know what goes on at the European Union, that is our starting point. It will take quite an effort to communicate what happens to the Constitutional Treaty and any new solution that might come up, but I hope all Member States have learned a lesson from what happened. There is a price to pay, as President Barroso often says, if six days a week you blame Brussels for everything and on the seventh day you come and ask people to vote "Yes" to a constitution for the European Union, this will not work. We have to engage with citizens. As I said, I want to turn it around. I want to see it as a right for citizens to be informed, to get good and correct information and to have a say. That means on our part that there is an obligation on the institutions to create access to such information and to listen to citizens. To me, it is a matter of democracy in the long run. That is what we are working against to make sure that we overcome this democratic deficit, as it is called, where citizens feel they are so remote and Brussels bureaucracy is far away somewhere. Every week the UK ministers go to sit around the same table as ministers from all the other Member States to take decisions that affect citizens' lives, so they have a right to know about this and have an influence. How can we do that? This is what I am trying to do with the communication

policy. We have a number of tools available to us already, including Europe by satellite where we have the newsroom where we have the highest number of accredited journalists coming to press conferences every day at noon. In all of our offices we have representatives who are faces for Europe and we have to use those to make sure that we get information out about these issues. It is not mission impossible but mission irresistible.

Q53 Chairman: Can you just satisfy my curiosity on one point. I am struggling to understand what is really meant by "Social Reality Stocktaking".

Commissioner Wallström: This is really to see where we are on the social agenda and how people see the European Union's role and the role of the different institutions and what can be done. Social reality means that we look at how we can compare Member States on social reality, what it looks like, what about social gaps, to make sure we have an overview of where we are. We can use the facts and figures we have access to as well as maybe Eurobarometer and all of these instruments.

Q54 Chairman: If I may make a slightly political point. I think one of the reasons why Social Reality Stocktaking sends a little bit of a shiver down the spines of politicians in Britain is because they feel that if in effect what you are doing is making those comparisons and identifying the gaps then you feel it is the job of the European Union to fill the gaps with Commission proposals followed by legislation. That may be a misunderstanding, but there is that slight feeling that you are in the early stages of coming to a point where you will be seeking the harmonisation of social policies.

Commissioner Wallström: The only way to change the distribution of responsibilities and so on is through a new treaty and the treaty does not provide for very ambitious change in social policy, this is still reserved for Member States. There are a number of things we can do at European Union level to better co-ordinate or make sure we have some kind of overview of what happens in Europe because we are so interdependent on these issues. To avoid social dumping or salary dumping, or what have you, it is important to know what it looks like. I would say the Structural Funds and the way we use EU money has been very much to raise the standard of living in many of the poorest areas and it is important that we know what it looks like today.

Q55 Chairman: Before I put the final question, is there anything anybody else wants to say at this point?

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Commissioner Wallström: It is hot!

Q56 Chairman: I did not mean to sound threatening! This is really a recap of what you said right at the very beginning. As I said, we are very interested as national parliamentarians in knowing at what point we can make some kind of an input into the discussions in the build-up stage of the Annual Policy Strategy. As you quite rightly said, it is a question of picking the right moment where, whether it be national parliaments or the European Parliament, what they have to say can make an impact. It seems to me as a first priority for us we need to get an early indication of what the APS is and we are very happy that this is directly communicated to us. During the period in which the Annual Policy Strategy is being, as it were, examined, taken apart and looked at very closely by the European Parliament and eventually by the Council, how is it that we can make our voices known as national parliamentarians? Can we send in comments on specific parts of the policy? What is it we can do? It is one thing to have a debate in our chamber on this but I am not sure that the debate would necessarily be very helpful to the Commission. Our Committee and our Sub-Committees may have specific ideas they want to communicate.

Commissioner Wallström: I take what you say very seriously because we can conclude after having worked on establishing an agenda for increased co-operation with the national parliaments that it has been a success so far. We are very pleased with it and hope that national parliaments are pleased with it. It gives us a lot back. It gives us a lot of input into our work in the Commission. Also there is the fact we have had so many visits, more than 200 visits, by Commissioners to national parliaments, including when, for the first time, President Barroso went to the French Senate, and that was really tough but we all felt it was worth it. What we are doing now is looking at how this structured dialogue has worked, what are your impressions and what do you think we could improve. You want to know do we take it seriously and do we take you seriously and how does that show. One of the ideas we are looking at is how we can publish your opinions so that everybody is able to know this is what the House of Lords said on this or that proposal and how we can make that accessible. We are looking at ways of how to improve it and deepen our co-operation. One of the things that has been discussed has to do with the 'red card'. I saw the Swedish former Speaker proposed that there should be a red card mechanism but there is a risk with it. Of course, the Commission will always defend its right of initiative but there is also the risk that it becomes purely a matter of quantity and how many national parliaments you will need which means we will wait until a certain number of parliaments say it is interesting instead of now when we can change a

proposal because we get a very good proposal in one of the opinions from a national parliament. That it has to be a certain majority or percentage of the Parliament is a risky thing because we would not even present a proposal if we risked having so many of the national parliaments against us. It can be a very strange debate or political situation. Our instinct is to say that is not a good proposal, but it is a good thing to have national parliaments involved in a much better way. You can give your views on what you want on the Annual Policy Strategy. If you discuss it as part of your dialogue you can give your opinions as you do on everything else: matrimonial legislation or what have you, you have heard a number of these proposals previously. You can say, "We have discussed it and this is what we think. The tables are bad. It is incomprehensible. The list of priorities ought to be shorter", or whatever. We welcome that and think it is important. I think the only way to anchor better the European Union in the minds of citizens is to go through the national parliaments, the national democratic traditions and the national political parties. How else can people understand what goes on? It has to be anchored at the national level. I believe in this a lot and it has to be part of the daily, weekly, monthly political debates in every Member State. That is when it is meaningful.

Chairman: Lord Tomlinson, who was a member of the Convention, I know has views on the red card. Two years ago I thought the red card was a good idea but I am now beginning to think that it is not a good idea on the grounds that you may well find—this is purely a personal view, I am not reflecting the views of the Committee—a number of parliaments who have not done their homework will hear what other parliaments are going to do and will say, "Oh, you are going to hold up a red card, we will do it too" and then you will get a majority of the ignorant holding up legislation, which I think is very dangerous.

Lord Tomlinson: Rent a red card!

Q57 Chairman: That is right. So I think the red card is a red herring.

Commissioner Wallström: That is another risk to it. They have to decide, "Do we have any views on this? We can send proposals and one national parliament can say, 'we have no interest in this, we will not engage, we will not do the job'" and others will say, "We are really interested because we know there is a debate in our country and we have a committee", it can reflect better.

Q58 Lord Marlesford: How many national parliaments have actually made representations to you on this programme?

Commissioner Wallström: Forty-four chambers in total, about 83 proposals that we have been sent in six months. We are working on making sure that we can

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improve it. We have asked for comments about how they think this process can be improved. We think it is good.

Mr Ramstedt: Sorry, correction: 21 chambers with a total of 83 opinions on 44 different proposals.

Q59 Lord Marlesford: So how many countries is really what I am trying to get at.

Commissioner Wallström: Around 20 countries.

Q60 Lord Marlesford: If it was a lot of countries with two chambers, each chamber making representations—

Commissioner Wallström: It is around 20 countries but a number of them are very active, like the Belgians and you. We can send you a summary of the results so you can see exactly what they are. We are making a yearly report on this. We will finalise that for next week, so we will make sure you get all the information about how this has worked so far. It is our assessment and the facts and figures.

Q61 Chairman: That would be very interesting to see. I think that the reality, which is rather an alarming one, is the better you do your job in keeping

us informed the more you are going to need human resources to be able to maintain it.

Commissioner Wallström: That is probably correct.

Q62 Chairman: May I close by wishing you good luck in your human resource strategy. Thank you very much indeed, Commissioner, it has been a great pleasure to see you and you have been very helpful to us. We look forward to continued collaboration and we wish you well. We did not get into the upcoming problems of the IGC. Do you know when that IGC is likely to take place?

Commissioner Wallström: During the Portuguese Presidency. The hope is that it will be started and concluded during the Portuguese Presidency in the best case.

Q63 Chairman: We were hearing September as a possible date for it. It sounds to me like they are planning to have it when all the parliaments are in recess!

Commissioner Wallström: Also it has to be very well prepared to succeed within that short time limit, but let us hope for the best. Thank you very much. We will follow up on your questions on the Prüm process.

Chairman: Thank you very much, Commissioner.

THURSDAY 3 MAY 2007

Present	Bowness, L. Grenfell, L. (Chairman)	Marlesford, L. Tomlinson, L.
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Examination of Witnesses

Witnesses: **Mr Klaus Welle**, Head of Cabinet to the President of the European Parliament (Dr Hans-Gert Pöttering MEP), and **Mr Anthony Teasdale**, Head of Strategy and Political Bodies, Cabinet of the President, European Parliament, examined.

Q64 Chairman: Mr Welle, it is a real privilege for the members of this Committee to have this chance to meet with you. We are on the record. I would like to begin by saying that my Committee does try to have the best possible relations with our Members of the European Parliament and, of course, through the COSAC meetings, which I and my colleagues attend, we do have good discussions particularly with the Members of the European Parliament who come to the meetings, such as our old friends, Jo Leinen, Andrew Duff and a few others—we always appreciate seeing them. When we decided that this Committee ought to take a look at the Annual Policy Strategy we naturally wanted to talk to the Commission about this and Margot Wallström was here just before you came in and had an hour with us. It seemed to us that it was essential that we should have a chance to talk to you about the role of the European Parliament, particularly in the construction of and the ability to comment on, influence, the final version of the Policy Strategy. We are extremely glad that you have agreed to come and talk to us, partly about the mechanics of it but also if you could let us know a little bit from your position where you see the European Parliament having any particular difficulties with what is in the Strategy and how you propose to get some changes made if you need changes. It is partly the mechanics and partly the substance. Would you like to begin by giving an opening statement just to set the scene?

Mr Welle: Thank you very much. I am delighted to have received this invitation. I remember that some years ago, the House of Lords was the first chamber which came to the conclusion, after intensive study, that we did not need a “third chamber” in EU decision making. Ever since, I have followed the debate about the reform of the House of Lords, but I must say that I have the impression that in many ways your House is a very enlightened chamber as far as Europe is concerned.

Q65 Chairman: Thank you.

Mr Welle: My relationship with this subject began with the job I held between 1999 and the end of 2003 as Secretary-General of the EPP-ED Group in the European Parliament. At a certain moment the Secretaries-General of the various political groups in

the Parliament discovered that there was a working group operating in the Council in which the Commission was taking part, but from which the Parliament was absent. This was the “Mandelkern group” preparing what became the Mandelkern report on Better Regulation. We got the political group leaders to take this issue up in the Parliament’s Conference of the Presidents with the late foreign minister of Sweden, Anna Lindh. They suggested there should be a high-level inter-institutional working group on Better Law-Making in which the Parliament would be fully involved in determining what is “better” in that process. This Group met at both a political level and an administrative level. I took part in the negotiations at the administrative level. Especially in that early phase, when what was meant by “better” needed to be decided, we felt that the initial framework presented to the Parliament covered only a very limited number of issues with other important questions left out. In these negotiations the concept of “Better Law-Making” as finally set out in the Inter-Institutional Agreement, was broadened. To give you a few examples: in the Parliament, we believe it should be part of Better Law-Making that there should be transparency when law-making takes place. This is a question which the Council normally is not very keen on, but we managed to get a reference in the Agreement to transparency. We also said if we want to deal with Better Law-Making and Better Regulation we should have a look at the legislative process from the very beginning to the very end and, therefore, we cannot afford to exclude for example the phase that has to do with transposition and implementation into national law: we have to look at all parts of this process. We also insisted that the issue of comitology could not be excluded from a Better Law-Making agenda. I believe the success early on in the negotiation was—and this was thanks to the Parliament’s involvement—to ensure that the concept of Better Law-Making was significantly broadened. I was appointed as of 1 January 2004 as Director-General for Internal Policies, in the European Parliament, thus responsible on the administrative side for 17 out of the 20 committees in the Parliament, as well as for legislative co-ordination, conciliation and relations with national parliaments. During that time I

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discovered that the IIA on Better Law-Making as such was providing only a basic framework—and that this framework was in desperate need of being filled out with proper procedures in order to produce tangible results, based on improved co-operation between the three institutions. In respect of what we are focussing on today—the Annual Policy Strategy—this has been and still is “work in progress”. I know that you are interested in discussing where progress has been achieved in recent years and where we see potential areas for the further development of this consultation mechanism. I should be delighted to talk about this, but I should, of course stress that I come from an institution which is a parliament, one that is logically represented by parliamentarians. I can only give you the informed view of a *fonctionnaire* of a parliamentary institution because at the end of the day it is the Members of European Parliament who define the line of this institution, but obviously we are happy to provide advice if requested.

Q66 Chairman: Thank you very much indeed, that sets the scene for us very nicely. If we may, we would like to hear a little bit about the structured dialogue that you have. How is this organised?

Mr Welle: We have in fact had a kind of procedure in general for many years already. In the past it was regarded as pretty useless or dysfunctional, which was why Members were not very keen to contribute to it. A number of changes were introduced to make it more effective, especially by the Framework Agreement (between Commission and the Parliament) of 2004. We contributed actively to the development of such changes to make the dialogue more operational. How is it working now? Let's take the current cycle for the year 2008. Early this year, in February we saw the submission by the Commission of its Annual Policy Strategy for 2008 and a debate thereon in the Parliament in March. We then have a second phase, where Commissioners are invited to their respective policy committees in the Parliament and are expected to have an exchange of views on priorities for 2008. That process is happening now. As the Parliament, we then invite Commission Vice-President Wallström to the Conference of Committee Chairs to confront her with the results of these exchanges before they are formalised. A synoptic document is then produced by the Conference of Committee Chairs putting all the different elements and suggestions from the various committees together into one single text. This is a new element in the process which was not there before—following from the Framework Agreement of 2004. We now have a single document from the Parliament which is authorised by the Conference of Committee Chairs unanimously—because that is the way it works—which is then in turn sent to the Conference of

Presidents (of political groups) in September and after that, with their endorsement, is sent over to the European Commission. This means that the Parliament is now delivering a co-ordinated input before the Commission takes its final decision its Annual Legislative and Work Programme for 2008. After this, Vice-President Wallström will come back to the Conference of Committee Chairs to discuss this paper. The Parliament conducts this procedure in the hope that elements of its suggestions will be taken on board and explanations given as to why some suggestions are taken up and others are not. The Commission submits its Annual Legislative and Work Programme in November. At the end of the year, normally in December, there is a formal resolution of the Parliament, negotiated between the political groups on the Commission's Annual Legislative and Work Programme. A new element which was introduced this last year—following a request by the Parliament—is that after the Parliament's resolution, the Commission now sends a letter with a detailed response to all the requests made in the Parliament's resolution and gives arguments about why they have or have not been taken on board, before the new Annual Policy Strategy is presented in February. This year, Vice-President Wallström did this both by attending the Conference of Presidents, and by submitting a written text. As I say this is a new element which was introduced this year to have more precise information about what is happening to Parliament's input, and how far it is being taken into account, and to ask the Commission for reasons in cases where, using their right of initiative, they do not want to follow our requests. To sum up, in recent years developments in this area have been the Framework Agreement, the written statement by the Conference of Committee Chairs, its adoption by the Conference of Presidents, the regular consultation mechanism with Vice-President Wallström, then the letter to the EU Commission where all the arguments are put forward giving the Parliament a chance to have the first position established before the Annual Legislative and Work Programme is published and not just commenting afterwards. From this year, we now have a detailed response before a new Annual Policy Strategy is published. Also, at the end of last year for the first time—at the request of the Conference of Committee Chairs and then the Parliament as a whole a detailed list of simplification measures intended has been annexed to the Annual Legislative and Work Programme. So this list becomes accessible and not only something one reads about in the *Financial Times*.

Chairman: Good. It looks as though the European Parliament does have an input into the Annual Policy Strategy itself in addition to a later input into the Annual Legislative and Work Programme, so you

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have two chances, as it were, at which to get the Parliament's views taken on board before the Legislative and Work Programme is implemented. I would like to see whether any of my colleagues want to come in at this point.

Q67 Lord Tomlinson: I am fascinated by what you said about this input through the Conference of Committee Chairs. Is there not a danger that this Conference becomes a sort of bran tub at which everybody has got to have a little bit of satisfaction and, therefore, that confuses the view that the European Parliament might have in relation to what I would think of as a strategy? For example, I would like to see the European Parliament sometimes come forward and say, "Our strategy is that the Commission should, for example, complete the Single Market. Forget about everything else, one strategic goal". With this input through the Committee Chairs is it not a little bit of, "Well, transport has got to have a little bit, the internal market has got to have a little bit, justice and home affairs..." and it dilutes any strategic review of objectives?

Mr Welle: I think the Conference of Committee Chairs has tried to confront this problem by the fact that its statements are normally divided into two parts. There is a first part which stresses issues of major importance and there is a second part where we have more detailed listings of proposals we would like to see put forward. Therefore, I think there is a very clear message to the Commission about which issues are of prime importance and which initiatives are being suggested by the different committees. Of course, the different actors in the Parliament have all to be properly involved in the procedure. Basically, we always need a double legitimacy. On the one hand, we need the legitimacy of the experts, and these are the Members in committee, and, on the other hand, we need the legitimacy of the main political actors, who are the political groups. In fact, we need to organise the process in a way where we simultaneously get the expert view from the committees (which are closer to the dossiers) and the overall view of the political groups, who are the only ones that can provide us with what you have correctly described as the big strategy, the main directions in which we should go. When we look at the procedure, we start off in plenary with the APS, a good moment for the political groups, then we go to committees, again a chance for the political groups but this time at the level of co-ordinators to make their views heard and get it into the committee's contribution, and then we have the committee as such, which through its chairman, endorses a view and puts this forward in writing to the Conference of Committee Chairs. These views are assembled and a general line given in the introductory parts of their text, but the

document is then handed over to the Presidents of political groups for endorsement and sent off to the European Commission. The Annual Legislative and Work Programme, once published by the Commission comes into plenary in December, which is once again a moment for the political groups. However, I think we are fully aware of what you are saying. If not managed properly, there could be a danger of losing ourselves in the detail, but there are certain instruments in place which ensure the general message, if the political will is there, is not lost.

Q68 Lord Tomlinson: Can I just ask a brief follow-up on that? With the state of the Financial Perspective, which the European Parliament, as I understand it, believes is very, very tight, what kind of flexibility within the Financial Perspective exists for you to give the necessary financial backing in the budgetary procedure to what you consider to be a newly emerging priority?

Mr Welle: I think most of the issues that are normally dealt with in this process are not necessarily ones with huge financial implications; they are normally legislative matters. Nevertheless, I think this touches on an important point, which is how are the budgetary procedure and policy strategy process linked? This is a very legitimate question, because the whole concept of the Annual Policy Strategy is based on the assumption that the legislative agenda and the working agenda should enjoy the necessary financial means, so obviously both things need to come together. In my own view, they are not in fact yet sufficiently interlinked. In the last set of negotiations with the Commission on the Framework Agreement (in 2004), the Commission very deliberately chose not to combine the two procedures—the APS/ALWP and the budgetary procedure—because they saw if they were brought closely together it could become a very powerful instrument. We are not yet there. The Parliament is discussing how best to organise its budgetary debate in the autumn and whether that should be more closely linked with legislative planning, and whether the commitment of the European Commission to field its full team of Commissioners when it presents the Annual Legislative and Work Programme in the autumn could not be used to develop something in a new format, where the wider public might be able to see financial means and legislative measures brought together in a major orientation debate once a year.

