The Committee will meet at 2.00 pm in Committee Room 2.

1. **December Fisheries Council, pre-Council briefing by the Scottish Executive**: The Committee will hear evidence on the Scottish Executive’s views ahead of the forthcoming Fisheries Council (16-19 December) from—

   Ross Finnie MSP, Minister for Environment and Rural Development, The Scottish Executive
   Andrew Watson, Environment and Rural Affairs Department, The Scottish Executive

2. **Pre- and post-EU Council scrutiny**: The Committee will discuss the agendas and information received from the Scottish Executive on the following meetings of the Council of the EU—

   **Forthcoming Councils**
   Transport, Telecommunications and Energy Council, 15 December
   Agriculture and Fisheries Council, 16-19 December
   Economic and Finance Council, 16 December
   Justice and Home Affairs Council, 19 December
   Environment Council, 22 December

   **Previous Councils**
   Agriculture and Fisheries Council, 29-30 September
   Agriculture and Fisheries Council, 13-14 October
   Environment Council, 27 October
   Economic and Finance Council, 4 November
   Justice and Home Affairs Council, 6 November
   Competitiveness Council, 10-11 November

   and discuss the correspondence received from the Scottish Executive in response to previous queries.
3. **Convener’s Report:** The Convener will update the Committee on the—

Scottish Executive’s position with regards to tripartite contracts between itself, the UK Government and the European Union.

Letter received from Hon. Mrs Gwyneth Dunwoody MP, Chair, House of Commons Transport Committee on the Convener’s letter regarding the ‘Eurovignette’ and heavy goods vehicles in the UK.

Letter received from the Minister for Finance and Public Services on the Scottish Euro Preparations Committee.

Videoconference held with the Finnish Grand Committee and its transcript.

Letter received from Christopher Leslie MP, Parliamentary Under Secretary of State, UK Department of Constitutional Affairs, on Numbers of MEPs for Scotland

Publication of the latest evidence on the Committee’s two Inquiries.

Analysis of the European Commission’s Annual Work Programme for 2004

4. **Update on the progress of the Inter-governmental Conference (IGC):** The Committee will discuss a paper providing an update on the progress of the IGC.

5. **Sift of EC/EU documents and draft legislation:** The Committee will consider the latest list of EC/EU documents and draft legislative proposals received for this meeting.

   **Stephen Imrie**  
   Clerk to the Committee  
   Tel: 0131 348 5234  
   Email: europe@scottish.parliament.uk

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The following papers are attached for this meeting:

**Agenda Item 1**

SPICe Briefing Paper

Speech by Commissioner Franz Fischler on 2004 Fishing Quotas and ICES advice

PRIVATE BRIEFING PAPER: “Areas of questioning” EU/S2/03/8/1

**Agenda Item 2**

BRIEFING PAPER: “Pre- and Post-Council of the EU analysis and scrutiny” EU/S2/03/8/2

BRIEFING PAPER: “Correspondence received from Scottish Executive on pre- and post-Council scrutiny conducted on 4 November” EU/S2/03/8/3

**Agenda Item 3**

Convener’s Report, including:

- Letter received from Hon. Mrs Gwyneth Dunwoody MP, Chair, House of Commons Transport Committee
- Letter received from the Minister for Finance and Public Services on the Scottish Euro Preparations Committee
- Transcript of the videoconference between the Committee and the Finnish Parliament’s Grand Committee on the EU
- Letter received from Christopher Leslie MP, Parliamentary Under Secretary of State, UK Department of Constitutional Affairs, on Numbers of MEPs for Scotland

**Agenda Item 4**

BRIEFING PAPER: “Update on the IGC” EU/S2/03/8/5

**Agenda Item 5**

Sift of EC/EU documents and draft legislative proposals EU/S2/03/8/6
SEA FISHING:
A SUMMARY OF RECENT DEVELOPMENTS
TOM EDWARDS

This briefing has been prepared for the European and External Relations Committee prior to their consideration of the fisheries issues which will be debated and decided at the Agriculture/Fisheries Council meeting of 16-19 December 2003. The briefing discusses the following issues:

- The latest scientific advice on fish stocks and fishing quotas for 2004
- The proposal for a long-term cod recovery plan, and recovery plans for other stocks
- The proposal for establishing Regional Advisory Councils

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KEY POINTS OF THIS BRIEFING

- Sea fisheries in EU waters are managed under the Common Fisheries Policy (CFP). The main way of managing fisheries has been to set quotas, which limit the amount of fish that can be landed in a year.

- There are problems with quotas, especially in mixed fisheries where several species are caught together. Fishermen can keep fishing until their quota for each species is used up. Any fish they catch for which they do not have quota must be thrown back into the sea dead.

- For this reason, fisheries scientists have advised for many years that effort controls (e.g. days at sea) should be introduced, particularly for stocks which have been overfished and are outside safe biological limits.


- The quotas are based on the advice of ICES scientists.

- There are serious concerns about the state of several fish stocks in EU waters.

- Of particular concern for Scottish fishermen are fears about the state of the cod stock in the North Sea. For 2003 scientists advised that there should be no catches of cod, and associated species (haddock, whiting), and they have given similar advice for 2004.

- Ministers did not follow this advice for 2003, but reduced quotas of cod, haddock and whiting significantly compared to 2002, and also agreed a system of days at sea to control fishing effort for these species.

- It also seems unlikely that they will follow the advice this year. The EU Commissioner, Franz Fischler, has already said that quotas in the North Sea (which are agreed in negotiations between the EU and Norway) could be 27,000 tonnes for cod, 55,000 tonnes for haddock and 16,000 tonnes for whiting, a small increase on last year for cod and whiting, and a bigger increase for haddock.

- Ministers will also discuss a cod recovery plan proposed by the Commission. This has been debated for over 2 years without agreement. The plan would set target sizes for recovering cod stocks, and introduce rules for setting quotas and calculating fishing effort.

- A similar plan has been prepared for Northern hake and plans are being prepared for five other stocks. Scientists advise that a further four stocks need recovery plans to prevent them collapsing.

- Ministers will also begin the debate on a Commission proposal for Regional Advisory Councils.
INTRODUCTION

Sea fisheries in EU waters are managed under the Common Fisheries Policy (CFP). The main method of managing fisheries has been to set Total Allowable Catches (TACs), commonly called “fishing quotas” which set the amount of fish of different species fishermen in each Member State are allowed to land.

Advice from the International Council for the Exploration of the Sea (ICES) on fish stocks and the implications of various catch scenarios form the basis for setting fishing quotas. For many stocks the ICES advice includes “precautionary approach reference points”. These define the minimum stock sizes at which the scientists think the stock is likely to be at a safe level, and a level below which the stock is likely to collapse. These reference points are used by the Commission in recovery plans (see below).

The ICES advice comes as part of a cyclical process through which fishing quotas are decided. In summary, the annual process is as follows:

- ICES use biological data from national research institutes and landing records to assess stocks targeted by fishermen
- ICES Advisory Committee on Fisheries Management (ACFM) examine these data for the North East Atlantic region and issues advice to the European Commission (the Commission) and other ICES Members (e.g. Norway, Iceland, Faeroes)
- The Commission consults own advisory Scientific and Technical and Economic Committee on Fisheries (STECF) on ICES advice. The Committee is made up of experts from the Member States
- Negotiations take place with non-Community countries (e.g. Norway for North Sea cod, haddock etc)
- The Commission sets out proposals for Total Allowable Catches (TACs)
- Council of Fisheries Ministers takes the final decision.

Every year, in December, the Fisheries Ministers from each Member State meet to decide on fishing quotas for the following year. The Council of the European Union will meet in its Agriculture/Fisheries formation from the 16-19 December 2003. It is at this meeting that fishing quotas will be set for 2004.

However, quotas are a far from perfect instrument for managing mixed fisheries. “Demersal” fish, fish which feed on or just off the bottom of the sea bed, occur in a mixed fishery. That means that every haul of fish fishermen take in their nets contains a mixture of different species in varying proportions, depending on the type of gear used, and the area being fished. What often happens is that fishermen will use up their quota for one species before the end of the year. They are allowed to carry on fishing for other species until they have used up all their quotas, as long as they don’t land fish for which they have no quota. Of course, if they do carry on fishing, they will catch fish for which they have no quota, and have no alternative but to throw them back into the sea, dead.

For this reason, fisheries scientists have been asking for several years for better controls on fishing effort i.e. the number of boats, and amount of time fishermen are allowed to fish. The main change in fishing policy in recent years has been the decision that fishing effort should be controlled for stocks which are most under threat. Cod is the most threatened species in EU waters. The Commission has been trying to get Fisheries Ministers to agree on a long-term cod
recovery plan since 2001. The latest version of this plan will also be discussed at the December Council meeting.

FISH STOCKS IN TROUBLE?

Concern is greatest about stocks of demersal fish. Stocks of pelagic fish (fish which swim in the mid-water, like herring and mackerel) are thought to be healthier. The Commission (2002a) cited ICES figures which showed that on average, the quantities of mature demersal fish in EU waters were 90% higher in the 1970s than at the end of the 1990s. The Commission (2002a) summarised the state of fish stocks in EU waters:

The situation varies from one zone to another, especially in terms of apparent evolution of fishing mortality in the mid to long-term. In the Baltic, the current situation does not seem to be sustainable. In the North Sea, it has not been possible to reverse the decline of round fish stocks nor to ensure in the case of sole and plaice a security margin in accordance with the precautionary principle which would have also improved the economic situation for these fisheries. In Western waters, fishing mortality rates have been increasingly catching up with and often exceeding historical levels observed in the North Sea. In the Mediterranean, the available scientific data are less complete but there is a large consensus that many important stocks are being over-fished.

To sum up, many stocks are at present outside or almost outside safe biological limits. They are too heavily exploited or have low quantities of mature fish or both. At present, the situation for most stocks is not catastrophic. If current trends continue, however, many stocks will collapse.

A fish stock is said to have “collapsed” when it reaches such a low level that it is incapable of rebuilding itself back up to former levels. The cod stock on the Grand Banks west of Canada collapsed in the early 1990s. Despite a ban on cod fishing on the Banks for more than 10 years, the cod stock has shown no sign of recovering to its former levels.

The ICES advice for 2003 recommended a closure of fisheries for cod in the North Sea and to the West of Scotland, and a closure of fisheries for haddock and whiting. Although the stocks of haddock and whiting were better than those of cod, the scientists thought it would be impossible to allow fishing for these species, without catching significant quantities of cod. Although 2002 was the first time ICES had gone as far as suggesting a ban on fishing for cod, concerns about the state of cod stocks are not new. ICES (2002, 2003) has indicated that cod stocks have been at a level at which there is a significant risk of the stock collapsing since 1990. They also say that cod has been fished at a level likely to drive the stock downwards towards a state in which it might collapse since the early 1980s.

Implementing the ICES advice for 2003 would have meant closing down the whitefish (cod, haddock and whiting) fisheries in the North Sea and to the West of Scotland. The Commission took the view that to preserve the fleet, a small amount of fishing for cod, haddock and whiting should be allowed. The Council set quotas higher than the Commission had proposed, but they were still cut significantly compared to 2002 (cuts of 45% for cod, 50% for haddock and 60% for whiting).

The ICES advice for 2004 includes a summary of the state of fish stocks in different ICES areas, of which the most important for the Scottish fleet are the North Sea and the West of Scotland. The table below shows the state of the demersal fish stocks for which assessments are carried out by ICES in these areas. Also, appendix 1 shows ICES advice for 2003 and 2004, the 2003
quotas and the ICES estaimates of Spawning Stock Biomasses (SSB) for the demersal and pelagic stocks of most importance to the Scottish fleet.