Q69 Lord Tomlinson: That is very helpful.

Mr Welle: We are not yet there and we do not have the agreement of the European Commission to go for such a format.

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Q70 Chairman: Whether you succeed in that or not, and it sounds to me a very logical development, it still remains, as we were discussing earlier with the Vice-President, a zero-sum game in that you have your financial perspective imposing a ceiling. Therefore, the drawing up of a Strategy and eventually an Annual Legislative and Work Programme is a reordering of priorities so that where you need to apply more finance for one thing you are going to have less for something else, or you may have to drop something. I am wondering whether the course that you are going down where you get to that point accentuates that problem and makes it more public. What would be the impact of the fact that you are having to play a zero-sum game?

Mr Welle: Up to now we have been working under the old Financial Framework so the experience we have had was not an experience where we were working with tight financial ceilings, not that I am aware of. In the debates we have had in the Parliament, up until now this has not occurred as a problem. I am not excluding that it might occur under the Financial Perspectives in the 2007 or a later procedure, but this has not been our major problem. The major problem we have been facing up to now is that the Commission installed this mechanism but at the same time was not ready to integrate all of its planning activities into it. For example we had ad hoc propositions on the withdrawal of legislation from the Commission which the European Parliament found out about from an article in the *Financial Times* as I alluded to earlier. We have had ad hoc lists of simplification procedures which have not been submitted to this procedure of consultation but were taken note of through the newspapers. The Parliament's argument is that, once such a procedure is established, it should be the relevant procedure for all legislative work. It also means that we need to have the information in due time, which does not mean that the Parliament is expecting that everything is available in December for the coming year, but rather that there should be a proper consultation mechanism and at the stage of the Annual Policy Strategy the simplification programme for the next year should be available. If there is an intention to go for withdrawal, this information should be available. From our point of view, this is very crucial because we have seen that many of the Commission initiatives on Better Regulation, notably on simplification, have been running into dead-ends because the Commission has not taken into account the views of the co-legislators, namely the Council and the Parliament. Therefore, the Parliament has been continuing to argue that there should be proper consultation on these propositions before they are finally made. The Parliament believes that the simplification agenda and a potential withdrawal agenda, if there is such an agenda, has to be

submitted early with the Annual Policy Strategy in February, so that it becomes available for consultation with the responsible parliamentary committees, which will then be in a position to give feedback to the Commission on whether or not they are ready to co-operate on that specific legislation, or whether certain changes are needed, whether this is really simplification or they believe it is not simplification but a "complicating measure". This could also be the logical place to conduct a debate between the Commission and the Parliament about speedier procedures on simplification. Up until now, the Commission has been hoping to be able to establish a single procedure for simplification, probably with the Legal Affairs Committee of the Parliament. Given that simplification is not in fact a legal concept but a political one this will not happen, because the sectoral committees in the Parliament will not accept that everything which is labelled "simplification" will just go through the Legal Affairs Committee. Therefore, if the simplification agenda of the Commission is to have more success than in the past, the Commission desperately needs to consult the Parliament and its respective committees earlier in the year. That is where the Annual Policy Strategy could develop a lot of additional importance.

Chairman: That is much food for thought.

Q71 Lord Marlesford: The point I would like to pursue comes both from what Lord Tomlinson and my Lord Chairman said. I was very struck by you emphasising that representations you make to the Commission at both stages appear to be based on unanimity. I can see that you can probably get agreement on most of the proposals put forward by the Commission but where I would have thought it would be difficult to get agreement possibly is on priorities. If everything you say has to be by agreement, does that mean that there are areas where you do not comment particularly on priorities because you cannot get agreement? If so, would it not be better on occasion to make representations which reflect the difference of view in the Parliament and you say, "On the one hand and on the other, but on balance the majority felt . . .?"

Mr Welle: There is still an objective problem with the position we have in the Parliament and this is that we have two procedures to come to a final conclusion. We have the expert procedure, coming through the committees—yes submitted to the Conference of Presidents and then sent off to the Commission in September—but equally we have a resolution in plenary in December which is motivated by the political groups and is doing exactly what you have described, setting political priorities. Additional work is still needed in the house to reflect how we can better link these two exercises—how the preparatory work that is being done by parliamentary committees

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becomes fruitful and can be accepted by the political groups, and what is the mechanism to link these two. On the Lisbon Strategy, in fact, such a mechanism has been established: and we have a cross-committee group called the “Lisbon Group of 33” which produces a draft resolution each year which is then taken over by the political groups, not as the end result but as the basis for their own deliberations. This has allowed the Parliament in the recent years to come forward with a relatively well-informed, compact and consolidated broad consensus view on Lisbon issues. There we have managed to combine the experts’ view and the political statement from the political groups. In the Annual Policy Strategy, however, we still have two procedures which remain to a certain extent distinct which might impact one on the other but which are probably not yet sufficiently connected.

Q72 Chairman: Thank you. I would like to put this question to you, and I do not know whether you are going to have difficulty in answering. This is the first year that the Commission has invited the national parliaments to comment on the Annual Policy Strategy. What I would like to know is whether the European Parliament sees this as an advantage, are you indifferent to it or do you think that we are meddling where we should not be meddling?

Mr Welle: I think I can make an educated guess about the view at least of the President of this institution. He is convinced, and I think his opinion is broadly shared in the house, that the European Parliament and national parliaments are partners, not rivals. We are partners for transparency and to keep democratic control of the process. Both institutions sometimes probably have the view that there are issues which fall into the middle—which are no longer controlled by national parliaments but not yet controlled by the European Parliament. This President refuses to think of the relationship between the European Parliament and national parliaments as one of competition and sees it rather as a relationship of partnership. In such a spirit of partnership, it can only be welcomed if national parliaments have a view early on of what is going to happen in the European Union. Personally, I feel it is high time that national parliaments should no longer focus just on the institutional aspects but get involved in the policy aspects—and actively involve their policy experts across the committees on those issues, instead of being surprised once things happen. This enables them to play their major role, which is control of their own national administrations. The basis for this is knowledge early on and early participation in the process. I do not wish to go off the record!

Chairman: I am very happy!

Q73 Lord Tomlinson: Can I have a follow-up to that question which might force you off the record? I have listened with great interest to what you said there but is not the Lamassoure report on own resources, which has now been adopted by the Budget Committee, a direct threat to the powers of national parliaments which at the present time have the competence, the sole competence, to endorse the own resources decisions that are necessary for financing the European Union budget? Will President Pöttering be telling Mr Lamassoure and the Budget Committee to butt out?

Mr Welle: No. I think that it was a widespread impression in the Parliament after the last round of negotiations that the mechanism chosen had disqualified itself because the way negotiations were conducted in the Council until the very end was not very convincing. It is on the table that we need to go for a new mechanism to finance the European Union, not to enlarge its budget but to find a more transparent way of doing so.

Q74 Lord Tomlinson: With a national parliament responsibility, own resources.

Mr Welle: I do not think the Parliament is assuming that the fact that national parliaments are participating in these debates will always mean that we will have the same views—of course not—but it is important that national parliaments and the European Parliament are debating these issues and debating them early on. That is why, under the co-chairmanship of the European Parliament and the national parliament of the Presidency-in-Office, we are conducting a whole series of meetings between European parliamentarians and national parliamentarians on the future of Europe, where one of the issues that has been put at the centre of the debate is the financing of the European Union and its own resources. In fact, the Parliament does believe that this is an issue where there might indeed be a divergence of views, but where debate is necessary and where it is very helpful if national parliaments participate in this debate.

Chairman: Well, we participated in the sense that we recently produced a report on reforming of own resources, which we hope will be a useful contribution. I was slightly alarmed by the fact that while we attended two of these joint meetings of the European Parliament, the national parliaments and the Commission and discussed future financing, suddenly the national parliaments appeared to disappear off the radar screen and we heard nothing more after that. We are concerned to make sure, and I am not saying that this is your responsibility, that when we get to the 2008–09 review we are not just a party to it but will have been a party to the preparation of the policy that is going to be discussed. I am in no sense accusing the European Parliament of

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trying to sideline us, it is not that, it is just that somehow we got dropped overboard on this and we are anxious to climb up the side of the ship and get back on again. I take it that basically you would like to see us play a proper role in this. I just wanted to have my little moan for a moment. I chaired one of the working groups in that and found it very useful but we were a little alarmed to see that after that there was deafening silence in our direction. Let us move on, if we may. Lord Bowness.

Lord Bowness: I think we have covered a lot. I will be guided by you as to where you want to go.

Q75 Chairman: One issue we do want to raise with you that is important is the role of the Council in all of this. It seems to me that at the end of the process the Council can just turn round and say, “Jolly good effort, dear colleagues, but no”. How much communication is there between the Parliament and the governments on this to try and avoid a blocking of the Strategy?

Mr Welle: I am very happy that you have raised the issue of the Council. With the indications I had, I was expecting questions on the role of the Commission and whether the Commission is doing things properly and so on, but not questions about the Council. In my view, in fact, it is not the Commission but very often the Council which is the weak link in this whole exercise, even though the Council started the exercise. Let’s go through some of the issues which can be subsumed under the heading of Better Law-Making. On comitology where the Council long avoided addressing the issue, we are very pleased that we have managed, very much supported by the Commission under the Austrian Presidency, to negotiate a new comitology regime in all areas where the Parliament decides on primary legislation by co-decision. This means that if the Parliament leaves some space free, but a subsequent comitology decision proves to be unacceptable for reasons of subsidiarity, proportionality or whatever, it now has the right to come back into this. That is an area where we have made concrete progress. On transparency, the Council itself, under pressure from the Nordic countries, has made a lot of progress recently by opening up its debates, but I remember that in 2002–03 it was regarded as more or less a no-go area in the negotiations. On impact assessments, it can be discussed whether the Commission is far enough advanced on the issue but at least it has now separated the conduct of impact assessments from the unit itself which has been drafting the legislative proposal and given the question to an independent internal body. I know there is debate in the Parliament as to whether this process should be devolved to an external body. Perhaps it would be useful to look also at how far the other two institutions have progressed. In the Parliament we

have established a budget line of €700,000 with which we undertake assessments on substantive amendments employing external expertise, so it is not home-made by the Parliament’s services. The advice is acquired through framework contracts taken out before the policy issue is known—which is very important, as you do should not choose the provider of advice when you know the issue, but rather you identify the provider before the issue is defined. We have the instruments ready. It is true that there is a certain reluctance in the Parliament to use them, but the triggering mechanism is with the Members, it is the Members who decide whether they would wish to submit a substantial amendment to an impact assessment. In the Council, as far as I know, they are still far from that. They had a test case on batteries, where I think the Dutch Government volunteered to make the impact assessment because they had the biggest economic interest in the case. If you apply this mechanism, then it means you ask Austria to do the impact assessment on transfer across the Alps, and you would have needed to ask Germany to do it on REACH and maybe Britain on some aspects of the Common Agricultural Policy. The value of such an approach is very evident. I have doubts whether the Council, which likes to stress the importance of impact assessments, has in fact yet developed a proper mechanism to conduct such assessments on substantial amendments itself. On simplification, I have already said it is very important for the Parliament to have information earlier, but we are moving in that direction. The Commission made the simplification list available for the first time at the end of 2006 at the stage of the Annual Legislative and Work Programme. We would like to have it earlier but we are in a process to try to integrate simplification into the APS procedure. There remains a major issue concerning the reduction of volume of EU legislation and this very much depends on whether “re-casting” could become the standard instrument for the Commission to undertake simplification or, alternatively, if that instrument is not chosen, to use codification. There is still some ground to be explored there. On legislative planning, it has to be said that the Council up until now simply refuses to be part of a joint programming exercise. We have described here how far we have made progress with the Commission but, of course, the Council has a double-function: on the one hand it has executive functions but it is also the second part of the legislature. In this latter role the Council needs more actively to involve itself in the programming efforts of the other institutions and so contribute to transparency. On transposition there is a lot still to be done. There has been a suggestion in the Parliament that in future some of its “own-initiative” reports should be devoted to follow-up appraisal of transposition. Even though this is the responsibility

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of the Commission, parliamentarians could play a bigger role here so that there is a feedback mechanism on how the legislation that has been passed affects the citizens once it hits the ground. It would be a feedback mechanism for future legislation. The last point, which has recently been brought into the debate by the German Presidency, relates to “discontinuity” (between the five-year terms of the Commission). The European Parliament has always done a screening exercise after the European elections. If in the future the Commission would be willing to give a proper answer to that scrutiny exercise after each set of European elections, we will have made some measurable progress. I have been running through some of these issues just to communicate that I think this whole area is very much work in progress. We have to improve things on one issue after another. There has been very visible progress in many areas already, but other areas still need to be tackled. We will only be successful if all three institutions are actively contributing to make this work.

Q76 Lord Bowness: My Lord Chairman, you have actually got to the point I was winding myself up to here which was about the involvement of the Council. Just listening to that explanation, which was very interesting, and the fact that the Council are not really involved in any of the kinds of things you are talking about, this may be a very naive question but within the Council is there, as it were, an equivalent of this Policy Statement and does anybody see it? If so, who sees it and when?

Mr Welle: I think the experience up to now has been that individual Council presidencies were ready to accept responsibility in this area and to move an issue forward—the Finnish Presidency very strongly on transparency, the Austrian Presidency on the issue of comitology, the Dutch Presidency at least tried its best on impact assessments. This is dependent on the willingness of an individual presidency to carry an issue forward. I do not think that in the Council secretariat there is a concerted effort that is comparable to the efforts that are conducted, for example, within the Commission.

Q77 Lord Bowness: So the only equivalents we have are the presidency proposals, are they, for each presidency?

Mr Welle: Sorry?

Q78 Lord Bowness: The only thing that might equate to Council priorities is the presidency proposals published before each presidency, is that right?

Mr Welle: The Commission consulted the Council on the APS and they did respond. My comment would be that, given that this is a major change in how we try to do European law-making legislation, I do not

see on the Council side that there is a concerted strategy to improve things across the board, or at least it has not been as evident as we have seen from the Commission. There are clearly areas, like legislative planning, where up to now the Council has not been ready to accept programming between the three institutions.

Q79 Chairman: Can I just be clear on this point. The Commission asked the Council to comment on the APS and they did comment?

Mr Welle: Yes.

Q80 Chairman: That information was shared with the European Parliament? Was it published or circulated?

Mr Welle: There are no tripartite efforts in this area and I think that is a weakness.

Q81 Lord Marlesford: My worry has always been that however rational the decision-making process and however democratic in the sense that it seeks to reflect desires of the people of the countries, however well you do your job in the European Parliament and maybe we do our job in the national parliaments and the Commission tries to take account of all of these things, there are an awful lot of decisions in the Council which are ultimately decided by horse-trading. How on earth does one somehow expose these when they happen or, ideally, reduce them?

Mr Welle: I think the Council has already gone some way there by allowing meetings to be public when they are legislating. We have to acknowledge there has been some movement there. Some years ago, the Council would have said, “Our meetings cannot be public by the very nature of what we are doing”, but nowadays the Council has gone a long way towards allowing that. What the Parliament administration has been asking, for example, is that the three institutions meet and establish a joint calendar for decisions to be taken, of course knowing that those decisions may not be taken at precisely any given moment and it will have to be updated, but if we could have a some joint programming on the timing of decisions coming up, that would very much help us and them and the Commission to deal with dossiers, but up to now Council has not been ready to engage in such an exercise.

Q82 Chairman: I think we are coming to the end of our time, Mr Welle, but I have one hypothetical question I would like to put to you, if I may. I know that good *fonctionnaires* do not like hypothetical questions but I am going to try anyway. If, in fact, in the end we do move to a “permanent presidency”, do you think this will create a more tripartite framework for discussion between the institutions?

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Mr Welle: If I give you an answer, I will simply confirm that I am not a good *fonctionnaire*!

Chairman: Okay.

Q83 Lord Tomlinson: In the absence of an answer to that, can I just have one more go. It strikes me from what you are saying about the Council that you have got all sorts of things you would like the Council to be doing but the Council do not acquiesce with your wishes. Does the European Parliament have a strategic view, thinking in terms of power in a political sense rather than competence in a juridical sense, of where the pressure points are that it can more likely encourage Council to be slightly more compliant?

Mr Welle: I think the Parliament has had the experience that the political debate with the Council has to be undertaken at the political level in Council, which is with the presidency. Whenever the debate was conducted at this level, the experience has been that issues could be carried forward. For example we secured an understanding in the Austrian Presidency that when issues could have been decided under co-decision but the Parliament did not want to over-regulate and go into too much detail, if that same issue came back as a comitology decision, there was a natural right for the Parliament to have a second

look at the issue. So that was an issue that could be taken forward with a presidency—just like the question of transparency in Council could be taken forward with the Finnish Presidency—but it always depends on the specific sensitivities of a specific presidency.

Q84 Chairman: I am afraid we have come to the end of our time. Thank you very, very much indeed for your very clear and interesting answers to our questions. We will send you a transcript so that you can look at it to see that we have properly reflected what you said. I would like to thank both you and Anthony Teasdale for being with us. It has been a very, very interesting session for us and very helpful to us in understanding better how the APS is discussed amongst the three institutions. Thank you very much indeed for your kindness in coming.

Mr Welle: I thank you for your invitation and the possibility to set some of these arguments out. I know that your reports have the capacity to inspire debate way beyond the House of Lords, so if you are actively involved in the discussion about how we can take the Better Law-Making approach forward, this would be an excellent contribution to the debate.

Chairman: Good. Thank you for your invitation, we will take that up. Thank you.

THURSDAY 3 MAY 2007

Present	Bowness, L. Grenfell, L. (Chairman)	Marlesford, L. Tomlinson, L.
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Examination of Witness

Witness: **Mr Gary Titley**, Member of the European Parliament, examined.

Q85 Chairman: Thank you very much for coming. As you will appreciate, we are on the record. We will send you a transcript. We are taking a look at the Annual Policy Strategy to try and get two things: a good handle on how it is drawn up and how, at the institutional level, it is scrutinised, in your case how the European Parliament handles it. We are also interested to hear where there may be issues within the 2008 Policy Strategy that give the European Parliament some concern, in particular maybe yourself as one of the important members of the Parliament. Would you like to give us a few thoughts to open the proceedings?

Mr Titley: Thank you, my Lord Chairman. I will be fairly brief, it will be better to deal with the questions. The one thing I would say, is that it is important to see the APS in its context, which is that it is not meant to be a major policy development piece of work but really a sort of annual check-up on where we are going in relation to what has gone on before and what the Commission has set out in its five-year strategy. As such, we would not have expected it, therefore, to have new major policy initiatives in it. The second thing I would say is the interesting thing is for the very first time, as far as I know, the APS talks about communication and how it gets its message across and I think this is a major step forward because it is a sign that the Commission is finally getting to grips with the fact that it is no good having the world's best policies if you do not tell anybody about them or communicate them. That is an important step forward, no doubt initiated by Commissioner Wallström, who is very keen on these issues. It is also interesting to look at the APS to see to what extent—this may or may not be relevant to your work—the agenda is now very much what we would call a UK agenda. It is very much about practical policies which will make a practical difference: climate change is the obvious example but security is another one. The fact also that communication is so important in the APS is also a reflection of the sort of messages the UK Government has been pushing for the last few years, which is you need to be practical, you need to be concrete and keep to the point. Those are the main observations I would have about it. Just to reiterate, I do not think we should expect too much of it. There is an issue, which is an issue more for the European Parliament, in how it deals with the APS. Clearly this one is important because, as it points out, in 2008

there are lots of interesting things that are going to be happening: the Lisbon Review, the health check, supposedly, of the CAP, discussions on the future of the budget, et cetera. 2008 is an important year. The European Parliament has a tendency to look at these communications from the Commission from a technical point of view by committee and I think this is a weakness of the European Parliament which is now becoming a major weakness, because what is needed is a political response and the European Parliament needs to find a mechanism for responding politically and not technically to the Commission's position. That is where I think there is a weakness because in many ways the APS is about setting out the Commission's view of what the policy should be to fulfil the strategic framework already set out. Getting a response from the other institutions, including the Parliament, and then incorporating that into its Legislative and Work Programme, the emphasis is on the European Parliament to give an effective political response. It is no good dealing with this on a technical level. The Budget Committee deal with this on a technical level in relation to the budget, for example, but that is not what is needed, this needs to be political.

Q86 Chairman: Is it not a bit misleading to call it an Annual Policy Strategy in that case? In the light of what you have just said it is really an annual policy check. Why did we call it a strategy in the first place? I am not quite clear.

Mr Titley: You will have to ask the Commission that one. Obviously there is a plethora of ongoing business in the European Union and in a sense the Policy Strategy is to identify what the key issues are and where we should be putting our priorities and waking people up to the fact that these issues are on the horizon. 2008 is going to be a particularly important year for the European Union and people have to be thinking about that now. In that sense it is a Policy Strategy in terms of mapping out what are the key points for next year, but in a sense it is also a health check really.

Q87 Lord Tomlinson: I am glad you raised that point about looking at it by committee because we raised this with Mr Welle, and I certainly raised it with him in a very critical way and I am pleased to hear what you have said, because it does confuse. When you

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have got every single committee salami-slicing their views it becomes very difficult to get a strategic objective. I will not ask you a question about that because I think you have answered it. What I would like to hear your views about is: you are saying we have got to be determining where we are putting our priorities but looking at this document it becomes very, very difficult to decide where we are putting our priorities because where I see priorities I expect to see resources moving in that direction. If you take the table that is in the Commission document, even on things that we all agree are very important, on competitiveness for growth and employment, no change is proposed, not now and not in the next five years, cohesion for growth and employment, no change this year, no change in the rest of the financial forecast proposed, and so you go on. Freedom, security and justice, no change this year, no change in the rest of the Financial Perspective. When you talk about determining our priorities and putting our effort behind those priorities, how do you see that fitting into budgetary resources in the context of the Financial Perspective which is largely hitting up against the limits? Are there things where as the Parliament enhances one priority they will be prepared to diminish others?

Mr Titley: I think you have hit the nail on the head. Going back to my earlier answer about the Policy Strategy, what is reflected in this paper is the importance now being given to climate change, so in a sense that shows a change in the policy make-up. To come back to Lord Tomlinson's point specifically, he has hit the nail on the head in that throughout discussions about what the European Union can do, and the Council are particularly guilty of this, there is always insufficient attention to where the money is going to come from to do it and how you are going to get there. There are, of course, more resources being allocated within the budget for things like FRONTEX, Eurojust, et cetera, so there is a change of resources, but there is an attempt to change the resources within headings where we are up against the margins anyway, and particularly on Category Four the use of the Guarantee Fund is questionable whether it is legal, I think, so there is a degree of smoke and mirrors inevitably. That is one of the problems you have now talking about EU policy, that the governments are determined to restrict the EU budget, the EU budget therefore has got very little room for manoeuvre, and until we have a root and branch reassessment of where the budget is going what you are doing in essence is playing around the edges moving money around. What the Commission has done, particularly in headings one and three, is simply to say, "We will find the money because some programmes will not start until later and, therefore, we will not need the money for them until then". It does not find a way around this problem. Ultimately

you could argue, "The Commission can't do this, this is a matter for Member States to decide in terms of Financial Perspectives" and you could argue it is part of the 2008 budget review that we should be looking at how we spend our money, do we completely reopen the budget and have a radical change in its approach or do we continue to run along from hand to mouth every year as we are doing at the moment.

Q88 Chairman: I was going to ask you, Mr Titley, about the Social Reality check. Where is this leading us and what importance do you attach to it?

Mr Titley: One of the great issues the European Union has to get to grips with is exactly what we mean by social policy in a modern, globalised economy. Clearly there are many different views about that. I once sat in a meeting where the head of the French Socialist delegation gave a very pertinent analysis of where the world was and what the issues were and I pointed out that I agreed 100 per cent with everything he said but I could guarantee that once we started talking about how we deal with those problems he and I would be in total disagreement. There are all sorts of papers flying around at the moment on a social policy based around the idea of flexicurity and the idea that social policy is about providing support for people to find work, support for people in work, training and guarantees rather than a social policy which involves basically paying people to be unemployed. Of course, there are widely differing views in the European Union and the UK view of social policy is a long way away from the French view of social policy, quite frankly. That is where next year is going to be very interesting because the Commission has to come forward with proposals for the mid-term review of the Social Action Programme, and what direction is it going to go in. That is one of the key battlegrounds, I think.

Q89 Lord Marlesford: Obviously one of the really crucial issues is the French 35 hour week. As far as I am aware no other country has joined that but the French do not show much sign of abandoning it, even Sarkozy has not committed himself to abandoning it and Royal seems to be inclined to reinforce it and ensure that it is more adhered to. That is the sort of area where it is quite hard to see how there can be any common moving forward on social policy when you have a disparity such as that which is another form of what you were saying about paying people not to work.

Mr Titley: Without wishing to go off on a tangent about French social policy, it is true. My view of the French situation is that the French view social policy through the eyes of the world as they think it should exist rather than the world as it does exist and, therefore, you have very high unemployment because the labour market is very rigid, it is very difficult to

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move people on once they are 45 so youngsters have high unemployment. I do not think that is a view that is generally accepted outside France any more, and Belgium I suppose. The agenda has moved on. Flexicurity, the Nordic example, also the UK example, is very much one which is gaining more credibility as we move forward. The 35 hour week, in a sense I think is being less adhered to in France and we will see what happens after Sunday's elections.

Q90 Chairman: I can tell you it is being less adhered to. My wife had personal experience of it! Could I ask you if you could comment briefly—I know this is asking you to comment on something that the ALDE group has come up with but I would be interested in your views on that—it appears that they thought the Annual Policy Strategy's three lines on the subject of the future of Europe was simply inadequate. Is that the sort of subject that ought to be in the Policy Strategy?

Mr Titley: No. The Commission got it dead right on this. Where the Commission are moving is we are talking about the concrete policies that go to make a difference to people's lives and not wasting time on institutional navel gazing. The situation is no longer with the Commission, the situation is with the Member States. It is up to France and the Netherlands to decide how we are going to move forward really, it is not one for the Commission to waste any more time on. I think the Commission are right. Because it is only three lines or whatever, it does make the point extremely well that in order to be able to achieve many of these objectives you will need a more streamlined decision-making structure. That is all you need to say at this point. For a Policy Strategy to engage in all this institutional debate would be entirely wrong. I think the ALDE position is really Andrew Duff's position, quite frankly, as one of these people who is a sort of institutional junkie, and I do not necessarily share his perspective on this, it would be a waste of paper.

Chairman: Thank you for clarifying that. I share your view on that.

Q91 Lord Bowness: We have heard other witnesses be quite enthusiastic about the paragraphs on improving communication. As I understand it you are saying, and I am not disagreeing with you, the funding is inadequate for much of this and the Council does not want to increase the budget. Is there a danger in too much communication of all of this to the public as a whole because, given what you have said about the funding, is there not a huge danger that they are going to be disappointed and it is going to add to the disillusionment? Can we deliver on so much? We do talk about these being priorities but something that covers so much and so many different subjects is hardly a set of realistic priorities in a year.

What worries me is that it is very easy to say, "Europe said it would do this and it has not done it". Do you think that is a problem or not?

Mr Titley: No. That is obviously a very valid point but it seems to me that what the Commission is saying is we have got to communicate, it has got to be local and it has got to be well-organised. In a sense you could argue that is not exactly news, some of us have been saying that for years, but the fact is they are focusing on that, and are doing things, FRONTEX is very important, Eurojust, the whole climate change agenda. It is important that the Commission are saying to people, "This is how this is making a difference to you" and it is communicating that rather than going off on sort of airy-fairy debates. Communication is important. The budget issue is a broader issue in terms of the ambitions of the European Union are not matched by the financial resources they are prepared to put into them and the biggest culprit in my view is the Council which is constantly coming up with some new idea of what they should do but never works out where the money is coming from. As with any other resources, it is not simply a question of increasing the budget but it is a question of reallocating resources within the budget and making some decisions there. The communication thing is right, and it is a huge breakthrough that we are talking about that in the Annual Policy Strategy but you are right to say that we have got to be careful not to promise things we cannot deliver because that does add to disillusionment.

Q92 Lord Tomlinson: I come back to something I alluded to a bit earlier. As we get clear statements about things that are increasing in priority—climate change, FRONTEX, those things that you mentioned—is there any acceptance of a need to start picking out things and saying, "These have diminished in priority", not as a statement of what you want but as a statement of reality within a constrained financial situation?

Mr Titley: Yes, I think there is, and I think the Parliament showed that when it produced its budget for the Financial Perspective which came in under the Commission level. I go back to our conversation earlier on. The problem is if you look at these issues, as you say by salami-slices by committee, each committee then throws in its favourite topics and there is a failure to get an overall perspective which then ends up often producing nothing more than shopping lists. I think where the Parliament has got to improve its performance is in getting a much more coherent political strategy as a response to this. This is a weakness of the Parliament, frankly. You have got to be able to say to people, "If you have got four priorities, choose your four priorities, you cannot

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have everything". There is a tendency to do that because of the way we work.

Lord Tomlinson: That makes it very clear.

Q93 Chairman: Thank you very much indeed. Klaus Welle was saying to us when we raised this issue with him that the committees produced their comments in two sections, the big priorities and then the smaller stuff. I was just wondering whether the Commission reads the smaller stuff. They are more interested in the big priorities, I would have thought, are they not?

Mr Titley: Yes. In a sense a lot of the smaller stuff is work in progress anyway. I think it is right, the Commission do look at the big stuff.

Q94 Chairman: Would you say that on the whole you are unhappy with the degree to which the European Parliament can influence the Policy Strategy or do you think that the procedures and mechanisms are there for you to do it?

Mr Titley: Ultimately, the Parliament has the budgetary authority or has the power to influence most of the budget because, as we said in the resolution on the Annual Policy Strategy, we want the Commission's Work Programme more closely allied with the budgeting process. The problem is I do not think the Parliament has yet come to grips with how it influences things politically in the overall framework, that is the weakness. Yes, we do have the opportunity to influence it but we have got to be clear what our view is and we have got to avoid the shopping list mentality.

Q95 Chairman: That assumes some kind of a consensus within the Parliament which must be very hard to find.

Mr Titley: Yes. There is a growing consensus about the challenges ahead and the policies we need. I do not think that is quite as difficult as it once was. Climate change and security are obviously big issues. Responding to the Lisbon agenda and the mid-term review are the big issues that I think you will get a lot of consensus of the Parliament on.

Q96 Chairman: This has been the first year that the Commission has taken the initiative to ask the national parliaments to comment on the APS but what are not clear to us are two things: one is what is the optimum moment for the national parliaments to make their views known, obviously as early as possible but it is a bit difficult to identify exactly the moment when we should be doing it; and, two, is there any feeling within the European Parliament that the national parliaments are treading on your toes in doing so?

Mr Titley: I am not aware of any feeling of that nature. In a sense, often from our point of view the frustration is getting national parliaments to

respond. Sometimes they do not or it is late. There is a meeting going on as I speak of the Legal Affairs Committee with national parliaments. It is getting national parliaments there and in the room to talk about it that is difficult. I do not really think that. As you know, I have always held the view that national parliaments and the European Parliament are two sides of the same coin, which is about democratic accountability, and we will only have effective democratic accountability in the European Union if we can link national parliaments with the European Parliament and get away from this idea that somehow they are in competition with each other.

Q97 Chairman: Do you see any glaring omissions from the Policy Strategy this time around?

Mr Titley: I do not think so, apart from the area Lord Tomlinson referred to about the money: where is the money coming from? In a sense, the priorities select themselves. As I said in my introductory remarks, what fascinates me is the extent to which these have now coalesced against the sorts of things we brought up at the Hampton Court Conference during the British Presidency, which was very much that sort of agenda. It is quite fascinating to see how it has coalesced so quickly around those areas.

Chairman: That is interesting. Has anybody got a specific point they would like to raise on this?

Q98 Lord Tomlinson: I would not mind going on to another question, my Lord Chairman. Within this document, and I must say I am not particularly impressed with the Commission document—for a Commission that has got a major priority of communication it makes it extraordinarily difficult for anybody outside the institutional loops here to read it because it refers to information that is not actually present in the document—but one of the things that is relatively clear is the Commission framework for human and financial resources in 2008. We have dealt with the financial resources but what about the human resources bit, do you think it is realistic?

Mr Titley: As you know, the Parliament is concerned about the fact that only about half the people who are going to be brought in as a consequence of enlargement will be working on those areas like Better Regulation, *et cetera*. The Parliament's view tends to be that the Commission is rather underestimating what is needed and there needs to be more mobility of people across priority areas within the Commission. I will confess it is not an area which I am an expert on, so my answer is very weak on this point. It is the usual problem that you have got a structure and you are trying to adapt the structure. If you were starting again with a fresh piece of paper you would not necessarily have that particular structure. The Commission is having to act within the

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restraints and clearly there is no enthusiasm for a huge increase in staff in the Commission, so there is probably going to have to be more mobility if we are going to be able to maintain a focus on the key areas.

Q99 Chairman: Can you tell us a little bit about what you know about President Pöttering's working group on reform. What is his timeframe on that?

Mr Titley: I am not sure of the full timeframe. They are coming through with a series of proposals in waves. The initial proposals are intended to be debated before the summer and then there are long-term perspectives thereafter. It is certainly meant to be all done and dusted within a year, as I understand it.

Q100 Chairman: What sort of vision do you suspect there is in that?

Mr Titley: Part of me, the cynical side of me, says we have been through this many, many times before and got nowhere, but I think there is a genuine desire this time to get to grips with some of the issues about how effectively we work. The problem ultimately is we are constantly restrained and undermined by the requirement to come to Strasbourg 12 times a year. We are now in a position where some of the committees do not have the time they need to carry out the scrutiny they are required to do. As I have said, we do not have a structure for getting an overall perspective properly, yet we are still going to Strasbourg 12 times a year and, quite frankly, given the legislative flow has reduced, we do not need to be there. It is a huge waste of resources and time. Quite frankly, some of the debates in Strasbourg are pretty well padded out by grand statements, et cetera. Every time you try and reform our procedures you come up against this problem. The logical thing would be for the Parliament to meet in plenary, shall we say, Tuesday afternoon, Wednesday afternoon and Thursday afternoon every week and the rest of the time in committee or political groups. In a sense the working group is trying to get round some of that by proposing that every week there is a sort of plenary session for two hours where the Commission will report on their meeting that week or any other matter of some urgency and looking at how we work to get more people involved. One of the problems about having such a huge Parliament now is that it is less easy for people to get their teeth into something and inevitably that begins to affect attendance and assiduity. What they are trying to do is loosen things up. My colleague, Dagmar Roth-Behrendt, is running this on our side and has been consulting extensively. We need more spontaneity and more flexibility in how we do our work.

Q101 Lord Bowness: At the beginning Mr Titley said we need to find a way of getting a political response to this rather than a technical one. Are there thoughts on how that might be done?

Mr Titley: I do not think there are. Our standard response in the Parliament is to set up a sort of all-encompassing committee. We have just had a temporary committee on climate change to try and bring it all together, but even that is now too inflexible. We have already got a committee of the Chairs of all Committees and I think there needs to be more use of a structure like that in order to bring together the priorities of the Parliament. I wrote to President Pöttering on this when he became President and said that we need to deliver that structure. I feel that has to be taken on board by the working group.

Q102 Chairman: If you need that kind of political force, as it were, is there not always the danger that it will end up being a race to the lowest common denominator of consensus? We were talking earlier about the lack of an overall strategy but, on the other hand, if you try to find a consensus in a large parliament on many disparate views you certainly end up with the lowest common denominator.

Mr Titley: There is obviously a danger of that but, of course, against that is the sense that ultimately you have got two political groups who are by far the biggest groups and, therefore, they are able to hammer out positions without having to go down the road of the lowest common denominator. If it was a more divided parliament, a more splintered parliament, then that would be true, it would be very difficult, but I think the fact that we have got two big political groups mitigates against that danger.

Q103 Chairman: I take that point. On the whole, do you find the Annual Policy Strategy a useful document? You told us at the beginning that we must not think of it as a great strategy document but something rather more current than the great vision of the future. Why can there not be some kind of a real strategy?

Mr Titley: In a sense the Commission has a five-year strategy.

Q104 Chairman: The Commission has, yes.

Mr Titley: In a sense, the Annual Policy Strategy is a way of saying that we need to make these adjustments, we need to remind ourselves this is where we are going. Therefore, I find it useful from that point of view but I do not expect it to be a major policy formation. Again, we come across some of the structural weaknesses of the European Union. From the Council point of view, six-month presidencies are not designed for coherence of development and the sooner we get over to a full-time Chair of the Council the more we can start to get some consistency of

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work. Each President comes along with all their enthusiasm, with their priorities, and before you know it the six months are up and someone else is doing that. I think that is part of the problem. In a sense, we are trying to get round this by having these rolling presidency programmes now but I think we have got to have a full-time Chair of the Council. That has to happen. They could work with both the Commission and the Parliament to provide much greater strategic analysis of where the European Union should be going.

Q105 Chairman: While we are on institutional reform, can I just ask you what your views are about the size of the Commission?

Mr Titley: There are two sides to this. It is difficult to believe that any country would willingly give up a Commissioner because they see that it gives them a stake in the European Union. Equally, it is clear at the moment that the European Commission is too big and there is not enough work to go round for them. Even I do not recognise all the Commissioners, quite frankly, and it is very unwieldy. How we get round it, it seems to me that if every country is going to insist on having a Commissioner then we need to give the power to the present Commission to organise this into directorates, as it were, and have, as a government does, junior ministers and senior ministers all with one vote, so they do not represent their Member States but they really do, so they still have that power. It has to be streamlined. When you have got the Commissioner from Romania coming in and being given responsibility in multi-lingualism you think we are reaching the end of the line here.

Chairman: I can imagine.