Table 1 – Status of fish stocks in North Sea and West of Scotland in ICES advice for 2003

<table>
<thead>
<tr>
<th></th>
<th>North Sea</th>
<th>West of Scotland</th>
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</thead>
<tbody>
<tr>
<td>Outside safe biological limits</td>
<td>cod, plaice, sole</td>
<td>cod, hake, whiting</td>
</tr>
<tr>
<td>Harvested outside safe biological limits</td>
<td>anglerfish</td>
<td>anglerfish</td>
</tr>
<tr>
<td>Within safe biological limits</td>
<td>haddock, saithe, Norway pout, <em>Nephrops</em>¹</td>
<td>haddock, <em>Nephrops</em></td>
</tr>
<tr>
<td>Uncertain</td>
<td>whiting, sandeel</td>
<td>haddock (Rockall stock), megrim</td>
</tr>
</tbody>
</table>


EU-NORWAY NEGOTIATIONS

The North Sea contains the richest fishing grounds in EU waters. Fisheries for some of the most important fish stocks in the North Sea: cod, haddock, whiting, saithe, plaice, herring, and mackerel are managed jointly by the EU and Norway. Each year, before Ministers can decide on the share out of fishing quotas for these stocks between Member States, the overall quota is fixed in bilateral negotiations between the EU Commission (negotiating on behalf of the Member States) and Norway. In 2002, these negotiations were protracted because of the severity of the scientific advice for some of these fish stocks, and took place in conjunction with the December Council meeting. This year, the first round of talks began on Monday 17 November 2003. The Scottish Fishermen’s Federation (SFF 2003) reported on progress with the talks:

*Two key issues have emerged at the mid-stage; the Blue Whiting catch limit and harvest rules for the plaice fishery. Compared to last year it may prove relatively easy to find agreement on cod and associated species. Indeed an agreement in outline could be achieved by the end of the week. In this regard the Federation is arguing for at least status quo on cod, and a 50% increase on haddock. It may be that a second round of negotiations is needed to conclude a formal agreement.*

FISHING QUOTAS FOR 2004

For 2004, ICES (2003) has again advised that there should be no catches of cod and that other demersal fisheries in the North Sea and West of Scotland should fish:

- without bycatch or discards of cod;
- within a recovery plan for North Sea plaice [and to the West of Scotland within a recovery plan for Northern hake]
- within the biological exploitation limits for all other stocks

*Furthermore, unless ways can be found to harvest species caught in a mixed fisheries within precautionary limits for all those species individually then fishing should not be permitted.*

¹ Commonly known as Norway Lobster, Dublin Bay prawns, langoustines or scampi

**providing research and information services to the Scottish Parliament**
Since ICES advise that there should be no fishery for cod in 2004, and cod is caught in a mixed fishery with other demersal species, one interpretation of this advice is that there should be no fishery for demersal species in the North Sea or to the West of Scotland in 2004.

However, since the ICES advice for 2004 is in some respects a little better than it was for 2003 - for example, ICES estimates that there has been a small improvement in the cod stock in the North Sea, it seems unlikely that ministers will close fisheries.

There is also debate about the extent to which cod is always caught with other fish. The argument is that while cod is caught with e.g. haddock in some areas, in other areas it is possible to catch haddock without catching any cod, or only catching very few cod. The UK fishing industry argues for an increase in haddock quotas for 2004 on this basis. These arguments have also won the support of the Scottish Minister for Environment and Rural Development, Ross Finnie MSP, who has said (Scottish Executive 2003):

> Fishing for stocks such as Nephrops and haddock need to be maintained at optimum levels - that is we need to decouple the various stocks in the mixed fisheries to allow higher quotas for healthy stocks.

Franz Fischler, the European Commissioner responsible for fisheries, gave an indication of the Commission’s perspective on the scientific advice in a speech to the European Parliament's Fisheries Committee. He said that the Commission did not agree with the scientists that there should be a ban on fishing for cod and associated stocks. He also gave an indication of what the quotas for cod, haddock and whiting might be for the North Sea, as long as effort controls were maintained (European Commission 2003a):

> Essentially we only have two alternatives. Either, like last year, limiting fishing effort while setting TACs at a minimum, or finally adopting multi-annual recovery plans in an attempt to kick off long-term recovery, which would then allow somewhat more reasonable TACs.

> Limiting effort for a year would, in terms of the North Sea TACs, translate into 27 000 tonnes for cod, 55 000 tonnes for haddock and 16 000 tonnes for whiting. These catches would however, as I said, only be justified if effort for these fisheries were also restricted by limiting days at sea. However, if we finally adopted multi-annual recovery plans, we could also justify more reasonable quotas, as the multi-annual aspect offers a certain degree of stability.

The Commissioner is therefore proposing a small increase in the quota for cod and whiting (22,659 tonnes and 12,294 tonnes in 2003) and a bigger increase in the quota for haddock (39,521 tonnes in 2003) with a continuation of the days at sea scheme, and seems to leave the door open to larger quotas, if the Council can agree on a cod recovery plan.

**ENFORCEMENT OF FISHING QUOTAS**

On 11 November 2003 the Commission (2003b) announced that it had launched proceedings against the UK and Spain for failing to enforce fisheries rules. The Commission’s case against the UK is that: it does not give enough resources to fisheries protection; catches are sometimes mis-reported as the wrong species, or under-reported, or reported as having been caught in a different area from where they were caught; and that not enough recorded infringements are brought before the courts. The UK has two months to respond to the Commission.

The Minister for Environment and Rural Development, Ross Finnie MSP, was questioned on this issue by Mark Ruskell MSP at Question Time on 13 November (Scottish Parliament 2003):

> providing research and information services to the Scottish Parliament
On Tuesday, the European Commission cited the United Kingdom for its failure to enforce Europe-wide rules that are designed to protect white-fish stocks, including failure to prevent illegal landings. As a result, Scottish boats might be confined to port if the UK does not give satisfactory guarantees to uphold the law within eight weeks. Does the minister acknowledge that illegal landings are happening in Scotland? Can he give an estimate of the percentage of white-fish catch that is landed illegally?