Q106 Lord Tomlinson: On this question of the size of the Commission, is it not also producing just as many problems as the European Parliament looking at the Annual Work Strategy on the basis of committees? You have got too many Commissioners who have not got real jobs and in order to prove their existence they have to take initiatives and even if the initiatives are no use at all some of them get through. Is that really a risk?

Mr Titley: I think it can be. We are having a new impetus behind consumer policy and that coincides with the fact that we have now got a Commissioner whose responsibility is consumer policy. There is a risk because, in a sense, if you are a Commissioner and people are writing articles about you, you have got to be able to show you have done something and you have carried out this initiative, so there is that problem. I think the current Commission to a degree gets round that because President Barroso has got a fairly strong hold on the Commission, along with his Vice-Presidents, and therefore there is a focus but, as I say, if I was a Commissioner I would be wanting to

prove I am worth the job and, therefore, I would carry out some initiatives. This is why we need to organise in directorates.

Q107 Lord Marlesford: I suppose my biggest disappointment in this document is in section 3.2 which is on switching resources where there is not any of it, it simply does not exist. When one goes through that table on page 23, it is pathetic. When one goes through the headings that make up page 23, almost every one of them ends up with, "We are not changing the total under the heading". To me a strategy must be based on updating use of resources and on this they do not seem to be under starter's orders, or is that unfair?

Mr Titley: I think it is a valid point. To a degree I think the Commission are caught between the Council and Member States, who set out the Financial Perspectives, and the Parliament which in most of these areas is the budgetary authority and, therefore, in a sense it could argue it cannot start messing around with the budget to a great degree. I think there does need to be a much closer correlation between the Strategy and the preliminary draft budget which the Commission produces. I do not think that relationship is strong enough in this document. As I have said, we are increasingly trying to get a quart out of a pint pot on the budget and this is one of the things that has to be looked at when we come to have a review of the budget.

Q108 Chairman: Is it the Council that is digging its heels in over bringing the Strategy and the budget together?

Mr Titley: Yes. Ultimately the responsibility has to lie with the Council. It sets the Financial Perspectives of the Member States and, as I say, the Council is the world's worst at adding things for the European Union to do and not worrying about where the money is going to come from.

Q109 Chairman: Yes. What can one do about that? How does one get a change of culture there?

Mr Titley: You could argue that what you need is a root and branch reform of the budget and we need to look completely differently at how the budget is going to be structured. That is unlikely to happen because I do not think most governments are prepared to be very radical on the budget. In that sense you have got a problem. When we reach the point where we cannot afford to carry out these policies then somebody has got to address this question. You cannot suddenly decide you are going to get several million pounds to reconstruct a country when there is nowhere for the money to come from. Playing around with margins and squeezing things out, I think you are going to run out of space to be able to do that shortly.

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Q110 Lord Tomlinson: Would a serious approach at zero-based budgeting where you systematically look at budget lines and make them justify all over again from scratch be a beneficial part of the process?

Mr Titley: I think that is what is needed. This is something I have advocated to the Parliament and it constantly falls on deaf ears, every committee should not just spend time arguing about their interest in the budget but afterwards they should be given responsibility for monitoring and expected to produce quarterly reports on the implementation of the budget, because it is not enough simply to say, "We want more money for X" without then saying how that is being spent and is it of any use, or is there any sitting in a cupboard somewhere not being used. That is a weakness of the Parliament, that we are not sufficiently assiduous at following up on the budget and looking at the implementation of the budget.

Q111 Lord Marlesford: To me, the epitome of the whole of this was pre-2004 when President Prodi commissioned an economist from outside, I cannot remember his name, to look at the Structural Funds.
Mr Titley: I have been trying to remember his name myself, that is why I have not mentioned it.

Q112 Lord Marlesford: His conclusion was a simple one, that there should be a switch of Structural Funds from the ongoing recipients to the new entrants. The Commission resisted this, it was not just the national governments, although it was the national governments as well of course. In a way if those sorts of changes cannot be carried forward one is a bit cynical about the real value of the policy.

Mr Titley: Ultimately it is a matter for politicians and Member State governments to decide if they are prepared to contemplate a complete radical overhaul of the budget. I think that is what is needed. In essence this budget is a variation of what we have had since 1957. We have added bits on and so on but nobody has actually sat down and said, "Let us see what the European Union budget should be for", partly because governments are afraid where that debate will go. I wish I could remember the name of the economist.

Q113 Chairman: Sapir.

Mr Titley: Sapir, that is right. The British Prime Minister came and said we should follow the Sapir report and then somebody pointed out that the Sapir report also talks about the EU having its own proper own resources, which is something this Government has also resisted in terms of an EU tax or whatever. Everybody likes bits of his report but not the whole thing.

Q114 Chairman: Is not the idea of asking the question, "What is the budget for?" a major part of the 2008-09 review?

Mr Titley: It should be. My concern from a UK perspective is we are not getting enough coming out from the UK saying what our view on that should be. The French are already doing it and we should be doing it. If there is anything you can do to encourage more of that, it will be for the better in my view.

Q115 Lord Tomlinson: My Lord Chairman, as Mr Titley has mentioned there is no discussion about own resources, can I just assure him that, having looked at Mr Lamassoure's proposals that went through the Budget Committee recently, I am a strong opponent of those and I think I could reasonably assure him that would be the response of the British Treasury. If the changes in the occupation of Number 10 are as one would anticipate them to be, I cannot anticipate our Prime Minister of the future supporting them.

Mr Titley: It does illustrate my point that the French are throwing their ideas around and the British are not.

Q116 Lord Tomlinson: Absolutely.

Mr Titley: And we should be throwing our ideas around.

Q117 Lord Marlesford: The idea that you do not switch resources because you do not have own sources of tax does not follow at all.

Mr Titley: I would not argue with that. I am just saying that the Sapir report looks at even more than our own Prime Minister was prepared to admit.

Lord Marlesford: But you could have done the one without the other. You could have switched to Structural Funds.

Q118 Chairman: The French are taking initiatives in every direction. For example, Pierre Lequiller with his ideas about an amending treaty, or whatever it is. It is amazing how much space it is getting in *Europolitics* nowadays.

Mr Titley: The British are bad at doing this, frankly. You do need to throw ideas around in the ether well in advance because they suddenly solidify, but we tend to wait until the debate and by that time the decision is already made.

Chairman: I am afraid we have come to the end of our time, Mr Titley. Thank you as always. You are always an excellent witness and it is very kind of you to take time out of your busy day to come and be with us. We will send you the transcript. Thank you so much.

TUESDAY 8 MAY 2007

Present	Blackwell, L Bowness, L Cohen of Pimlico, B Freeman L Grenfell, L (Chairman) Harrison, L	Marlesford, L Roper, L Symons of Vernham Dean, B Thomas of Walliswood, B Tomlinson, L Wright of Richmond, L
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Examination of Witnesses

Witnesses: **Rt Hon Geoffrey Hoon**, a Member of the House of Commons, Minister for Europe, **Mr Anthony Smith** and **Ms Shan Morgan**, examined.

Q119 Chairman: Thank you very much indeed, Minister, for being with us this afternoon, we very much appreciate this. Before we go straight to questions, I would like to welcome also Anthony Smith and Shan Morgan, who I hope, Minister, will feel free to intervene at any point where you would like them to do so.

Mr Hoon: All the time as far as I am concerned.

Q120 Chairman: Fine; we will let you go and have a cup of tea while we ask them!

Mr Hoon: I am sure they would do a lot better anyway!

Q121 Chairman: Before we go straight to questions, let me just say that we have launched this inquiry into the Annual Policy Strategy for 2008 because it complements the work we do and which we have done for two or three years now on looking at the Annual Legislative and Work Programme, and we thought it would be important to look at the APS as well. We have already had a number of witness sessions. We have seen a couple of our MEPs, Timothy Kirkhope and Gary Titley. In Brussels last week we had a very useful discussion with Margot Wallström and also with Klaus Welle, and this has given us some good ideas about the usefulness of the APS, how it is constructed and formulated. We found, surprisingly, that there were rather different opinions as to its utility and it is interesting to us that there seems to be a lack of a clear idea of what the real objective of the Annual Policy Strategy is; some people were saying that it was a useful qualitative health check on what the Commission was thinking, others were saying that this was a forerunner, though not a very detailed forerunner, of what was going to be included in the Annual Legislative and Work Programme, but it was a little bit fuzzy as to what the purpose of it all was. If we could begin by asking you, Minister, what you feel the utility of the Annual Policy Strategy is and does it really give you, the Government, clear and coherent directions as to what the Commission is thinking for 2008?

Mr Hoon: We welcomed the idea. I suspect the Member States some years ago probably encouraged the Commission to produce such a document. It is shorter than the draft legislative programme, it should be something that is susceptible of being discussed around the European Union, it is clearly—and I do not say this unkindly—aspirational. If I make an abstract constitutional comparison, it is more of a manifesto than a Queen's Speech and to that extent there may be an element of it that we are not 100 per cent sure will actually ever be delivered, but it is a good snapshot of where the European Commission are in terms of what they would like to say. As I say, I do not say aspirational in a critical sense, but there are ambitions set out here for the European Union in a relatively short document that we would say is useful, not least because I suspect it was the Member States originally who encouraged the European Commission to produce such a document.

Q122 Chairman: It emerged from the debate in the European Parliament that the socialist Group was somewhat surprised by the omission of anything dealing with social policy in the Annual Policy Strategy. What are your views on that.

Mr Hoon: I suppose I have to declare an interest as a former member of the Socialist Group in the European Parliament. The problem with a social policy element or social protocol is that it really does depend on what it consists of, and I do not think the European Parliament Socialist Group has gone very far in indicating what they in addition would like to see. I have had fairly regular debates with former colleagues in the European Parliament about this issue and my view very strongly is that the best form of social policy for most people in the European Union is called a job. The fact that we have full employment in the United Kingdom in contrast to a number of other Member States means that the social rights of citizens in the UK are rather better protected than they would have been had they been unemployed. That really is our priority, not only for the UK economy but for the European economy,

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which is why we believe that the Commission programme, which is much closer to a UK Government than ever before, is in the right direction because it emphasises the importance of maintaining the competitiveness of the European economy whilst at the same time delivering fairness and social justice. We are not saying the two things are mutually exclusive, we are simply saying that it is our priority for both the UK and for the European Union that they should remain competitive and should have the opportunity of securing the maximum employment opportunities for its citizens possible and that we should not take decisions that are in any way damaging to that competitiveness.

Q123 Chairman: There are a number of voices in the European Parliament and one thinks particularly of ALDE, the Liberal Group, who were deploring the fact that precious little if anything—I believe a couple of lines—was devoted to the future of Europe. Our own view has been that the timing was wrong, there would not have been much point in saying much about the future of Europe until we get past the June summit and maybe even past the Portuguese Presidency and the IGC during that period. Would you confirm that you think it was the right way to go not to address this issue in the APS?

Mr Hoon: It would look slightly odd for one institution, particularly the European Commission, to be setting out a particular solution to a problem that 27 countries will have to grapple with. It would not be a surprise to say that there is no agreement as yet amongst the 27 countries as to the right way forward. It may be that the result of the French presidential election clarifies one aspect of the multi-dimensional jigsaw puzzle that we have to try and put together in June, but even then it is not entirely clear that necessarily the successful candidate's views that he has set out will find favour in 26 other countries. It was perfectly sensible, indeed it would have looked rather strange for the European Commission to articulate a way forward. To say that there should be a way forward is fine, we all have that ambition, but going any further than that would have led them into difficulty.

Chairman: Lord Tomlinson was with us in Brussels for the meetings there and would like to ask a question. Lord Tomlinson.

Q124 Lord Tomlinson: My Lord Chairman, I would just like to ask the Minister what he thinks of the Commission's priorities for 2008 as set out in this document, bearing in mind the fact that for the majority of the priorities that they stipulate, if you look at the table on page 23 of the document there are no increased resources allocated to that. How do these priorities compare with those of the Government, because when I look at this table here:

“competitiveness for growth and employment”—no increase in the allocation of resources; “cohesion for growth and employment”—no increase in the allocation of resources. Do you find it an interesting document that specifies priorities but does not attach cash to them?

Mr Hoon: Having debated with Lord Tomlinson questions about the budget in the past I know how strongly he feels about these issues, but there is an agreement to a budget review. We are very keen that the European Union should look at its budgeted priorities and clearly the Commission has a task of fitting its policy ambitions within the envelope of the budget that will be available to it. There is every opportunity in the course of the various negotiations that will take place for a reordering, for example, of the budgetary priorities for the European Union as a whole, something that I have heard Lord Tomlinson set out at great length on many occasions, so I suspect we would not necessarily disagree in terms of that reordering. In terms of the actual policies contained here, a fair reading would say what I said earlier, that the European Commission's plans and policies are probably more consistent with those of the United Kingdom Government than at any time in history and a reading of this document certainly rightly echoes the Lisbon agenda, which we strongly supported, it echoes what we set out at Hampton Court and it contains an emphasis in a number of places on energy security, tackling climate change, on questions of immigration and security against crime and terrorism that are exactly the priorities of the Government here in the United Kingdom. To that extent we are very pleased with the way they have set it out and we are pleased with our ambitions.

Q125 Lord Tomlinson: Would it be helpful then in a strategy document if the Commission might come up with a few ideas that they thought were less important for the future so that you could have some common view on where you might get a bit of extra resource for those issues where you are agreed there is a high priority?

Mr Hoon: I am tempted to bite back with a question because Lord Tomlinson has a much longer political career than I have; I cannot recall a politician ever saying that something was of a lesser priority, although there is an interesting phrase towards the end of section 1, “Human resources”, which I still do not understand, which talks about “identifying negative priorities”. Perhaps that is what the Noble Lord is referring to, but it is important and inevitable in the kind of political world in which the Commission operates that they need to set out a range of ambitions, aspirations—as I said at the outset. The issue then—and it is a very important issue, particularly for the budget review—is whether we have a match between our policy aspirations and

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our budgetary ability, which I took to be the purpose of the question. Actually, I doubt whether there is much space between Lord Tomlinson and the Government on this because we want to carry on the process that has been underway for a number of years of ensuring that the resources that are available to the European Union and how they are spent matches the political priorities set out in this document and set out by the British Government. That is a process; it is wrong to suggest that there has not been a great deal of change in the way that the budget is spent, because there has, it simply has not gone as far as we think it should.

Chairman: That was a point very strongly made by Klaus Welle and Margot Wallström and others when we met them in Brussels, that these two aspects need to be married together. Lord Blackwell.

Q126 Lord Blackwell: I wanted to follow up and press Minister Hoon a bit, if I could, on this question of whether there are some things in this programme that the UK Government would rather were not there, in particular I guess the things which strike me coming out of this are the social reality stock-check. There are a whole list of things under the heading of “Social solidarity”—a European globalisation adjustment fund to fund workers made unemployed, clarifying the application of Community law to social services, EU-wide quality criteria for social services, initiatives to modernise European labour law regarding flexicurity, initiatives aimed at the reconciliation of family and professional life. Does the Government believe these are things the European Union ought to have in its strategy?

Mr Hoon: Yes, and if I can amplify the point I made a moment ago in relation to a budget to Lord Tomlinson, it seems to me that if there is anything at all missing here—and it is a very comprehensive statement on a series of ambitions—it is how you do it. It is not just a question of resources, it is also a question of the political will to see through some of these programmes. If I had any criticism at all of the Lisbon agenda it is that it is an agenda and we have to maintain the political pressure on delivery. If I were being critical—which I am not but if I were—I would be concerned that both the Lisbon agenda and Hampton Court were relatively easy to agree politically in terms of the ambitions that the European Union has, but rather like any delivery it takes years if not decades to see them in action. I want to be more confident that there is the political will in all Member States to see these laudable programmes delivered on the ground in reality and in practice. Going back to Lord Tomlinson’s point, that means making sure that there are sufficient and adequate resources to do so.

Q127 Lord Marlesford: I would like, if I may, just to continue with Lord Tomlinson’s point because here is a document which is meant to present how the EU is moving. You talked, Minister, about reordering budgetary priorities, and this is meant to be a strategy; it shows a totally static strategy. Even allowing for the fact that the table which Lord Tomlinson referred to at page 23 is in very broad terms, it has very broad headings, there seems to be absolutely no shift in the resources between the heads and therefore nothing really to indicate that anything is changing. The implication I would draw, and you will tell me I am wrong, I hope, is that the on-going programmes are almost impossible to shift and all they are doing at the European level, as so often governments do at a national level, is to trade off the new against the new rather than the new against the old.

Mr Hoon: I am not going to repeat all the points I made about the budget. There is an opportunity, and a significant one, as part of the budget review to look at priorities in terms of spending; it is a continuing process that has been under way for very many years, so I do need to repeat that. Where I disagree is that this is a good snapshot today, if I can take your words, of how the EU is moving, because actually 10 years ago when this process began I doubt that this document would have anything like this in terms of the political priorities for the European Union, so the emphasis on tackling climate change, on immigration flows, on dealing with energy security, on security against crime and terrorism is very much the agenda agreed at Lisbon and continued at Hampton Court, it is very much the agenda that this Government wants to see the European Union have, but it is an agenda and I accept, being critical, that we have got to find ways of doing everything, not only in terms of budgetary priorities but equally the political will that is necessary to ensure that those policies have some impact across the Union. That will take time but we have to persuade other countries to invest the same degree of effort that we are prepared to make, for example, on the Lisbon agenda. I do not think we actually disagree, but I do not think we are talking about the same thing. If I come back and give you evidence about the budgetary review, which no doubt is a possibility at some stage in the future, then we can have a clearer and perhaps tougher discussion about resources. This document is not strictly about resourcing.

Chairman: Thank you very much. If there are no supplementary questions on that one then maybe we could move on to just one or two specific proposals in the Policy Strategy. I would like to ask Lady Thomas to ask a question about the European Institute of Technology.

Q128 Baroness Thomas of Walliswood: Firstly you will know that we have published an on-going report on that and we were very concerned about the

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Institute and the way it was apparently being set up in general. I do not think we have had much information as to any changes which may have been made in the proposal, although there may have been such changes. My understanding is that it may go up for agreement at the June 25 meeting, but I do not know whether that is the confirmation either. Whatever the current situation is, would you agree that it is rather curious to plan for the financial implementation of a project which has not even been approved?

Mr Hoon: I did say at the outset that this document was aspirational and the European Commission are very ambitious about the European Institute of Technology, it is something in which the European Commission collectively have invested a great deal of time and effort. You are right that the Member States have yet to actually agree a specific proposal but it is fair to say that there are continuing discussions about what the EIT might look like.

Q129 *Baroness Thomas of Walliswood:* That was clear but there was a slight possibility of scaling it down a tiny bit, but the way that the funding was going to be arrived at seemed to consist of taking little bits of odd budgetary leftovers from various other budgetary heads and then enabling the EIT to bid for contracts against other people from the social fund and other similar kinds of funds, which did not seem a very satisfactory way of setting up a new organisation. The best that could happen is that if it did get lots of good contracts it would simply be taking money away from other people who might have been bidding for very similar sorts of contracts.