**Ross Finnie:** No, I am unable to give an answer to that and, of course, those are just allegations. If the Scottish Fisheries Protection Agency had evidence that is of the standard of proof that is properly required by a Scottish court, prosecutions would have been made. I shall read with interest the report of the allegations, which also takes one or two unfortunate side-swipes at the standard of proof that is required by Scots law. I do not think that that is fair—we should all be proud of the system of law that we have in Scotland and of the standard of proof that is required to obtain a conviction. I am disappointed that the EC takes a different view.

On 23 November 2003, the Sunday Herald (2003) reported the results of its investigation into “black fishing” or illegal landing of over-quota fish. The report claimed that 80% of Scottish fishermen had made illegal landings, and suggested that because quotas for whitefish had been set so low, fishermen had little alternative but to land over-quota fish in order to make ends meet. The report also suggested that illegal landings of cod could be as much as 40-50,000 tonnes a year, more than double the agreed quota for 2003.

Franz Fischler, touched on the issue of quotas not being respected in a recent speech to the European Parliament Fisheries Committee. He said that (European Commission 2003a):

> The [ICES] reports say: “Managers must deal with unreliable catch data and the inability of management to control catch.” “There is a considerable uncertainty of 2003 landings.” “The corresponding landings for haddock and whiting in 2003 are predicted to be about twice the agreed TAC for haddock and about 20% above the agreed TAC for whiting.”
>
> This proves that the quotas are not being respected, and that unreliable data is being supplied. The problem is not, therefore, that ICES is producing poor reports, but that it is sometimes given inaccurate landing figures, or no information on discards.

**COD RECOVERY PLAN**

As explained above, ICES has advised that cod stocks in European waters have been at risk of collapse for several years. At their meeting in December 2000, Fisheries Ministers agreed to develop a long term recovery plan for cod. The first part of this plan involved the adoption in 2001 of emergency measures, including establishing some temporary closed areas in the North Sea to protect spawning cod. The Commission (2001) then tabled a proposal for a long-term cod and hake recovery plan just before the December 2001 Fisheries Council. Debate on that proposal continued throughout 2002, but Ministers were unable to reach an agreement. The Commission took the view that cod stocks were in such a bad state that reducing quotas for cod would not be enough, and that controls on fishing effort were needed. The Explanatory Memorandum to the Commission proposal for quotas for 2003 said (European Commission 2002b):
Low TACs [for cod, haddock and whiting] will have conservation benefits only if they are accompanied by effort restrictions and by appropriate control measures. The Commission anticipates that the Council will reach a positive conclusion on the adoption of the cod and hake recovery proposal (COM(2001) 724 final) before the end of 2002. In the absence of such measures, the Commission will have no option but to withdraw its TAC proposals for the species concerned and to propose instead closure of the relevant fisheries by means of zero TACs.

The Commission (2002c) made a proposal to amend the original cod and hake recovery plan during the December 2002 Fisheries Council, but again, Ministers would not agree to it. Instead, Ministers agreed to a simplified form of effort limitation. Annex XVII to the quotas regulation (Council Regulation (EC) No.2371/2002) sets days at sea allowed for different types of fishing in different fishing areas. The effect of these days at sea restrictions for the Scottish fleet are to limit boats targeting cod, haddock and whiting to 15 days fishing per month, and to limit the boats targeting *Nephrops* to 25 days fishing per month.

The original intention was to replace these arrangements with a revised cod recovery plan by 1 July 2003, but this was not possible, and the simple days at sea scheme has continued throughout the year, with some modifications which were agreed in April 2003 to make the scheme more flexible e.g. by changing the definition of a “day at sea” (see European Commission 2003c, Council Regulation (EC) No. 671/2003).

The Commission (2003d) proposed a third version for a cod recovery plan in May 2003. The new version is different from previous versions in that it deals exclusively with cod, and a separate plan has been proposed for hake. The main features of the plan are:

- **Target levels for the size of different cod stocks are set (150,000 tonnes for the North Sea).** These correspond to the precautionary reference points set for these cod stocks by ICES.
- **Once a stock exceeds the target level it will be removed from the scope of the plan.**
- **Rules are proposed for setting quotas for the cod stocks subject to the plan.** These would depoliticize quota-setting.
- **Before the target level is reached, quotas must be set at a level which is likely to result in the stock of mature fish in the sea increasing by 30% p.a. towards the target level.**
- **If the stock falls below a certain level (70,000 tonnes for the North Sea), the quota should be set such that it would be likely to allow the stock to recover above that level by the end of that year.** This implies that if the stock was not forecast to increase above the minimum level the rule would mean that a zero quota would be set.
- **Fishing effort would be restricted to the level thought necessary to catch the quota.** The Annex to the proposal sets out the detailed calculations needed to establish this, but in essence the approach is: calculating the overall historical fishing effort (in kilowatt-days) of all vessels catching cod; working out the reduction in fishing effort required to catch the selected quota; and then distributing this reduction across Member States in proportion to how much cod they have landed during the reference period.
- **These effort limits, expressed in kilowatt-days, would then be distributed among their vessels by Member States.** It is not possible to say exactly how many days the Scottish fleet would have under this system compared to the existing days at sea scheme.

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4 The number of kilowatt days fished by a vessel, or by the fleet is the number of days multiplied by the vessels engine power in kilowatts
because the Commission does not have some of the information needed to do the calculations (and the proposal would require Member States to provide this), but the application of the effort controls in the proposal might mean further cuts in fishing days for Scottish boats

- There are measures to improve monitoring, inspection and control for the vessels covered by the effort controls. For example fishermen would be required to land cod in certain designated ports

This proposal has been under discussion at Agriculture/Fisheries Council meetings since July 2003. The Italian Presidency had originally hoped to agree the proposal at the November Agriculture/Fisheries Council meeting, but this timetable has slipped. The November Council held an exchange of views on the proposal. It will be debated again at the December Council meeting and if there is still no agreement, the most likely outcome is that the existing effort control arrangements\(^5\) will be rolled over into 2004.

WWF (2003) has produced a critique of the Commission proposal. They think the recovery plan should also address:

- **Misreporting and discarding** – both pose a significant threat to any recovery plan and need to be addressed – observers on vessels should be a license requirement of fishing for cod
- **Reference years for effort reduction** – these include some years where there was significant underreporting – these should be changed to years where this was not the case
- **Probability of meeting targets** – this should be incorporated in line with a precautionary approach. It is recommended that a 90% probability of meeting targets is adopted
- **Funding** – any recovery plan should be strategic and supported financially if it is to stand a chance of real success
- **Uncertainty of recruitment** – ICES is clearly concerned that recruitment over future years will be low. Member States must seriously consider the implications of any continued fishing on cod under such uncertain conditions

The Scottish Fishermen’s Federation (SFF) has also proposed an alternative cod recovery plan, based around closing certain areas to protect cod. But, as the Press and Journal (2003) has reported, it has been difficult to get the Commission to accept their ideas:

> Only two options [for a cod recovery plan] were put forward by the European Commission [at the November Council meeting] - its own controversial cod-recovery plan and a continuance of present fishing restrictions which have hit Scottish fishermen hard.

> Hamish Morrison, chief executive of the Scottish SFF, was dismayed by the choice on offer. He was also unhappy that, with only a month to go until crunch decisions are made in Brussels, the EC plan had no supporting data to show how it would work. Mr Morrison said: “To be within a month of the end-of-year council (of European fisheries ministers) and still have no figures on the table seems to be calculated to cause maximum angst and drama.”

The SFF unveiled its own "spatial management" cod-recovery proposals in October. It has since been trying to convince EC officials, politicians and marine scientists that its plan, involving cod-protection zones, is the best way forward.

FURTHER RECOVERY PLANS FOR OTHER FISH STOCKS

The Commission (2003e) has proposed a separate recovery plan for Northern hake, and has also made a commitment to draw up recovery plans for five other stocks: Southern hake; Sole in the Bay of Biscay and the Western Channel; and Nephrops in the Cantabrian Sea and in the seas around Spain, though the proposals for these have not yet been officially tabled. None of these stocks are of particular importance for the Scottish fleet.

In addition, the ICES advice for 2004 recommends that in total, 14 stocks are in need of a recovery plan and are outside safe biological limits, as opposed to 10 stocks for which ICES recommended recovery plans in its advice for 2003. In addition to the six recovery plans mentioned above, and the cod recovery plan which covers four cod stocks, the Commission may also propose recovery plans for the remaining four stocks (cod in the Celtic Sea, plaice in the North Sea and Celtic Sea and anglerfish in the Iberian Sea) during the course of 2004. Of these plans, only the plan for plaice in the North Sea will be of importance for the Scottish fleet, and it would be unlikely to introduce effort controls for Scottish boats beyond what the cod recovery plan would already require.

REGIONAL ADVISORY COUNCILS

The “Framework Regulation” (Council Regulation (EC) No 2371/2002) which implements the changes to the CFP agreed in 2002 creates a legal basis for Regional Advisory Councils (RACs). The idea of RACs is to better involve the fishing industry and other stakeholders in fisheries management. The Regulation provides that RACs may be consulted by the Commission and may submit recommendations and suggestions or inform the Commission or the Member State concerned about problems concerning the implementation of CFP rules in their area. Each RAC would cover sea areas under the jurisdiction of at least two Member States. The Regulation does not give RACs the powers to manage fisheries themselves which some, including UK fishermen’s organisations, had called for (SFF & NFFO 2002).

The Commission (2003f) has now made a proposal which sets out the detailed rules within which the RACs will operate. The Commission proposes the establishment of 6 RACs covering the following areas or stocks:

- Baltic Sea
- Mediterranean Sea
- North Sea
- North-western waters
- South western waters
- Pelagic stocks (blue whiting, mackerel, horse mackerel, herring) in all areas.

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6 The 14 stocks are cod in North Sea & Skagerrak, cod to the West of Scotland, cod in the Irish Sea, cod in the Kattegat, cod in the Celtic Sea, sole in the Bay of Biscay, sole in the Western Channel, Nephrops in Cantabrian Sea, Nephrops off Galicia, Southern hake, Northern hake, plaice in the North Sea, plaice in the Celtic sea, anglerfish in the Iberian Sea. The four stocks added to this list in the 2004 advice are cod in the Celtic Sea, the plaice stocks and anglerfish.

It would be up to fishermen in these areas whether they want to set up an RAC. They would have a general assembly which will appoint an executive committee of between twelve and eighteen members. In both bodies, two-thirds of the membership will be made up of representatives of the fishing sector and the remaining third of representatives of other groups with an interest in the CFP. The Commission and fisheries scientists would also participate in the work of RACs. EU financial support towards operational costs will be available to RACs during their first three years of operation.

The Commission’s proposal will be discussed by ministers at the December 2003 Agriculture/Fisheries Council meeting.

**SOURCES**


## APPENDIX 1 – SPAWNING STOCK BIOMASS (SSB) ESTIMATES, ICES ADVICE AND COUNCIL DECISION (OR AGREED TAC) FOR 2003 AND ICES ADVICE FOR 2004 FOR MAIN STOCKS OF INTEREST TO SCOTLAND (TONNES)