Mr Hoon: It does rather depend on what emerges. We have had a very clear view that the EIT should link together existing universities, existing research facilities, using the benefits of modern technology to integrate a great deal of the work that is done across the European Union. We would have no difficulty with an outcome that was along those lines, but you are right that there have been some discussions about the budget and we have been pretty firm about the budget. Ministers at the informal Competitiveness Council on 26 April said to the Commission that they should submit a convincing and concrete funding proposal.

Q130 *Baroness Thomas of Walliswood:* That would be an improvement.

Mr Hoon: That is a fairly succinct statement of our position.

Q131 *Lord Roper:* I wonder whether you would like to comment on your assessment of the external relations proposals under Europe as a world partner and in particular how far these can really be put forward by the Commission given that a coherence in

this field obviously depends upon a good deal of interaction between the Commission and the Council.

Mr Hoon: It depends on whether the Noble Lord wants the long answer or the short answer. The short answer is that we are essentially very comfortable with the various proposals; the problem with the long answer is that I would have to go through each of them in turn. It is a fair summary of where the EU is at the present time in terms of the coherence and effectiveness of these external policies and we do not have any specific disagreements, but there is a great deal in it and it demonstrates actually the success of our external policies and the coherence of the approach that EU Member States have been able to develop in quite a range of areas.

Q132 *Lord Roper:* As far as Council and Commission relations are concerned, how far is this document something on which you feel in agreement with the high representative?

Mr Hoon: I do not know whether it has been specifically agreed with Javier. Given the institutional tensions that exist between the high representative and at least one member of the Commission from time to time I had probably better not comment on that. Do you want to say anything, Anthony?

Mr Smith: If Javier Solana was drawing up his list it would probably look slightly different to this but a lot of the things that are on the top of his mind are included in here including something related to the Balkans and the Middle East Peace Process, but not everything that he is doing. They have tried to pick out things which are both a very high priority like enlargement, the WTO negotiations, relations with key international partners like Russia, the US and others and issues on which the Commission played at least the leading role and sometimes has a crucial lead in carrying out negotiations.

Mr Hoon: Iran is not in that list, for example, which I am sure would be in Javier's list.

Q133 *Chairman:* The Policy Strategy tells us that the European Neighbourhood Policy will build on the annual evaluation of progress due at the end of 2007; the impression we have had is that the European Neighbourhood Policy has not had very much of an impact so far although today I am very happy to read that there is going to be a much bigger effort to increase co-operation in the Black Sea region which is welcome news.

Mr Hoon: If I could give the Committee a practical example of where it could have an impact, I was in the Ukraine recently—actually there has been an outbreak of agreement in the Ukraine in the last 24 hours but prior to that the only thing upon which the president and the prime minister agreed was that they

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had an ambition to join the European Union, and what they were working towards, in discussion with the Commission, was a neighbourhood programme that was not necessarily solely concerned with leading towards the European Union but which, if completed, could get them quite a long way down the track. I thought that was quite a good way of looking at the neighbourhood policy; not something that solely and automatically leads to membership but something which, if the right reforms are made, could lead in that direction and indeed would complete a great deal of the work that any aspiring member state would have to complete in order to enter into effective negotiations. The neighbourhood policy is therefore quite important.

*The Committee suspended from
16.50 pm to 16.58 pm for a division in the House*

Chairman: Minister, we have got you for another 16 minutes and, as they are saying in France at the moment with the election of President Sarkozy, fasten your seatbelts, here comes a question from Lady Symons.

Q134 Baroness Symons of Vernham Dean: My Lord Chairman, thank you very much. Minister, the document talks about working to ensure the successful completion and implementation of the Doha development round, something, I suppose, much to be desired by us all, but it couples with it proposals for the new generation of free trade agreements with important emerging economies. I seem to remember in the old days Pascal Lamy said, when he was trade commissioner, that it was impossible to pursue both, that by pursuing bilateral agreements it indicated a lack of confidence in the Doha development round. Obviously, minds have changed a bit over that but can you offer any explanation as to why, is it just catch-up with the Americans who are pursuing these bilateral agreements and does it not leave the poorer economies of Africa struggling when concentrating on agreements with important emerging economies, rather than those that are the ones that really need help and on whom the Doha development round was concentrated?

Mr Hoon: I am sure they are not inconsistent and my impression is that they are almost certainly talking about different things. The purpose of Doha is clearly to build trade questions into development issues, recognising that probably the most important aspect for a developing country in order to sustain its growth and prosperity is having access to the European market and indeed to other markets. What we are trying to do in relation to bilateral agreements with countries like India, Korea and so on is to reflect the detailed trade arrangements with countries that these days could hardly be described as developing

countries, so we are talking about two different things and therefore you are probably right that there should be a parallel process. One of the things that we have been looking at is to ensure that those parallel processes are consistent one with another, and to that extent I agree with you that it is important that there should be that degree of consistency. Shan, do you want to add anything?

Ms Morgan: You have covered everything, Minister, but simply to say that the approach is rather pragmatic to make sure that we are moving forward and not being left behind by agreements being made between other third countries.

Q135 Baroness Symons of Vernham Dean: Have we got the resources to do both in Europe?

Mr Hoon: Yes. Essentially, the key to Doha as far as the EU is concerned is the extent to which the agricultural sector is opened up to trade, and that is part of a multilateral negotiation—I will not go into the detail now and I should not need to. Equally, I think that the bilateral agreements recognise that countries like India are a completely different place now, they are advancing, industrialised economies where trade questions of a bilateral kind are increasingly important, so I just do not see the two things as being either inconsistent or, frankly, arguably about the same thing.

Chairman: Minister, the energy section is one of the cross-cutting priorities in the APS. Lord Freeman, you have a question on that.

Q136 Lord Freeman: I anticipate, Mr Hoon, that Sub-Committee B will begin work on an inquiry into the single market review which the Commission has promised to look at the better workings of the internal market. Could you comment on the priority and indeed support that HMG will give to an integrated network for the distribution of gas and electricity, and in the other half of your breath answering the question could you just comment on what other areas in terms of the single market review HMG would see a priority for—presumably not consolidation of corporation tax which is alluded to, but there are other suggestions made on page 7 of the Commission's document which might commend themselves, particularly to small and medium-sized enterprises.

Mr Hoon: The UK has rightly become the champion of the single market in a number of different fields and we want to see that completed. Financial services is an obvious area, energy is another area. The Treasury has made some calculations about the benefits to consumers of lower prices that will follow from a genuine open and consistent market across all 27 Member States. It has a further implication which perhaps is politically more difficult, which is of course that different Member States secure their energy from

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different places and one of the concerns that the UK has had for some time is our potential dependence on, if I can put it politely, troubled parts of the world; therefore, we have sought to diversify our sources of energy in a way that has not always been the case in other Member States. Therefore, a coherent view of the energy market would allow for a degree of solidarity, I suppose is the word, between different countries in facing those who might be tempted to use energy as a political lever in other kinds of discussions and negotiations. That is not unknown in the recent past and I suspect it will be an increasing feature of politics for the European Union in the future. In a sense creating a single market both is a benefit to consumers and is consistent with what we have done elsewhere, but I also see it as having a strategic implication for the European Union in allowing all 27 Member States to stand together as consumers rather than be picked off one by one by countries who might be tempted to use that leverage that large resources and reserves of gas and oil might allow for them. I do not think the proposal is quite designed yet to harmonise corporation tax, but because we would be concerned that it might lead in that direction we are resisting the idea of establishing a common tax base for corporation tax. In fact, one does logically lead to the other and it would be quite hard if there was a consistent test for the corporation tax base to resist the idea that there should be a common corporation tax.

Q137 Lord Freeman: That is perhaps a negative that I cannot find in the explanatory memorandum, not perhaps that that is the right place. Are there any other suggestions by HMG for areas that the Commission should look at in improving the single market?

Mr Hoon: I suspect that the problem is that broadly speaking most of those areas have probably been previously agreed. The issue now is the delivery and implementation; there are a number of areas in financial services, for example, where the market is not as open and as transparent as it should be.

Q138 Baroness Cohen of Pimlico: The Commission is proposing to carry out a strategic review of the EMU at the end of its first 10 years. My sub-committee, Sub-Committee A, perhaps recklessly, is in the process of conducting a similar review this year. When I say a similar review, it is hardly going to end up advising people how to improve the Euro; the subject matter that we are fundamentally considering is what are the things that have been undoubtedly achieved—the answer roughly being the sorts of things currency units do achieve—and where are the strains showing. It is a different review. Will the Government be involved in any way in the Commission's review?

Mr Hoon: I asked that question in preparing myself for this Committee meeting and Shan has gone and found the answer, so she can give it to you.

Ms Morgan: Our understanding is that the Commission has decided to produce the 10 year review in 2008, that it is not expected to ask for the views of any Member States in carrying out that review, but that we will of course have the opportunity to comment in the usual way through discussions at the ECOFIN Council.

Chairman: Does that answer your question, Lady Cohen?

Baroness Cohen of Pimlico: Yes.

Q139 Lord Roper: Will that take part in the full ECOFIN Council rather than the ECOFIN Council at the level of members of the EMU?

Ms Morgan: That is our understanding.

Q140 Lord Harrison: Minister, I have searched high and low but I think I have found a negative priority which falls under Commissioner Verheugen's better regulation reviews, especially those areas which want to cut red tape and excise regulation which is either redundant or past its time. Could you give a view from where you sit about the success or otherwise of that? Our reports are that better regulation is now beginning to bite more effectively than in the past; do you see it that way and do you think that within the APS there is more to be done to promote better regulation which, in a sense, is part of what you have said in reply to Lord Freeman about making the free and single market more effective. To throw back your own question, how do we do it? How do we improve the promotion of better regulation?

Mr Hoon: Having spent 12 months chairing the Government's own Cabinet committee on better regulation I am tempted to say with great difficulty, but I am assured that the Commission have begun to make real progress and that they have identified the first four administrative burdens to be tackled in relation to food hygiene, company law, transport and agriculture and they have been fast-tracked to agreement, that they continue to look at ways of simplifying the existing legal regulation and that they propose about 140 initiatives. I will not go through all of them but they are concerned with making legislation simpler and straightforward in relation to additives and organic standards for food manufacturers, so there is a recognition that we had placed too great a burden in terms of detailed regulation, particularly on small and medium-sized enterprises, so the approach is very much to try and find a more sensible basis for particularly smaller businesses to be able to satisfy a regulatory requirement, perhaps not to the full extent that we might expect of a larger organisation with more resources available to it.

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Q141 Lord Harrison: Do you think the pace should be quickened?

Mr Hoon: As I say, as someone who has spent 12 months struggling with this just in the context of the United Kingdom, the Commission have set themselves a very ambitious target. We support that and it is right that we should be ambitious, but this is something that will take some time to realise. All that we can say at the moment is that they have started extremely well.

Q142 Chairman: Thank you very much. Minister, let us wrap up this very useful exchange with just a little bit of reflection on your part about the extent to which, if any, the Government and extending that to the Council, really has any impact on the formulation of the Annual Policy Strategy or whether indeed you would wish it to do so. Is the Government's attitude let us wait and see what drops into the in tray and then we will have something to say about it, or do you think it is better if the Government makes its own point at some stage so that it has actually some impact on what is finally produced?

Mr Hoon: It is quite hard to describe the process, but I know what it is not. It is not the Commission going off and dreaming up a strategy all on their own and then producing this document, there are a range of contacts between the Commission and Member States at all levels, including within Member States for Whitehall departments to set out their views, they are in turn passed through up the ranks to the European Commission so that there is a dynamic process of exchanges of views and information. Whilst not being able to identify the specific parts that we have fed into this process, the fact that it has come out in a way that we are more than comfortable with does indicate that there has been a real exchange of views between Member States and the Commission. I hope all Member States feel as positively and as strongly about it as we do, but we have always had the opportunity of setting out our opinions and the Commission, as I say, probably more than ever before, are taking notice of what we say which is a good thing.

Q143 Chairman: It is more of an informal process rather than a structured dialogue between governments and the Commission.

Mr Hoon: We have formal meetings.

Q144 Chairman: There are formal meetings?

Mr Hoon: Shan knows about it, she knows the answer.

Ms Morgan: There is a mixture of a formal process of the Council responding to the Annual Policy Strategy and informally feeding into the Commission's thinking during the course of the year, and indeed we fed into the original thinking behind the five-year strategic objective paper on which this is based. Then of course there are the formal processes of negotiating the actual budget that will support this, the Policy Strategy and the legislation that flows from it, and there is the formal process of negotiating the individual proposals including the legislation that comes out of it, so it is a mix of formal and informal.

Q145 Chairman: In the initial stages when the Strategy is being formulated by the Commission is there contact, for example, between a Commissioner with a particular portfolio and corresponding ministers in governments?

Ms Morgan: There is not a process of discussion with individual ministers; there is a process of the Council co-ordinating views and feeding them in in one process.

Mr Hoon: At the level of the Government there is a parallel process for each department to set out its thoughts and they are co-ordinated through the Cabinet Office and ultimately through UKREP.

Q146 Chairman: What I am really asking is are you satisfied that the inputs of governments are adequate, do you feel reasonably content that the Annual Policy Strategy when it appears as a communication from the Commission broadly corresponds to what you would expect and that it does not give you headaches when you read it and say "My God, I wish we had known they were going to put that in"?

Mr Hoon: No, we are pretty comfortable with the results. As I say, I hope that all Member States feel that they have the same success in influencing the shape of the programme.

Q147 Chairman: It sounds as though you feel that we have as good an input as anybody.

Mr Hoon: Rather better I think.

Chairman: On that very upbeat note, thank you very much indeed, Minister, for your very valuable time, it has been very helpful to us. We will send you the transcript.

Written Evidence

Memorandum by the Centre for European Policy Studies (CEPS)

The Justice and Home Affairs Unit of CEPS welcomes the opportunity to contribute to the inquiry by the European Union Select Committee of the House of Lords into the European Commission's Annual Policy Strategy for 2008.¹ It is both our honour and pleasure. Founded in 1983, the Centre for European Policy Studies (CEPS) is among the most experienced and authoritative think tanks operating in the European Union today. Its research staff of some 30 to 35 specialists in all aspects of EU affairs is dedicated to producing sound policy research leading to constructive solutions to the challenges facing Europe today.

This submission addresses two main areas covered by the Policy Strategy which are intrinsically related to our work in the area of "Freedom, Security and Justice":

- I. Fighting Organised Crime and Terrorism; and
- II. Freedom of Movement and Managing the EU's External Borders.

I. FIGHTING ORGANISED CRIME AND TERRORISM: SECURITY VS LIBERTY IN THE EU?

1. One hears and reads with growing frequency the observation that the European Area of Freedom, Security and Justice is becoming increasingly centred on security to the detriment of freedom and justice. Although we concede that the mere repetition of an idea does not render it more true, we maintain that the principles of freedom, respect for civil liberties and fundamental rights as well as the rule of law have all too often been disregarded by recent national and EU policies. The growing number of court decisions at national, supranational and international level that have annulled or restricted new security-related legislation or executive acts provide sufficient empirical evidence to support the assumption. And, in our view, the European Commission's Annual Policy Strategy for 2008 is yet another good example.

2. Without intending to be too much of a nit-picker, in our opinion, the choice of words already hints at the underlying notion behind the Commission's agenda. When formulated in 2004 at the beginning of the Barroso Commission's mandate, the strategic objectives had been set as "Prosperity, Solidarity, Security", a triad that left no apparent place for "Freedom".² In the Policy Strategy for 2008, at least the term reappears, albeit squeezed next to security and without being thought important enough to merit a chapter of its own. Freedom, in our view, should actually be mentioned in the first place, given the fact that the EU treaties define a common Area of Freedom, Security and Justice (AFSJ) and not the other way round. Furthermore, the freedom dimension needs to constitute the premise upon which an AFSJ is constructed, developed and further promoted.

3. But it is not the mere positioning of words that gives rise to concern, but some of the envisaged key actions that stand behind these words. Presenting the 2008 Policy Strategy in the European Parliament plenary, Vice President Margot Wallström stated:

To promote security and freedom, we plan to propose new measures for managing our external borders and to set up a European surveillance system to help Member States to deal with growing flows of illegal migrants. To support the fight against crime and terrorism, we expect to see a centralised database of fingerprints becoming operational, and the Commission will also launch a policy to tackle violent radicalisation.³

4. It is astonishing to see freedom promoted by a "surveillance system" and a "centralised database of fingerprints". In particular, it is this last proposal—the centralised database of fingerprints—that has already sparked widespread concern.⁴ This concern is triggered not only by its content, but also by the fact that such a remarkable policy aim has been simply listed as one bullet point (out of three) on page 12 of the Policy

¹ Commission of the European Communities, *Communication from the Commission—Annual Policy Strategy for 2008*, COM(2007) 65 final, 21.2.2007.

² J M Barroso, "Building a partnership for Europe: Prosperity, solidarity, security", Speech/04/375, 21 July 2004.

³ M Wallström, *Statement on the Commission's Annual Policy Strategy*, Speech/07/141, 13 March 2007.

⁴ "Central fingerprint database plan draws fire from all over EU", Timesonline, 16.3.2007 (retrieved from www.timesonline.co.uk on 11.4.2007); "Fingerprint database creates storm", *The Australian*, 16.3.2007, (retrieved from www.theaustralian.news.com.au on 11.4.2007).

Strategy without being further elaborated in the descriptive part of the text. As MEP Baroness Sarah Ludford commented:

We are bombarded with proposals for police or intelligence services' access to EU immigration or border control databases, as well as transatlantic insistence on access to passenger name records and bank account data. But an EU fingerprint database is so mind-blowing that it will create an unholy alliance of Europhobes and civil libertarians.⁵

5. Another key action envisaged for 2008 and mentioned under the headline "Fighting organised crime and terrorism" is the Commission's aim to strengthen the cooperation between member states through EUROJUST in investigating and prosecuting cross-border and organised crime. After being established by a Council decision in 2002, EUROJUST has in fact slowly but steadily established its crucial role as the practical contact point for European cooperation of national prosecutors and judges with a growing number of cases and a tangible added value.⁶ In the fifth year of its existence, ie 2007, the Commission plans to launch a consultation process on the future of EUROJUST.⁷ There are three aspects that in our opinion should be subject to further scrutiny during this process and beyond.

6. First, there is the issue of "forum-shopping". One of EUROJUST's tasks is to suggest to national authorities which jurisdiction is "in a better position" to undertake an investigation or to prosecute specific acts.⁸ "Better position", however, is not further defined and might imply that a jurisdiction is in fact "better" where legal obstacles like admissibility of evidence or other procedural rights are lower, therefore making a conviction more likely. It is encouraging to observe that EUROJUST has addressed this issue internally and has drawn up "Guidelines for deciding which prosecution should prosecute".⁹ These guidelines provide inter alia that "prosecutors must not decide to prosecute in one jurisdiction rather than another simply to avoid complying with the legal obligations that apply in one jurisdiction but not in another". However, these rules are merely internal and without binding legal force. EUROJUST's existing legal base does not explicitly forbid the practice of "forum-shopping". It cannot be excluded therefore that under specific circumstances, eg political pressure to achieve results in high-profile cases but also in the course of day-to-day work, distinctions between "law-enforcement friendly" and "defence-friendly" jurisdictions might be drawn and national authorities accordingly advised.