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<tbody>
<tr>
<td>Cod (North Sea)</td>
<td>38,700</td>
<td>Closure of all fisheries for cod as a target species or by-catch.</td>
<td>22,659</td>
<td>53,000</td>
<td>Zero catch</td>
</tr>
<tr>
<td>Haddock (North Sea)</td>
<td>391,067</td>
<td>The advice for cod determines the advice for haddock – fishing for haddock should not be permitted. On the basis of the haddock stock alone landings of 84,000 tonnes</td>
<td>39,521</td>
<td>457,000</td>
<td>n/a</td>
</tr>
<tr>
<td>Whiting (North Sea)</td>
<td>237,080</td>
<td>The advice for cod determines the advice for whiting – fishing for whiting should not be permitted. On the basis of the whiting stock alone landings of 26,000 tonnes</td>
<td>12,294</td>
<td>n/a</td>
<td>No increase on fishing mortality of recent years</td>
</tr>
<tr>
<td>Nephrops (North Sea not including Area III)</td>
<td>n/a</td>
<td></td>
<td>17,270</td>
<td>16,623</td>
<td>n/a</td>
</tr>
<tr>
<td>Nephrops (West of Scotland)</td>
<td>n/a</td>
<td></td>
<td>11,300</td>
<td>11,340</td>
<td>n/a</td>
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<tr>
<td>Anglerfish (North Sea and West of Scotland)</td>
<td>6,590</td>
<td></td>
<td>6,700</td>
<td>10,200</td>
<td>n/a</td>
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<tr>
<td>Herring (North Sea - includes catches by Norway)</td>
<td>1,588,000</td>
<td>Different catch scenarios from 484,000 to 639,000</td>
<td>400,000</td>
<td>2,231,000</td>
<td>Different catch scenarios presented from 574,000 to 628,000</td>
</tr>
<tr>
<td>Mackerel (entire NW stock, includes catches by non-EU countries)</td>
<td>3,147,000</td>
<td></td>
<td>542,000</td>
<td>593,000</td>
<td>3,091,000</td>
</tr>
</tbody>
</table>

providing research and information services to the Scottish Parliament
A year ago scientists advised us to close cod fishing in four regions until further notice. This year’s ICES diagnosis, which the Commission’s Scientific and Technical Committee agrees with, is that most demersal stocks have been heavily overfished and are at a historical low. ICES is therefore recommending closing more fisheries in the coming year. The list of stocks in urgent need of recovery plans has also been extended from nine to thirteen. New additions are North Sea plaice, Celtic Sea cod and plaice, and anglerfish in Iberian waters. However, that would intensify the negative impact on the fisheries sector as a whole, which could simply not be justified. We cannot therefore, as scientists are advising, simply propose a moratorium for a whole series of stocks.

Essentially we only have two alternatives. Either, like last year, limiting fishing effort while setting TACs at a minimum, or finally adopting multi-annual recovery plans in an attempt to kick off long-term recovery, which would then allow somewhat more reasonable TACs.

Limiting effort for a year would, in terms of the North Sea TACs, translate into 27,000 tonnes for cod, 55,000 tonnes for haddock and 16,000 tonnes for whiting. These catches would however, as I said, only be justified if effort for these fisheries were also restricted by limiting days at sea.

However, if we finally adopted multi-annual recovery plans, we could also justify more reasonable quotas, as the multi-annual aspect offers a certain degree of stability. This was also confirmed by the scientists who reviewed the multi-annual recovery plan. They believe that the Commission’s multi-annual plan could help cod stocks in North and Irish Seas recover to above critical levels, lifting it from the “at risk” category. This would be the best possible scenario for fishermen, as a multi-annual recovery plan would give them higher TACs in the short and long term, as well as the security to plan ahead. So, as you can see, it paid off to adopt recovery plans swiftly.

Whatever happens Annex XVII must be reviewed, because our inspectors have frequently found deficiencies in its structure and implementation. In order to iron out these deficiencies and make the rules clearer, we want vessels to be required to remain in port once they have used up their days at sea. We also have to abolish the exceptions for certain areas in the North Sea and west of Scotland, but want in return to give more days at sea to vessels that can prove that they catch only small quantities of cod. This will also compensate for the fact that we cannot introduce a haddock box east of Scotland for the haddock fleet, as suggested by the Scottish fishing industry, because it would be impossible to monitor such a box at present due to the serious shortcomings in the UK inspection system.
Before moving on, I would like to touch on the problems that are making it increasingly difficult for scientists to produce transparent reports. The reports say: "Managers must deal with unreliable catch data and the inability of management to control catch." "There is a considerable uncertainty of 2003 landings." "The corresponding landings for haddock and whiting in 2003 are predicted to be about twice the agreed TAC for haddock and about 20% above the agreed TAC for whiting."

This proves that the quotas are not being respected, and that unreliable data is being supplied. The problem is not, therefore, that ICES is producing poor reports, but that it is sometimes given inaccurate landing figures, or no information on discards.

Attempting to prevent us from forming the full picture needed to manage our fisheries resources, by keeping vital data from our scientists, is simply unacceptable. The Member States have an obligation to keep accurate records on catch landed and discards, and to make this information available to the scientists. Last week in the Council I reminded the Member States of their duties in this respect and I will not shy away from taking appropriate legal steps here if necessary.
EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

BRIEFING PAPER

“Pre- and post-Council of the EU analysis and scrutiny”

Introduction

1 One of the core scrutiny tasks that the European and External Relations Committee conducts is the analysis of information received from the Scottish Executive on meetings of the various Council of the EU formations (formerly known as the Council of Ministers).

2 Two types of information are shared with the Committee under the agreement between the previous Committee and the Executive. First, a few weeks in advance of a Council meeting, the Committee is provided with an annotated agenda of the Council. This sets out the nature of the agenda and the Executive’s views on the items in question where it has a competence. The Executive’s views tend to be italicised so as to stand out for the reader. Members should be aware that often the agenda is a ‘best guess’ and second, the views provided are designed not to prejudice the UK’s negotiating position whilst still providing sufficient information for Members to have an understanding of the subject.

3 Second, following the meeting of the Council, within a few weeks, the Executive provides the Committee with a post-Council report, detailing attendance and the discussions that took place.

4 These two types of information give rise to the shorthand terminology of ‘pre-and post-Council scrutiny’ for this particular task of the Committee. In scrutinising the material, the Committee has a range of options:

- note the material having placed it into the public domain for others to use
- ask for more written information from the Executive
- invite the relevant minister to attend the next committee meeting for further discussions

5 The nature of the scrutiny to be undertaken by Members should be focusing on two distinct areas. As a first priority, the Committee should aim to focus on the Council agenda items that make reference to early,
formative discussions (e.g. on Green Papers, White Papers, Commission Communications, orientation debates etc.) in the Council. This is an indication that the decision-making process for these agenda items in the Council is at an early stage. It is here that the Committee might best influence the minister’s thinking early on.

6 As a second priority, to be used perhaps only occasionally, the Committee may choose to focus upon agenda items nearing final decisions. The December Fisheries Council is a good example of this. It is here that the Committee may wish to have a final engagement with a minister prior to critical decisions being taken. It must be recognised that with QMV, it is not always a simply case of the UK delegation objecting to a final proposal that can prevent decisions being taken.

7 In a new development for session two of the Parliament, the relevant sectoral information is being sent directly by the relevant minister to other subject committees. This means, for example, that in addition to this Committee receiving fisheries information, the Environment and Rural Development Committee is simultaneously in receipt of the same information.

8 What this means for this Committee is that any further dialogue with the Executive is best done in co-ordination and co-operation with the dialogue that another committee may choose to undertake. Members should note that such as system does not preclude the European and External Relations Committee from engaging with all the material and information received. On occasions, it may be that an issue is pressing, but a subject committee has no time in which to deal with it and therefore this Committee may tackle the issue. This system requires good communication between conveners and between clerks, and close co-operation between the clerks and officials in the Executive.

This paper

9 Based on experience from session one of the Parliament, these papers are best sub-divided into two sections. Annex A contains a summary table, with the Convener’s recommendation(s) for each Council agenda/report. Annex B contains the full information provided by the Executive for each of the Councils being considered at today’s meeting.

Action requested

10 Members are requested to consider the recommendations set out in the table in Annex A in light of the information provided by the Executive, set out in Annex B.

Richard Lochhead MSP
Convener
Tel: 0131 348 5234
Email: europe@scottish.parliament.uk
<table>
<thead>
<tr>
<th>Council</th>
<th>Did Executive meet deadline for sending information?</th>
<th>Notes and recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pre-Council scrutiny</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transport, Telecommunications and Energy Council, 15 December</td>
<td>Due 24.11.03</td>
<td></td>
</tr>
<tr>
<td>Agriculture and Fisheries Council, 16-19 December</td>
<td>Yes</td>
<td>It is suggested that all questions on this annotated agenda are directed at the Minister who is appearing at this meeting of the Committee.</td>
</tr>
<tr>
<td>Economic and Finance Council, 16 December</td>
<td>Due 25.11.03</td>
<td></td>
</tr>
<tr>
<td>Justice and Home Affairs Council, 19 December</td>
<td>Due 28.11.03</td>
<td></td>
</tr>
<tr>
<td>Environment Council, 22 December</td>
<td>Due 1.12.03</td>
<td></td>
</tr>
<tr>
<td><strong>Post-Council scrutiny</strong></td>
<td></td>
<td></td>
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<tr>
<td>Agriculture and Fisheries Council, 29-30 September</td>
<td>Due 20.10.03</td>
<td></td>
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<tr>
<td>Agriculture and Fisheries Council, 13-14 October</td>
<td>Due 3.11.03</td>
<td></td>
</tr>
<tr>
<td>Environment Council, 27 October</td>
<td>Due 17.11.03</td>
<td></td>
</tr>
<tr>
<td>Economic and Finance Council, 4 November</td>
<td>Yes</td>
<td>To welcome the information provided and note developments.</td>
</tr>
<tr>
<td>Justice and Home Affairs Council, 6 November</td>
<td>Yes, delivered early (on 24.11.03)</td>
<td>To welcome the useful information provided.</td>
</tr>
<tr>
<td>Competitiveness Council, 10-11 November</td>
<td>Yes, delivered early (on 20.11.03)</td>
<td>To congratulate the Department on early delivery of the information requested.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>To note the developments on the REACH Chemicals package.</td>
</tr>
</tbody>
</table>
ANNEX B

ANNOTATED AGENDAS/REPORTS

Transport, Telecommunications and Energy Council, 15 December

Awaiting information from Executive
Agriculture and Fisheries Council, 16-19 December

NB – The agenda for this Council is not yet available. The following has been prepared on the basis of what we consider might feature on the agenda.

Fisheries

Council Regulation on TACs and quotas for 2004

The Commission will bring forward regulations allocating the TACs and quotas for each member state for 2004 for discussion and adoption.

*The Scottish Executive has been negotiating for, and believes it will achieve, a more equitable agreement on TACs and quotas than that which we were forced to accept last year.*

Council Regulation establishing measures for the recovery of cod stocks

The Commission will bring forward regulations for the recovery of cod stocks to levels that will allow sustainable fishing in the future.

*The Executive will be aiming for a balanced package – one which is more effective and more equitable than the current Annex 17 arrangements.*

Agriculture

Discussion on Commission proposals to improve the welfare of animals during transport.

*The Executive supports high standards of animal welfare in all circumstances but is keen to ensure that producers in the more remote parts of Scotland are not unduly disadvantaged by the Commission’s proposals. Will continue to seek an agreement which both protects animal welfare and assists commercial operations.*

Continuing discussion on reform of the CAP regimes applying to tobacco, olive oil and cotton.

*No Scottish producer interests but wider interest in seeing the June 2003 CAP Reform principles applied to these commodities, health issues re tobacco and manufacturing input costs.*
Economic and Finance Council, 16 December

Awaiting information from Executive
Justice and Home Affairs Council, 19 December

Awaiting information from Executive
Environment Council, 22 December
Awaiting information from Executive
Post-Council Report – Agriculture and Fisheries Council, 29-30 September

Awaiting information from Executive
Post Council Report - Agriculture and Fisheries Council, 13-14 October

Awaiting information from Executive
Post Council Report - Environment Council, 27 October

Awaiting information from Executive
Post-Council Report – Economic and Finance Council, 4 November

UK Participant: Mr Gordon Brown (Chancellor of the Exchequer)

ITEMS APPROVED WITHOUT DEBATE

ECOFIN
– Labour force sample survey – Public deliberation
– Financial Regulation for executive agencies

ENLARGEMENT
– Accession conference with Bulgaria – EU common positions

INTERNAL MARKET
– Detergents - Public deliberation
– Pedestrian protection – Public deliberation
– Traditional herbal medicinal products – Public deliberation

FISHERIES
– Western Waters

ENVIRONMENT
– Montreal Protocol.