7. Second, the relationship between EUROJUST and EUROPOL seems not yet to have been definitely set. While there are working agreements between the two, the more general questions of which body serves the other and which body controls the other are (intentionally?) left open. We consider it necessary that a clear allocation of tasks is foreseen reflecting the distinction made in many member states—with some exceptions, notably the UK and Ireland—between the judiciary and the police, in which the prosecutor controls and leads the criminal investigation and the police force renders practical assistance.

8. Third, regarding the principle of "equality of arms" in criminal procedures, we consider it a considerable setback that there is thus far no legal framework envisaged that would facilitate effective cross-border cooperation of defence lawyers. Existing structures are based on private initiatives that are not institutionalised and do not guarantee that every suspect who faces international investigations is able to enjoy the benefits of an international defence team. To address this shortcoming, the Council of Bars and Law Societies of Europe (CCBE) has proposed establishing a European Criminal Law Ombudsman whose task not only would be to safeguard the rights of defence but also to provide help assembling international defence teams.¹⁰ While this proposal is still under discussion in professional circles and may not be the final answer,¹¹ it nevertheless illustrates that there is a need to create a European legal framework and European structures that would allow for an equality of arms.

9. With respect to the last key action foreseen for 2008 in the field of "organised crime and terrorism", we welcome the Commission's plan to address the issue of radicalisation. Several studies on this matter have already been released or are currently being carried out. To prevent people from turning to terrorism is in fact one of the four pillars of the EU's Counter-Terrorism Strategy of 2005.¹² Also in 2005, the Commission released a Communication addressing violent radicalisation and recruitment of terrorists and in 2006, set up

⁵ S Ludford, *EU fingerprint database—Euro big brother?* (retrieved from www.sarahludford.libdems.org.uk on 11.4.2007).

⁶ See Council of the European Union, EUROJUST Annual Report 2006, Council doc. 7550/07, 21.3.2007.

⁷ Council of the European Union, EUROJUST Annual Report 2006, Council doc. 7550/07, 21.3.2007, p. 74.

⁸ Articles 6 (a) (ii) and 7 (a) (ii) EUROJUST Council decision, OJ L 63, 6.3.2002, p. 1.

⁹ Annex to EUROJUST Annual Report (2003).

¹⁰ Proposal by the CCBE for the establishment of a European Criminal Law Ombudsman, December 2004.

¹¹ Cf H Jahae, "The European Criminal Law Ombudsman", speech delivered at the ERA Seminar held 7 April 2006 in Trier (www.ecba.org/cms).

¹² Council of the European Union, *The European Union counter-terrorism strategy: Prevent, protect, pursue, respond—The European Union's strategic commitment to combat terrorism globally while respecting human rights, and make Europe safer, allowing its citizens to live in an area of freedom, security and justice*, Council doc. 14469/4/05, 30.11.2005, pp. 7–9.

an expert group on violent radicalisation.¹³ The issue is of utmost importance and it is to be hoped that the Commission—while developing its policy on radicalisation—will not only be inspired by the 2008 European Year of Inter-Cultural Dialogue but will also take account of as many findings as possible to get a coherent picture, including eg the most recent study of the Oxford Research Group of April 2007 addressing *inter alia* the impact of the “war against terrorism” on radicalisation.¹⁴ The Commission’s policy scheduled for 2008 on tackling violent radicalisation will require close scrutiny once concrete proposals have been made public.

10. In addition, careful attention needs to be paid while considering the “lack of integration” as a cause of radicalisation and consequent acts of political violence qualified as terrorism. This continuum may endanger human rights and liberty in general, and put “the immigrant” into a highly vulnerable position *vis-à-vis* the State and the receiving society. Various studies have shown that this often leads to a situation in which “the non-national” is encapsulated into a category of suspect, criminal or even terrorist.¹⁵ The securitisation of integration of immigrants needs to be condemned and deplored by stating as a premise that an “immigrant”, or “the citizen” who is still considered as such because of his or her particular ethnic origin, is not a criminal, a threat or a security issue, and by acknowledging the multiplicity of factors that take part in any social conflict, instability and acts of political violence at national and transnational level.¹⁶ In this way, the EU should rethink its discourse and overall approach towards groups of its citizens (and non-citizens) who, independently of their nationality, are still considered and treated as “different” because of their racial and religious backgrounds.¹⁷ “Integration” policies at the EU level need to be guided and translated into a transnational policy fostering equality of treatment, social inclusion and non-discrimination in a diverse Europe.

11. To conclude, the chapter on “Security and Freedom” in the Annual Policy Strategy for 2008 gives the impression that there seems to exist a certain perception within the Commission that freedom is a natural by-product of security: implement security and freedom will automatically tune in. Such a perception, however, would in fact be rather new. Up until now, a notion has persisted that freedom and security are antithetical values requiring a “balance”. In our view, however, neither notion represents a proper approach. Instead, we consider the EU to be rooted in the principle of freedom. Security—as important as it is—eventually is merely a tool in support of freedom and not an objective for its own sake.¹⁸

II. FREEDOM OF MOVEMENT AND MANAGING THE EU’S EXTERNAL BORDERS: A CROSS-CUTTING PRIORITY

12. The Annual Policy Strategy identifies the management of migration and the EU’s common external borders as cross-cutting priorities for the year 2008. The EU’s current strategy in these areas generally consists of strengthening the security rationale at the common EU external territorial borders through an integrated border management (IBM) policy combined with a global approach to migration. The European Commission calls for a multifaceted approach aimed at a “global” and “comprehensive” response to migration, and which is primarily based on the reinvigoration of a transnational policy intending to prevent irregular immigration, counter human trafficking and protect its external borders. It is our view that the real nature, impact and actual effects of the intersection between migration and borders need to be further explored and assessed from a human rights and rule of law perspective. In fact, both the integrated and the global approaches appear to constitute a new political strategy whose real purpose is to present in a more innovative manner the vision according to which more security measures at the common external borders are the appropriate solution to the challenges facing the EU in the areas of borders and migration. This policy strategy fosters the securitisation of the common external borders through operational cooperation, risk analysis, exchange of information and the use of modern technologies,¹⁹ the preferable response for tackling the phenomenon of irregular immigration.

¹³ Commission of the European Communities, *Communication from the Commission to the European Parliament and the Council concerning Terrorist recruitment: Addressing the factors contributing to violent radicalization*, COM(2005) 313 final, 21.9.2005; Commission decision of 19 April 2006 setting up a group of experts to provide policy advice to the Commission on fighting violent radicalisation, OJ L 111, 24.4.2006, pp. 9-11; see also P Burgess, *Critical assessment of Commission of the European Communities, Communication from the Commission to the European Parliament and the Council concerning Terrorist recruitment: Addressing the factors contributing to violent radicalisation*, COM(2005) 313 final, (retrieved from www.libertysecurity.org on 11.4.2007).

¹⁴ C Abbot, P Rogers and J Slobodan (2007), *Beyond Terror: The Truth About the Real Threats to Our World*, New York: Random House.

¹⁵ E Brouwer, P Catz and E Guild (2003), *Immigration, Asylum and Terrorism: A Changing Dynamic in European Law*, University of Nijmegen, Nijmegen.

¹⁶ S. Carrera (2006), “Integration of Immigrants versus Social Inclusion: A Typology of Integration Programmes in the EU”, in T. Balzacq and S. Carrera (eds), *Security versus Freedom? A Challenge for Europe’s Future*, Ashgate: Hampshire, pp. 87-114.

¹⁷ T Balzacq and S Carrera (2005), *The EU’s Fight against International Terrorism: Security Problems, Insecure Solutions*, CEPS Policy Brief No. 80, Centre for European Policy Studies, Brussels, July.

¹⁸ See D Bigo, S Carrera, E Guild and R Walker (2007), *The Changing Landscape of European Liberty and Security: Mid-Term Report on the Results of the CHALLENGE Project*, CHALLENGE Paper No. 4, February, pp. 14-15.

¹⁹ D Bigo, S Carrera, E Guild and R Walker (2007), *The Changing Landscape of European Liberty and Security: Mid-Term Report on the Results of the CHALLENGE Project*, CHALLENGE Paper No. 4, February, pp. 7-9.

13. FRONTEX, the new European Agency responsible for managing operational cooperation at the EU's external borders, is presented as the key institutional actor in charge of implementing the global and integrated polices on borders and migration. The European Commission foresees in 2008 the expansion of its capacities and functions by improving the networking of sea border controls and the implementation of a European surveillance system aimed at helping member states to deal with growing flows of irregular immigrants. Moreover, the Communication also envisages increasing the financial resources to FRONTEX by €10.9 million in 2008. Before expanding further the competences, capacities and financial resources of FRONTEX, the joint operations, risk analysis and feasibility studies carried out by this Community body should be subject to a close scrutiny, review and regular independent monitoring.²⁰ A majority of its functions, and the way in which they are being implemented in the national arena, suffer from a high level of secrecy and lack of transparency. This raises a series of concerns for the sake of the rule of law and the compliance with principles of European Community (EC) law, such as proportionality and legality. One way to solve some of these weaknesses would be to more directly involve the European Parliament in order to ensure that the rule of law and the principle of proportionality are duly guaranteed. The well-established democratic checks and balances founding the very nature of Community governance would need to come actively into play. Further, the Agency would need to ensure that EC law (more particularly the Schengen Borders Code), and the legal guarantees provided therein, guide every single action related to the management of the common EU external borders that it coordinates.

14. Indeed, one of the main tasks of FRONTEX is to coordinate operational cooperation between the member states in the management of the external borders.²¹ In this regard, FRONTEX still remains vulnerable in terms of its independence from the highly politicised agenda in the field of borders and migration. This is partly due to its dependence on member states' solidarity for it to be able to operate, and its sensitivity to emergency-driven situations politically constructed in the national arena. In the light of this, there is a need for FRONTEX to become fully immune and independent from the political struggles, priorities and "solidarity" actions of the member states. Furthermore, while FRONTEX's mandate would be significantly enhanced with the adoption of the Proposal for a Regulation establishing Rapid Border Intervention Teams, the establishment of these teams still raises a number of questions as regards the way in which some of their tasks and functions would work in practice.²²

15. In parallel, the European Commission aims at deepening the "external dimension" based on a migration-development agenda, taking the case of Africa in particular into consideration. In fact, current practices of "border control" rely heavily on the extra-territorialisation of control and prevention of human mobility to the common European area. This action is often carried out via partnerships and agreements with third countries of origin and transit allowing for the expansion of control to their territory as well as in terms of readmission and return of those labelled as "irregular immigrants". These actions, however, raise a number of serious concerns, among others, as described below.

16. First, they may lead to human rights violations in relation to the status of refugees.²³ The process of prevention that underlines this kind of pre-border control presupposes a practice of labelling an individual as an "irregular immigrant" even before s/he leaves the country and enters EU territory. This preventive action ignores the fact that the targeted individual may not be in fact an "illegal" but a potential asylum-seeker or refugee. The presupposition of "illegality" and the preventive border may contravene the full respect of human rights and the facilitation of due access to a determination procedure and a case-by-case assessment for refugee status as stipulated by the 1951 Geneva Convention relating to the Status of Refugees.

17. Second, the resort to pre-border surveillance prevents the application of European Community law and the rule of law. Because the border checks do not fall within the realm of Community governance, nor under the scope of European Community law, the protection and guarantees thereby provided do not apply. By externalising the border, the actual consequences and effects of the joint operations coordinated by FRONTEX are framed outside the well-established democratic checks and balances inherent to the European Community.

²⁰ S Carrera (2007), *The EU Border Management Strategy: FRONTEX and the Challenges of Irregular Immigration in the Canary Islands*, CEPS Working Document No. 261, March.

²¹ H Jorry (2007), *Construction of a European Institutional Model for the Management of Operational Cooperation at the EU External Borders: Does the FRONTEX Agency take a decisive step forward?*, CHALLENGE Research Paper No. 6, March.

²² Standing Committee of Experts on International Immigration, Refugee and Criminal Law, Comment on Proposal for a Regulation establishing a Mechanism for the Creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism (COM(2006) 401, 24 October 2006. Proposal for a Regulation establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism COM(2006) 401, final, Brussels, 19.7.2006.

²³ See for instance Federación de Asociaciones de SOS Racismo del Estado Español (2006), *Informe Frontera Sur, 1995 – 2006: 10 años de violación de los derechos humanos*, (retrievable from: www.sosracismo.org); Amnesty International (2006), "Addressing Irregular Migration with full respect of Human Rights", Letter by Dick Oosting and Frank Johansson, 2 October 2006; Amnesty International (2005), "Immigration Cooperation with Libya: The Human Rights Perspective", 12 April 2005.

18. The external dimension of migration needs to be strictly guided by the principles of freedom, security and justice upon with the Union is built. The rule of law provided by the regulatory setting that has been constructed so far inside the European Community should be the rationale followed by every aspect related to the external dimension inherent to the current concept and implementation of Integrated Border Management and the global approach to migration.

*Sergio Carrera & Florian Geyer*²⁴

April 2007

Memorandum by the City of London Corporation

SUBMITTED BY THE OFFICE OF THE CITY REMEMBRANCER

INTRODUCTION

1. The City of London Corporation welcomes the opportunity to comment on the European Commission's Annual Policy Strategy for 2008. The City has for some time been seeking to highlight the importance of thorough and detailed scrutiny of EU legislation by Parliament, in addition to trying to ensure that directives which emanate from the EU are both principles-based and proportionate.

2. The City Corporation's particular focus has been on financial services and in this context the City fully supports the Government's desire to bring about a fully functioning single market in wholesale financial services, recognising that such harmonisation would be beneficial to economic growth in the UK and EU. More generally the City has a growing interest in environmental issues, particularly climate change and emissions trading, and also in the wider better regulation agenda. The following paragraphs reflect the City Corporation's views on those elements of the Annual Policy Strategy which are of particular interest to its activities.

ENERGY AND CLIMATE CHANGE PACKAGE

3. The City Corporation is actively monitoring EU developments in the area of climate change reduction policies. Last autumn, the City of London published research on the EU Emissions Trading Scheme,²⁵ particularly on how the markets had developed in London. This research has been used in the London and Brussels context to influence the policy debate as the EU ETS is reviewed and extended beyond 2012. In addition, the City of London has recently launched a research project—"London Accord"—with the aim of identifying the best climate change reduction technologies for investment, with expected consequent implications for policy-makers. It is also intended to inform initiatives to promote adaptation to environmental challenges alongside sustainable production and consumption. The project has, so far, generated considerable interest and City firms have pledged research services conservatively valued in excess of £4 million.

FOLLOWING UP THE CONCLUSIONS OF THE SINGLE MARKET REVIEW

Implementation/post-implementation reviews

4. The key concern for the City of London in the immediate future is the continued transposition and implementation of the Financial Services Action Plan (FSAP). Towards the end of 2007 a major element of the FSAP—the Markets in Financial Instruments Directive (MiFID)—will be implemented across Member States. The City wishes to see consistent implementation of EU legislation across the Union to ensure that the benefits of wholesale financial markets liberalisation are fully realised for the industry and ultimately the consumer.

5. Other pieces of existing FSAP legislation will also be reviewed in the next two years, as indeed will be MiFID, with a potential extension of some of its provisions to the bond and commodities markets. There is always the fear that evaluation might open up avenues for the EU institutions to revise legislation and demand further, more detailed rules which could lead, in effect, to the creation of a FSAP II. The experience with the review of the Investment Services Directive which led to the Markets in Financial Instruments Directive (MiFID) is a prime example in this regard. Whilst there appears to be no explicit commitment to "FSAP II"

²⁴ Sergio Carrera and Florian Geyer are Research Fellows in the Justice and Home Affairs Unit of CEPS.

²⁵ "Emissions Trading and the City of London", Consilience Energy Advisory Group Ltd, published by the City of London Corporation, September 2006.

on the agenda, at least for the time being, further legislative intervention at EU level in the area of financial services regulation remains a possibility at a time when the City would argue greater emphasis should be placed on ensuring consistent implementation of existing legislation across Member States.

6. The City of London Corporation commissioned research from the European Policy Forum, published last year,²⁶ which looks at the ex-post evaluation and audit of European legislation and puts forward a number of suggestions for initiatives such as evidentiary hearings to evaluate the success of individual pieces of legislation. Some in the City have however expressed caution over promoting the idea of ex-post evaluation of Regulatory Impact Assessments (RIAs) and should be wary about going too far along this route if the spirit of “Better Regulation” is not properly embedded first.

Expected EU legislative developments: wholesale to retail

7. With regard to expected legislative proposals from the European Commission, the proposal on reviewing the solvency requirements of insurance companies, the so-called “Solvency II” package is of considerable interest. Work is also expected to begin in the middle of the year on the review of parts of the EU legislation covering retail investment funds, the so-called UCITS legislation. The debate on the need or otherwise for regulation of alternative investments—namely hedge funds and private equity—is also expected to figure in this area, although legislative measures are not currently expected.

8. As the leading international financial centre in the EU, the City of London must also take careful account of the impact of EU legislative requirements on the international business environment. One particular area where this is relevant is the Directive on Statutory Audit, which concerns cooperation with non-EU jurisdictions on auditor oversight. Whilst the City broadly supports the objectives of the Directive, it is imperative that the subject is handled cautiously as implementation has the potential to invalidate current audit arrangements of listed companies. The Directive must be implemented in such a way as to promote high standards of corporate governance whilst ensuring the EU market retains its attractiveness to third country issuers.

9. Increasingly, the financial services agenda in Brussels is turning to retail and consumer aspects, with a prevalent feeling that retail financial services markets across the EU remain fragmented. The European Commission is expected to bring forward a Communication (White Paper) on proposals for action in this area in the late spring. At the same time, outstanding legislative initiatives in this area include the proposed directive on consumer credit and the payment services directive. Retail financial services are not an area the City of London has prioritised in the past, with its focus on the wholesale side. The City Corporation will, however, monitor developments closely to ensure that there is no spill-over of retail regulatory approach into the wholesale sector.

Pan-European supervision of financial services

10. An important work strand linked to the single market in financial services is the current review of the Lamfalussy Process. The Lamfalussy Process is the comitology approach to legislating EU financial services, incorporating a separation of principles-based legislation drafted and adopted by the EU institutions and technical implementing rules drafted by national regulators and supervisors, with final adoption by the EU institutions. The Lamfalussy Process, which was introduced into the securities area in 2002 and later extended to the banking, insurance and pensions areas, is being evaluated during 2007. While considerable focus will be on how the process has worked during the current round of legislative activity at EU level, there will be some reflection on how the regulation and supervision of financial services could evolve in the medium-term. The City strongly supports the Lamfalussy process, noting that in combination with the Commission’s 2005 White Paper on Financial Services, it has delivered better legislation that is more responsive to the needs of the markets. The current supervisory framework is fundamentally sound, and the City looks forward to the Inter-Institutional Monitoring Group’s recommendations for improving the effectiveness of the existing framework.

11. The City believes that the current structure works well and that any moves towards centralisation in an EU supervisory institution (or a single regulator) would be premature, before resolving a host of complex legal and political issues reflecting Europe’s cultural diversity, on which there is at present little consensus on the way forward; for example, it is argued that a single regulator would require the harmonization of all of the substantive law affecting financial services across the Union, as well as a single fiscal authority, and a EU-wide deposit guarantee scheme. While debate over creating a single regulator at EU level continues, there is still

²⁶ “Evaluating Better Regulation: Building the System”, European Policy Forum, published by the City of London Corporation, September 2006.

considerable interest in exploring how regulation can be adapted to the changing landscape of EU wholesale financial services. The City of London is engaged in this debate and is seeking to influence views in Brussels in the run-up to the publication of important reports in the autumn.

12. The City has welcomed the European Commission's self-regulatory approach to the issue of Clearing and Settlement, where it has opted for a voluntary Code of Conduct drawn up by industry aimed at creating a more efficient clearing and settlement infrastructure across the EU. On a related issue, the European Central Bank (ECB) has recently proposed to provide securities settlement services in central bank money for euro-denominated securities, (TARGET 2 Securities or T2S). The City is working closely with the ECB as it develops its proposals. It is vital that the users of this system are fully involved in its governance. For the project to succeed any proposal must offer a manifestly better alternative to other possible solutions. The main aim should be the creation of efficient, deep, liquid capital markets backed up by a strong settlement system.

STRENGTHENING CONSUMER TRUST AND PROTECTION

13. The City has noted the Commission's proposal to review the consumer acquis whilst the work on the "common frame of reference" for contract law is proceeding. Whilst no issue is taken over this approach, the City remains firmly of the view that the work on contract law should be directed towards establishing a handbook of defined words and expressions to help legislators in achieving greater consistency in EU lawmaking. The City does not support the development of a pan European "optional instrument" governing contractual obligations or any form of European Civil Code.

14. The City believes that any Regulation replacing the current international convention on contractual obligations ("Rome I") should not be over prescriptive and in particular should maintain the current entitlement for the parties to choose the law by which contractual obligations are to be governed.

COMMON CONSOLIDATED CORPORATE TAX BASE (CCCTB)

15. The CCCTB is one of Commissioner Kovacs' main priorities during his period as Tax Commissioner. The European Commission has been working in this area for the last couple of years and formal proposals to introduce a CCCTB are expected in 2008. The proposals are to be justified as a means of simplifying the tax arrangements of European companies with operations across EU Member States. There is, however, a concern that such proposals, if enacted, would be a first step towards a single corporate tax rate across the EU. The City of London would have grave concerns about such an outcome. Given the strong opposition from a group of Member States, however, including the UK, it is highly unlikely these measures would be adopted unanimously. It is to be expected that the Commission will proceed on the basis of enhanced cooperation, with a group of Member States deciding to agree to the policy proposal. With taxation commonly cited as an important factor for City practitioners, the UK will need to position itself carefully during negotiations so as to ensure there are no detrimental effects to UK competitiveness.

ECONOMIC AND MONETARY UNION

16. Whilst the Government's position remains that the UK should continue to opt-out of the single currency, the euro is nevertheless of considerable importance to the City in terms of trade with some 70 per cent of all Eurobonds traded in London. Given the range of practitioners represented in the Square Mile and the diversity of opinion as to the merits of the single currency or otherwise, it is very difficult for the City of London Corporation to make a judgement one way or the other and comment on the single currency. The Committee may however be interested in comments relating to a "non-currency-dimension" of EMU reflected in research recently published by the City of London.²⁷ Some of those interviewed by the authors for the research expressed concern that the UK is not routinely involved in some decisions on financial structural matters that now take place as a matter of course within the Eurozone at both Finance Minister and Central Bank Governor level. One of the issues arising from the UK's non-participation in the Eurozone referred to in the research is the fact that although developments within the Eurozone are of direct concern to the financial

²⁷ "The Competitive Impact of London's Financial Market Infrastructure", Bourse Consult, published by the City of London Corporation, April 2007.

services industry in London, the industry is not represented in discussions about them. This has given rise to the perception that decisions may be made within the Eurozone at Finance Minister or Central Bank Governor level without reference to the UK, and could have an adverse impact upon the whole sector.

17. The most obvious example of this aspect of the UK's position outside the Eurozone is the debate currently taking place over T2S, the desire by the ECB to build a settlement operation for the Eurozone as a whole. The research concludes that there seems to be no overt desire on the part of players such as the ECB deliberately to exclude the London community from their deliberations. Indeed, in the case of T2S the ECB has already had exploratory discussions in London. The fact remains, however, that combining the UK's non-participation in the Eurozone with the apparent desire of the Bank of England to confine its role quite narrowly to monetary policy is producing a clear and forceful perception in the City that its interests are in serious danger of being under-represented in discussions within the Eurozone.²⁸

EUROPE AS A WORLD PARTNER

18. The City of London is following current developments in this area closely. As a pre-eminent international financial services centres, the City has an interest in maintaining the global competitiveness of EU wholesale financial services. The City is supportive of the European Commission's attempts over recent years to integrate better the external dimension into its policy making processes.

19. There is currently considerable focus on the EU-US transatlantic market-place, with discussions covering the potential extension of mutual recognition in certain areas, including securities, between the two jurisdictions. The German Presidency of the EU under Chancellor Merkel took the lead in this area by proposing that a deadline be set for the creation of a transatlantic marketplace, and the Presidency has been working to build support for this initiative over the last few months. This builds on existing work undertaken by the European Commission and its regulatory agency counterparts in the US on building a regular informal dialogue in the area of financial services, which has produced notable successes. The key in these discussions will be the decisions made as to the nature and level of mutual recognition and/or convergence of rules in the financial services area, as well as the political commitment given on both sides of the Atlantic. Another important aspect will be to ensure that bilateral initiatives do not fragment the multilateral approach in the WTO, and as such it will be important to ensure coordination with other jurisdictions at the relevant stage.

20. Relations with other third countries remain high on the EU agenda, and this is work the City of London supports. The creation of City Offices in China and India represents the increased importance of the UK's links with these countries, and the City is pleased to see priority given to the conclusion of revised partnership agreements with these countries.

BETTER REGULATION²⁹

21. The City of London has long promoted the principles of better regulation at EU level. This has notably been achieved through the City Research Programme, which to date has published three major publications on the topic.³⁰ Each of these reports has served to influence the debate in Brussels and it is encouraging to note the progress being made. Of particular note is the creation of an Impact Assessment Board within the European Commission. This Board, composed of senior Directors from the leading directorates in the economic, social and environmental fields, reports directly to Commission President Barroso on the quality of impact assessments drafted by Commission services to accompany legislative proposals. The creation of this Board should provide stakeholders with an additional means of drawing legislators' attention to poorly designed impact assessments before legislation is formally proposed.

22. Work continues on the programme to reduce the administrative costs of implemented legislation and the simplification programme. Regarding the latter, work has not proceeded as rapidly as might have been wished, partly due to the choice of measures to be simplified, but also due to the fact that decisions on repeal or amendment or subject to the normal EU decision-making processes (ie in many cases co-decision).

23. A potentially important recent development has been the adoption by the Commission of guidelines for the ex-post analysis of impact assessments. Essentially, this provides for a systematic review of the initial basis for EU legislation once the final measures have been implemented in the Member States, effectively closing the circle. It is intended that this work feeds back into the policy-making process to ensure that "lessons

²⁸ *ibid.*

²⁹ Comments included at paras 5 and 6 are also relevant in this context.

³⁰ "Reducing the Regulatory Burden: The Arrival of Meaningful Regulatory Impact Analysis", European Policy Forum, published by the City of London Corporation, July 2004; "Rebalancing UK and European Regulation", European Policy Forum, published by the City of London Corporation, April 2005; "Evaluating Better Regulation: Building the System", *op cit.*

learned” are incorporated at the earliest stage. The City of London supports these developments and indeed recently invited one of the Commission’s lead officials on the project to speak at a meeting with City practitioners in London.

Mr Bruce Hunt

Senior Parliamentary Affairs Officer

April 2007

Memorandum by the Commission for Racial Equality (CRE)

1. The Commission For Racial Equality (CRE) welcomes the opportunity to respond to the European Union Committee’s scrutiny of the European Commission’s Annual Policy Strategy for 2008 (APS 2008). The CRE will aim in its submission to make comments of a general and of a specific nature on the provisions of the APS 2008 text on issues around equality and human rights. As the UK moves towards an integrated approach to equality and human rights, with the creation of the Commission for Equality and Human Rights (CEHR)—which will be operational from October 2007—the CRE considers a “cross strand” approach to its comments on the APS 2008 to be germane.

2. The CRE welcomes that the APS 2008 states that there is political consensus in the European Commission (EC) on the policies it needs to deliver in the social, economic and environmental fields. The CRE considers that the EU is an appropriate actor to help to address two of the most important challenges facing the UK in the 21st century: how we live with one another and how we live on the planet. The APS 2008 contains a number of significant and positive proposals in the social and equality fields and we will monitor closely the Commission legislative Work Programme of 2008 to ensure that the proposals are followed up.

3. The CRE welcomes the proposal to follow up concretely on the EC paper on “Europe’s social reality”, which was published in early 2007 by the EC Bureau of Economic and Policy Advisers. The paper’s comprehensive stock-take of the EU’s social situation outlines of future options and a fresh approach to EU social and equality policy making. It gives a comparative analysis of member states that are relative leaders—and laggards—in this area. From the CRE’s perspective, this comparative analysis is a useful starting point for consideration of policy options and future joint actions at the level of the EU.

4. The APS 2008 states that the time is ripe for new policy initiatives in the field of social policy and the CRE, and eventually the CEHR, will feed into the on-going consultation on “Europe’s Social Reality”. The EC’s formal consultation on the review of the Social Policy Agenda, will also be a prime focal point for the CRE.

5. Of most significance for the CRE (and most likely for the CEHR) is the EC proposal to extend and reinforce its equal opportunities policy. New initiatives designed to prevent and combat discrimination outside of the labour market are welcomed in particular, especially for those areas of equality which currently do not enjoy the same level of protection against discrimination provided in the EU Race Directive (2000/43/EC).

6. The CRE considers that religion, belief, disability, age and sexual orientation all merit similar level and scope of protection as provided for in the EU Race Directive. Indeed, the CRE has considerable experience of working on religious discrimination and therefore considers that a “leveling up” of other grounds, including religion, is important. In this regard, the UK has already gone further in the direction of “leveling up” of all grounds of discrimination; its experience in this area (most recently in the field of goods and services) might be of use to the European Commission when it comes to drafting future legislation/ initiatives under article 13 as it has promised to do in its APS 2008.

7. The CRE also welcomes the proposal in the APS to reconcile work and family life. This issue is seen at the level of the EU largely through the prism of employment legislation, and especially the piece of legislation relating to the regulation of working time. The commitment in the APS 2008 for an “initiative aimed at the reconciliation of work and family life” may have to take a more nuanced approach to the broader issue of reconciling work and family life; it is indeed important to have in mind employment rights, but as the findings of the 2007 UK Report of the Equalities Review concluded, equality bodies such as the CEHR will have to consider carefully what policy should be in place to help mothers and fathers to balance paid work and caring between them, at the same time as fulfilling their obligations to their employers.³¹ Moreover, the Equalities Review also unearthed a more complex picture of the issues facing working mothers; not only is there an employment disadvantage facing women, particularly the mothers of young children, but the mothers of disabled children face worse disadvantage and are twice as likely not to be working compared to women with non-disabled children.

³¹ *Fairness and Freedom: The Final Report of the Equalities Review*, Page 77 <http://www.theequalitiesreview.org.uk/upload/assets/www.theequalitiesreview.org.uk/equalities—review—fairness—and—freedom.doc>

8. The CRE hopes to work with the EC and bring the UK experience to the table of reconciling work and family life. We know from different sources that some member states are particularly good at making work and family life compatible—namely the Nordic countries—and we look forward to knowing whether these countries' successful policies can be spread elsewhere in the EU, and whether there ought to be a more nuanced approach to the EU debate on work-life balance, that takes into account the different experiences of women, which may vary on their ethnic background, the number and age of their children and whether other factors, such as disability, need to be factored into the equation.

9. Finally, with regard to key actions envisaged in the APS 2008 for Security and Freedom, the CRE was interested to note (another) new policy aimed at tackling violent radicalisation. The CRE and the future CEHR will be interested to know how this policy will differ from previous attempts at the level of the EU to address the root causes of terrorism. The CRE is concerned that any new EU policy should pay serious consideration to the discriminatory effects against certain groups of both policies on and the general discourse about tackling violent radicalisation. Debates in some EU member states have been very negative towards Muslims communities. The CRE is keen that any policy to tackle violent radicalisation begins by outlining that only tiny numbers of some religious groups resort to extremism and that a progressive analysis of socio-economic factors is a necessary counterweight to the debate and policies on tackling violent radicalisation.

Response by Roisin Donachie, Head of European and International Relations, on the behalf of the Commission for Racial Equality

24 April 2007

Memorandum by the Equal Opportunities Commission (EOC)

The Equal Opportunities Commission (EOC) welcomes the opportunity to respond to the inquiry of the House of Lords European Union Select Committee into the European Commission's Annual Policy Strategy for 2008.

EQUAL OPPORTUNITIES

The EOC welcomes the European Commission's focus on major challenges such as energy and climate change, the Lisbon Agenda for growth and jobs and migration. In particular the EOC welcomes the fact that as a follow-up measure to the European Year of Equal Opportunities for All the Commission plans to extend and reinforce its equal opportunities policy such as:

- Initiatives to combat discrimination outside the labour market (based on gender, religion, belief, disability, age or sexual orientation);
- Initiatives aimed at the reconciliation of family and professional life; and
- Promoting and protecting fundamental rights, including action regarding the rights of the child.

Discrimination and inequality still persist. The European Commission's 2007 annual report on equality between women and men (COM (2007) 49 final) for example revealed that despite progress, major gaps of inequality between women and men remain: women on average in the EU still earn less than 15 per cent than men for every hour worked.

Urgent action is needed to speed up progress towards greater gender equality and it is particularly important that gender equality is mainstreamed into the Commission's Policy Strategy. This has not been done fully so far, which means that the EC appears not to have fully complied with its own guidance on how equality should be addressed.

In practice, mainstreaming of gender equality into would EC's Annual Policy Strategy for 2008 would involve linking it to the initiatives announced in the 2006–2010 roadmap for equality between women and men (COM (2006) 92 final) and the evidence from the 2007 annual report. Progress on initiatives announced for 2007 needs to be secured, such as:

- Gender equality manuals for actors involved in the open method of coordination on pensions, social inclusion, health and long-term care.
- Communication on gender pay gap.
- New Gender Equality Index.

WE would also like to see the policy strategy refer to the launch of the new European Gender Institute and to publication of a report on the state of implementation of the Roadmap (which is something promised in the Roadmap document).

GENDER DIMENSION OF THE LISBON STRATEGY

The European Commission was right to stress in the Roadmap that the gender dimension of the Lisbon strategy for jobs and growth must be strengthened. This should be reflected in the 2008 Policy Strategy. National Action Plans and evaluation by the European Commission should clearly include measures and recommendations in this field.

Women workers are the key to the productivity challenge facing all Member States.

But women across Europe are still being prevented from making full use of their potential because of discrimination, stereotyping and difficulties of combining work and caring. It is regrettable that the Green Paper on modernising labour law (COM (2006) 708) does not make this crucial link between gender equality, increasing productivity and developing labour law and workplaces that are fit for the 21st Century.

The Commission announced in the Roadmap that it aims to reinforce implementation of a gender perspective in the impact assessment of Community policies and legislation. The consultation and subsequent measures on modernising of labour law is one of the areas where a gender impact assessment should inform and shape new policies. This is also important in relation to policy developments in the area of migration as mentioned in the 2008 Policy Strategy.

FLEXIBLE WORKING—EXCHANGING BEST PRACTICE

The EOC's new report *Working Outside the Box*³² has uncovered a massive waste of talent across the workforce. 6.5 million people in Britain today could use their skills more fully if more flexible working was available, either by working at a level at which they used to work or simply returning to the workforce. Often considered a problem limited to working mothers, the EOC's new findings show that this "skills drain" affects almost as many men as women, and more non-parents than parents.

The report also shows that pioneering employers are responding by transforming their work culture. Flexitime and home working are particularly popular and new technology is enabling companies to become more innovative in how they organise work. In return, employers are benefiting from better staff engagement and loyalty, meeting increasing customer demand for 24/7 products and services, and raising productivity.

The 2008 Policy Strategy refers to "flexicurity", but the European Commission could take more initiatives by for example encouraging the exchange of best practice amongst employers, trade unions and Governments across the EU. Too often flexible working is seen as a "mummy track" of low paid, lower skilled part time jobs. The European Commission could identify innovative working, different sorts of flexible working across the EU and encourage the opening up of flexible working for senior management and higher skilled jobs. The European Commission could also look into the feasibility of introducing, or encouraging Member States to introduce, the right to request flexible working, already successfully introduced in the UK, for workers across the European Union as part of the Lisbon strategy for jobs and growth.

HUMAN RESOURCES

At the end of the document the 2008 Policy Strategy sets out the general framework for human resources. The EOC believes that the European Commission should make a reference in this paragraph to initiatives on incorporating equality between women and men into the human resource management policies of the Commission (as set out in Annex III of the Roadmap) such as the external evaluation of the 4th Action Programme and recommendations for the future in 2008, adoption of annual targets for the recruitment and appointment of women to management posts at A*/AD level and the improvement of awareness-raising campaigns and training.

I hope the Select Committee finds this useful. Do get in touch if EOC can be of any further help.

Tijs Broeke

European & Public Affairs Manager

20 April 2007

³² For more information see: <http://www.eoc.org.uk/Default.aspx?page=17704>

Memorandum by the Immigration Law Practitioners' Association (ILPA)

THE LISBON STRATEGY

The Commission has expressed its commitment to a renewed Lisbon strategy for growth and jobs. It confirms that this is a major vehicle for “promoting a more prosperous, environmentally responsible and socially inclusive European Union”. It is important to remember here that migration, both in the form of intra Member State movement of workers and other economically active citizens of the Union, and in the form of the admission of third country nationals for economic activities, is a central platform of the Lisbon Agenda. Permitting individuals to make the choice whether to cross EU borders to seek employment elsewhere in the Union free of state controls in the form of work and residence permits is a core freedom of the EU. The Member States have long agreed that this does not create pressure for the reduction of social protection standards in the Union but rather is compatible with high social security protections.

Encouraging citizens of the Union to move to seek better employment prospects in other Member States than that of their nationality is intended to be accompanied and promoted by the right of family reunification. However, in the UK (and a small number of other Member States such as the Netherlands) the principle of family reunification for citizens of the Union who move to exercise their free movement rights is under attack. For instance, the Border and Immigration Agency notified ILPA in March that it would be introducing DNA testing for family members of such citizens of the Union where considered appropriate. Further the UK authorities have advised that they will apply only national law as regards the issuing of visas outside the EU for family members to join their EU national principal in the UK. This means that for instance, many dependent parents and children will be refused visas even though they are entitled to family reunification under EU law. If the Lisbon Agenda is to be furthered, citizens of the Union must be protected against such intrusive and dissuasive measures which make moving to another Member State unattractive. The right to move and be joined by third country national family members in conditions of dignity should be a high priority of the Commission in its 2008 Agenda.

Further, equality in access to social benefits when a citizen of the Union is unemployed is fundamental to achieving the Lisbon Agenda. If workers and the self employed are not protected against indigence when their jobs or work vanish and before they are able to find new employment the objective of the Lisbon Agenda to make best use of human resources in the EU cannot be achieved. The UK's policy, pursued most vigorously since the admission of the 2004 Member States, to exclude EU nationals from social benefits runs counter to the objective and is counterproductive. The Commission's Policy Strategy 2008 should include as an objective ensuring that all citizens of the Union get equal access to social benefits in which ever Member State they find themselves. Any exceptions to this principle of equality should be very strictly limited.

MANAGING MIGRATION FLOWS

The Commission indicates that managing migration flows to the EU is among the objectives of the Strategy. The first thing which should be remembered is that migration is never a one way phenomenon: EU citizens also migrate elsewhere in the world to find better jobs, gain experience and further their private lives. The treatment of third country nationals in the EU should reflect the same standards which the EU expects for the treatment of its nationals when they migrate elsewhere in the world. The perspective of migration as a positive phenomenon which enhances prosperity and diversity is true not only for the EU but for the whole world and includes our citizens of the Union elsewhere as well as the national of third countries in the EU. Article 151 EC stressed the importance of cultural diversity in the EU as one of its strengths. This strength should not be forgotten or limited to within the confines of the EU's external border. The forthcoming directives on labour migration, conditions of entry and residence of seasonal workers and remunerated trainees need to reflect the respect for the individual and equality among workers. The standard of treatment should be equivalent to those provided to EU national migrant workers providing a high level of security of residence, employment and social protection. Differentiating between EU nationals and third country nationals in conditions of work, or worse, between different groups of third country nationals, is divisive and counterproductive to the smooth operation of the labour market.

The Commission states it is committed to preventing illegal migration, countering human trafficking and protecting the external border. Illegal immigration is fairly easy to tackle—as it is a construct of law, the key is to ensure that laws are designed in such a way that they do not create illegality in the migration process. For instance, the rapid and successive changes to immigration laws in a number of Member States has made it increasingly difficult for persons to know what their status is and to keep themselves within the ambits of the

changing immigration rules. Bringing in substantial changes to rules without transitional periods, for instance as the UK has done recently, only creates confusion and illegality, as individuals find themselves in an impossible position as regards their status. One of the easiest ways to diminish illegal immigration in the EU is to permit individuals to switch their status without having to leave the Member State. Thus when an individual marries or is offered a job, instead of insisting that he or she leave the Member State to go back to his or her country of origin (which may well be in turmoil) to obtain a special visa (such as entry clearance) in order only to turn around and come straight back to the EU (often at great cost) the EU should design rules which permit rapid and simple procedures to switch from the earlier status to the new one at no or very low cost. This would have an immediate and dramatic effect in reducing illegal immigration in the EU.

One of the more problematic aspects of illegal migration is that connected to illegal work. Where third country nationals are offered jobs when their immigration status does not permit them to take up those jobs, illegality is created. Thus the strategy of the Commission to diminish this form of illegal migration is to ensure that the directives which it proposes for labour migration foresee the change of status of an individual while within a state from visitor or student to worker. The rules on the issue of work and residence permits need to include short deadlines within which state authorities must reach decisions so that companies and individuals can make their plans without undue disruption by state authorities. The legitimate concern of state authorities to protect the EU labour market must not be used as an excuse to delay or otherwise make unattractive the choice of the business regarding the individual to hire. The objective of effective protection of labour conditions and wages is better served by labour laws and collective/sectoral agreements than immigration laws which have the effect of creating illegality, which is then very difficult to regulate and promotes exploitation of workers.

The Commission indicates that ensuring freedom of movement within the EU is a key objective. Under this heading it proposes the extension of the European Borders Agency, FRONTEX, improving networking of sea border controls and a European surveillance system helping Member States to deal with “growing flows of illegal immigrants.” As the UK is on the far side of the EU’s Schengen border, which is the border, which FRONTEX controls, these proposals are of direct concern to us. On the face of the document, the Commission appears to be suggesting that FRONTEX may be patrolling the English Channel to ensure that illegal immigrants do not move from the UK to the continent. It is worth remembering that not only are Ireland and the UK outside the Schengen external border of the EU but also the ten Member States which joined the EU in 2004 and the two which joined in 2007. Denmark is only on the inside of this border by reason of an international treaty. Thus 14 Member States are outside the Schengen external border, one is inside only by virtue of a treaty and only 13 Member States are inside the Schengen external border. The measures which are suggested for the policing of the external border, in so far as they relate to the Schengen external border which is the relevant border for FRONTEX, cut through the heart of the Internal Market. Further, regarding the terminology used in the Strategy, exactly how a third country national can be an illegal immigrant before he or she has arrived in the state of destination and the state authorities have determined whether he or she is entitled to entry remains a matter of some mystery.

In any event, one of the keys to effective EU border management is to ensure that the border is a place where EU law is applied correctly and efficiently. This means that the Regulation entitled the Schengen Border Code must be fully and properly applied at all the EU’s external borders (that is the Schengen External Borders). The Regulation specifies strictly the grounds on which a third country national may be refused admission at the EU’s external border, provides for strict procedural requirements including written notice of the decision and grounds, a right of appeal and information about how to obtain representation to exercise that appeal right. FRONTEX should be centrally engaged in ensuring that the EU’s external border is a place of law where the Border Code is fully and correctly applied.

The Commission also states that it plans the launch of the Visa Information System. The UK will be outside this measure as it is a continuation of the Schengen borders acquis out of which the UK has opted. However, it is a fact of border control policy that visa restrictions are much disliked by travellers. They present an obstacle to travel, they tend to be applied selectively—persons with the same nationality but resident in different parts of the world tend to be treated very differently—for instance the Bangladeshi national resident in Washington USA and his or her cousin resident in Dhaka. Different nationalities of persons subject to visa requirements tend to be treated very differently—for example Saudi nationals in comparison with Chinese—not only as regards the speed and rigor of the checks before visas are issued but also as regards the documents which are required to be presented. These types of difference do little for the EU’s reputation as an area administered in a fair and coherent manner. Worse, such differences raise questions about whether disguised discrimination on a prohibited ground, such as national origin, is not at work. The rapid conclusion of the Visa Code, currently under consideration in the Council, with the inclusion, as proposed by the Commission, of a right of appeal against refusal of a visa, would be very welcome. The VIS should not be instituted until there is EU law about how visas are issued which is clear, consistent and readily available to the traveller.

The Commission does not refer to any revision of the visa black list—the list of those countries whose nationals require a visa to enter the EU. Nor is there any mention of the facilitated visa agreements which the EU has entered into with some countries, notably Russia, to ensure that nationals of those countries are not subject to the full vagaries of the EU visa system. Both a revision of the visa black list to take all countries in respect of which there is not an immediately public security risk off the list and the settlement of facilitated visa agreements with more countries would be very appropriate strategies for the Commission under this heading.

COMMON EUROPEAN ASYLUM SYSTEM

The Commission states its intention to propose further steps towards a common policy on migration and measures to achieve a Common European Asylum System by 2010 in line with the Hague Programme. No further detail is given in the Annual Policy Strategy.

ILPA welcomes the statement by the Commission that the right for asylum is an expression of European solidarity. In ILPA's view it is more than that however and strikes at the heart of humanitarian law and basic human rights. The establishment of a truly European system of immigration and asylum law and policy which fulfils the EU's obligations regarding human rights must not only set out a fair and equitable system but also ensure justice for the individual.

ILPA recalls the Hague Programme's call to the Commission to conclude the evaluation of the first-phase instruments in 2007. An extensive assessment of the Community legislation adopted to date is necessary to determine where legal and practical gaps exist and may require further legislation or amendment. The European Commission has also a legal responsibility to monitor transposition and implementation of the directives into national law. Given the low standard of the safeguards contained in some of the instruments adopted in the first phase, strong monitoring of transposition of Community instruments into national law, taking into account the obligation to apply this legislation in accordance with the Geneva Convention and human rights principles and treaties, will be crucial in ensuring that member states maintain or adopt legislation and policies that are in line with international law.

Subject to evaluation of first-phase instruments and to making the required amendments in those areas that fall short of international standards, ILPA supports Member States' objective of supplementing and developing further the legal instruments in the common European asylum system, in accordance with the 1951 Refugee Convention and other relevant international law, provided that the EU's objective is to establish common high standards, rather than common low standards.

But ILPA is very concerned that Member States are not seriously co-operating at the European level: recent years have seen their constant efforts to tighten their own national legislation and increasing efforts to shift responsibility for processing asylum claims either to each other or outside of the EU altogether. The commitment to the principle of non-refoulement as regards the protection of asylum seekers is increasingly tenuous. While statements regarding the importance of the protection of refugees abound, the application of the principle of non-refoulement on which these statements are founded is increasingly lacking. Instead the vision of asylum seekers as floods and a menace is increasingly at the fore.

The single most fundamental objective of a Common European Asylum System must be to end the current asylum lottery and instead guarantee that every asylum applicant arriving in the EU has access to one fair and thorough asylum determination procedure. The Commission's objective must to be achieve this through revision of current legislation and introduction of new legislation in the future.

ACCESSION NEGOTIATIONS WITH CROATIA AND TURKEY

ILPA welcomes the Commission's commitment to continue negotiations with Croatia and Turkey with a view to their accession to the EU. However ILPA is concerned at the spirit in which recent accessions to the European Union have been entered into in recent years. Since May 2004 twelve new States have joined the European Union. The Accession Treaties governing the accession arrangements have all included transitional provisions relating to the free movement of persons.

ILPA is extremely concerned at the attitude of existing Member States towards accepting that nationals of new Member States acquire full EU citizenship rights post accession. ILPA notes that in the UK for instance

transitional provisions for Bulgaria and Romanian nationals have been interpreted in a least inclusive manner and since 2004 the UK government has taken deplorable steps to exclude accession State nationals from any welfare provision through legislation.

ILPA would urge the Commission to ensure that future accessions are not marred by the same negative approaches by Member States. To this end it is necessary for the Commission to make clear to the existing Member States that their obligations post an accession include equal treatment of accession State nationals and full recognition of their status as EU citizens.

COMMUNICATION WITH CITIZENS

ILPA welcomes the Commission's commitment to communicate with European citizens about European issues. ILPA considers that such commitment should be made by the UK Government.

The UK Government has demonstrated its inability to communicate openly and honestly about European issues. Take for instance the "foreign national prisoners issue" where the Home Secretary made the following statement:

"the immigration and nationality directorate has been taking a robust approach to the deportation of European Economic Area nationals, which has been defeated consistently in the courts. We will be changing the law to strengthen the link between criminality and deportation, but in the meantime we are no longer taking unproductive cases to the courts at the taxpayers' expense, with negative results." (9 October 2006 Statement to the House of Commons)

To blame the courts for IND's lack of success in deporting EEA nationals is deplorable. A responsible Government would have explained in clear terms to the public the circumstances in which an EU national may be deported according to Community law which the courts and IND are obliged to respect.

The UK Government has equally failed to communicate properly with the public on the issue of accession of new State to the EU. Instead of challenging populist opinion that accession State nationals would likely come to the UK in their masses to seek State benefits the Government embarked upon a legislative programme designed to ensure that European Union citizens are discriminated against in respect of access to social security and homelessness assistance despite the Social Security Advisory Committee amongst others urging against such steps.

In ILPA's view it is the responsibility of all European institutions and the Member States to ensure that European issues are communicated to the public in an open and honest manner.

Ms Nicola Rogers

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Co-convenor ILPA European Sub-Committee

Professor Elspeth Guild

Radboud University Nijmegen, Partner,
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20 April 2007

Memorandum by Research Councils UK (RCUK)

INTRODUCTION

1. Research Councils UK (RCUK) is a strategic partnership that champions the research supported by the seven UK Research Councils. Through RCUK the Research Councils are creating a common framework for research, training and knowledge transfer. Further details are available at www.rcuk.ac.uk.
2. This memorandum is submitted by RCUK on behalf of the Arts and Humanities Research Council (AHRC), Engineering and Physical Sciences Research Council (EPSRC), Economic and Social Research Council (ESRC), Medical Research Council (MRC), and Natural Environment Research Council (NERC), and represents our independent views. It does not include, or necessarily reflect the views of, the Office of Science and Innovation (OSI). RCUK welcomes the opportunity to respond jointly to the House of Lords European Union Committee and House of Commons European Scrutiny Committee Inquiries into the European Commission Annual Policy Strategy for 2008.

3. This memorandum provides evidence from RCUK in response to the main topics and questions identified in the consultation document, in addition to supplementary views from:

Arts and Humanities Research Council (AHRC)	Annex 1
Engineering and Physical Research Council (EPSRC)	Annex 2
Economic and Social Research Council (ESRC)	Annex 3
Natural Environment Research Council (NERC)	Annex 4

GENERAL

4. The Policy Strategy is a high-level text which deals only with outline policy initiatives. It is therefore useful as broad indicator of key priorities, but needs to be read in conjunction with specific planning and implementation proposals and communications in the individual policy areas. Detailed comment from the Research Councils is likely to be more appropriate at that level.

5. RCUK endorses initiatives across Member States to ensure the flow of trained people and knowledge, particularly to facilitate the transfer of knowledge and results between research centres and SMEs and businesses.

6. RCUK welcomes the focus on sustainable energy and climate change. The Research Councils have a significant research activity in these areas. The themes of energy, climate change and environment are particularly strongly represented throughout the programmes of EPSRC, ESRC and NERC. In addition, they are also of strategic importance to AHRC and MRC.

7. Much of the research currently funded by AHRC and ESRC relates directly to the Commission's four strategic objectives of prosperity, social solidarity, security, and external relationships; as well as the cross cutting priorities of climate change, the Lisbon strategy and migration.

RESEARCH AND TECHNOLOGICAL DEVELOPMENT

8. We are pleased to see the strong emphasis on research and technological development.

9. A significant initiative in this area is the proposed European Institute of Technology (EIT). Whilst the EIT concept has evolved in a positive way from the initial plans, there remain a number of outstanding questions in relation to its purpose, scale, governance and budget. It is crucial that the EIT is differentiated from other initiatives in the areas of research, education and innovation; at this point, it is not entirely clear that this is the case. Indeed, there is a strong possibility of duplicating efforts that are addressed elsewhere, including in the "several European research initiatives" (section 2.2.), although it should be noted that it is not clear precisely which initiatives are being referred to here. It is essential that the EIT concept is defined further and that there is ongoing and meaningful consultation with the full range of stakeholders prior to it becoming operational. The EIT could also be seen to raise some concerns with regards to the principle of subsidiarity. Specifically in the area of education, competence lies with Member States rather than with the EU; thus it is crucial that the education-related aspects of the EIT are developed with this in mind, and that universities maintain flexibility and autonomy.

10. Whilst they could potentially be complementary, a clear distinction should be maintained between the EIT and the 7th Framework Programme (FP7), both in terms of activities and budget.

11. The European Research Council (ERC) is clearly a significant initiative within FP7, and the establishment and operation of an executive agency to implement the programme is an important development. Whilst plans to establish this agency are well advanced and in keeping with the ERC's independence from the European Commission, there is rather less clarity over the establishment of an agency for other parts of FP7 at this point; it will be important to follow the developments in this area.

12. It is interesting to note that there is no mention of the Joint Technology Initiatives (JTIs) within FP7 under 2008 priorities, although these may be subsumed under "several European research initiatives".

13. We note that there are proposals in relation to health and safety that might indirectly have an impact on research, as is the case with the Physical Agents Directive (electromagnetic radiation) 2004/40/EC which the House of Commons Select Committee on Science and Technology has previously commented on,³³ and developments with respect to these proposals might need to be followed to ensure appropriate stakeholder consultation.

³³ <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmsctech/1654/1654.pdf>

FINANCIAL ASPECTS

14. A further significant initiative for this period is the preparatory work for the budget review (mentioned on page 4). The initiative will need to be monitored with respect to research funding.

15. Within Section 3 of the Communication (Human and Financial Resources) there is mention that “due attention will also be paid to audit and audit-related tasks in the research sector” (section 3.1.2, “Contribution to a Central Pool”). It would be useful to have, in due course, further details as to precisely what is foreseen in relation to this.

Dr Adrian Pugh

Research Councils UK

17 April 2007

Annex 1

COMMENTS FROM THE ARTS AND HUMANITIES RESEARCH COUNCIL (AHRC)

The AHRC particularly welcome the recognition of need for a focus on multilinguism to reflect the linguistic and cultural diversity within the EU. We look forward to the promotion of intercultural understanding through the European Year of Intercultural Dialogue.

Annex 2

COMMENTS FROM THE ENGINEERING AND PHYSICAL SCIENCES RESEARCH COUNCIL (EPSRC)

The EPSRC welcomes the consultation for the Annual Policy Strategy of the Commission of the European Communities.

The themes of energy, climate change and environment are strongly represented throughout the programmes of EPSRC and the continued strong support for these initiatives is endorsed.

The EPSRC would endorse initiatives across Member States to ensure the flow of trained people and knowledge, particularly to facilitate the transfer of knowledge and results between research centres and SMEs and businesses.

Annex 3

COMMENTS FROM THE ECONOMIC AND SOCIAL RESEARCH COUNCIL (ESRC)

ESRC welcomes the consultation on the European Commission’s Annual Policy Strategy.

Annex 4

COMMENTS FROM THE NATURAL ENVIRONMENT RESEARCH COUNCIL (NERC)

NERC welcomes the recognition that climate change and energy are cross-cutting issues, and that they are seen as priorities.

Memorandum by the Standing Committee on European Cooperation Organisations of the Senate of the States-General of the Netherlands

The Senate’s committee on European Cooperation Organisations is of the opinion that enhanced information exchange between the National Parliaments on issues of European integration in general and on the 2008 Annual Policy Strategy in particular, is of great importance. Therefore, it warmly welcomes your initiative and is more than willing to cooperate.

The committee is satisfied with the European Commission’s overall ambition. The four policy priorities of the Commission, ie energy, climate change, realizing the Lisbon strategy and migration, are not only important as such, the Commission is right in its analysis that these policy areas do affect a manifold of other areas and that they are long term challenges. Therefore it is of utmost importance that concrete results will be achieved. This will also help enhancing the legitimacy of the European Union in the Member States.

The committee also supports the European Commission in its ambition to guarantee a sustainable, competitive and secure supply of energy. In order to realise reasonable prices for all consumers, to meet environmental demands and to fulfil the principles of sustainable development, the committee deems it necessary that all stakeholders intensify their cooperation.

In the past, the committee on European Cooperation Organisations has paid special attention to the issue of European Agencies. Initiated by the Senate, the Netherlands Council of State drafted a comprehensive report on the matter in 2005. The conclusions of this report have been circulated in COSAC. On the basis of this report, the Senate developed certain instruments for the control of the foundation and the working of European Agencies. The committee maintains its special attention for European Agencies and will critically follow developments in this area very closely.

On 4 December, the European Commission presented Com(2006)724 European neighbourhood policy ENP: participation by the partner countries in Community agencies and Community programmes. With regard to this initiative of the Commission, the committee of European Cooperation Organisations is of the opinion that ENP partner countries should not be allowed to participate in European Agencies. The committee has informed the Netherlands government of its position.

P R H M van der Linden

Chairman of the standing committee on European Cooperation Organisations of the Senate of the States-General of the Netherlands

Chairman of the Parliamentary Assembly of the Council of Europe

1 May 2007