TRANSPARENCY
– Public access to documents

APPOINTMENTS
– Committee of the Regions
– Economic and Social Committee

ITEMS DEBATED

THE EXCESSIVE DEFICIT PROCEDURE FOR FRANCE

IMPACT OF AGEING ON PUBLIC FINANCES – EPC REPORT
The Council endorsed the Economic Policy Committee (EPC) report on the impact of ageing populations on public finances which shows that large demographic changes with significant budgetary effects will take place in coming decades even if there is some uncertainty as to the precise scale of their impact. Overall, the projections of the EPC show that on the basis of current policies, public spending on age-related public expenditures (notably pensions, health care and long-term care) could increase by between 3 and 7 percentage points of GDP by 2050, with the effects taking hold as of 2010.

The EPC report highlights the need for a three-pronged strategy to meet the economic and budgetary consequences of ageing populations, consisting of: faster pace of debt reduction (especially in high-debt countries); measures to raise employment rates, especially for older workers and women; and reform of pensions and health care systems.
**The Scottish Executive is aware of the challenge demographic change poses to the sustainability of public service delivery. While the UK is relatively well-positioned to meet this challenge (compared to other EU countries), the Executive remains alert to the problems of population decline, ageing, and changing population density across Scotland.**

**HARMONISATION OF TRANSPARENCY REQUIREMENTS**
The Council, on the basis of a progress report prepared by the Presidency, had a policy debate on the proposal for a Directive on the harmonisation of the requirements with regard to information about issuers whose securities are admitted to trading on a regulated market. The debate focused on the obligation for listed companies to present quarterly financial information.

The proposal, which is part of the Financial Services Action Plan and the Lisbon agenda, complements the International Accounting Standards (IAS) Regulation and the prospectus and market abuse Directives – all three recently adopted – as well as the Directive on financial instruments markets. The purpose of the proposal is to harmonise across Member States regular reporting requirements and requirements concerning the notification of major holdings.

Due to the rapid development in recent years of financial markets and the emergence of new financial instruments, the new Directive will replace and significantly revise the existing provisions of Directive 2001/34/EC on the admission of securities to official stock exchange listing and on information to be published on those securities. With a view to similar future developments, the proposal is drafted in a manner enabling implementing measures to be adopted by the Commission in relation to several provisions of the Directive.

**STRUCTURAL INDICATORS – Council conclusions**
Referring to the Commission’s proposal for the list of structural indicators for the spring report 2004, the Council adopted the following conclusions:

The ECOFIN Council considers that the Commission’s shortlist of headline indicators needs to be improved to contain indicators measuring economic reform. The EPC should continue its work with a view to achieving this.

**ROLE OF CUSTOMS IN CONTROLLING EXTERNAL BORDERS – Council Conclusions**
The Council adopted Conclusions on the role of customs in the integrated management of external borders, calling for a strengthening of cross-border co-operation and the integration of safety and security aspects in the daily work of customs, while ensuring optimal, facilitated conditions for a rapid flow of international trade without prejudice to the need for society and the economy to be effectively protected against unfair or illegal operations.
Post-Council Report – Justice and Home Affairs Council, 6 November

Comments by the Executive

Another Council dominated by Asylum and Immigration issues and also the Directive on Compensation to Victims of Crime. Caroline Flint attended for the UK. The UK intervened in the debate on the Procedures Directive to give a wider political context to the debate. There is still a question over the legal base of the Directive on Compensation to Victims of Crime as well as the cost implications for new Member States and those Member States that do not have compensation schemes in place.

Agenda Items

Follow-up of Brussels European Council on Managing the Union’s Common Borders and Controlling Migratory Flows – Readmission Agreements State of Play

The Commission reported that there had been encouraging progress. Agreement had been reached with China and negotiations continued with other countries (Albania, Morocco, Russia and the Ukraine).

Proposal for a Council Directive on the Residence Permit issues to Third-Country Nationals who have been Subjects of an Action to Facilitate Illegal Immigration Who Co-operate with the Competent Authorities

Discussion centred round the residence permits granted under the directive. Agreement was reached on the text subject to French and Dutch scrutiny reserves being lifted.


This Directive is a package of EU measures aimed at establishing minimum standards in procedures for considering the granting of asylum applications in line with the Geneva Convention. The only aspect of the Directive of interest to the Executive is Article 13 which concerns legal aid, a devolved matter. The Article as currently drafted proposes the need to ensure the asylum seeker can effectively consult with a legal advisor and access, under certain circumstances, legal aid for appeal proceedings. The current draft of the Article does not appear to be incompatible with the current legal system. The discussion at Council did not cover Article 13. Member States discussed three key issues: (i) a common EU list of safe countries of origin (ii) a common EU list of safe third countries and (iii) the criteria set for designating a country as safe.

The UK had concerns over the appeals provisions and criteria for the designation of safe countries; the appeals procedure should not give failed asylum seekers multiple opportunities to frustrate their removal. There was no consensus on the safe third country lists or on border procedures. The dossier was passed to Coreper for further discussion.


This dossier has been slow moving due to the uncertainty as to whether there is the appropriate legal base for the Directive i.e. whether there is an appropriate power in the treaty
establishing the EU. The aim of the directive is to ensure that all EU citizens and legally resident third country nationals can receive adequate compensation for the loss suffered if they fall victim to intentional violent crime within the EU. The commitment was given to this proposal at Tampere in 1999. The Directive would require each Member State to establish a state compensation scheme conforming to certain common minimum standards as regards eligibility and the scope and amount of compensation to be awarded. It would also require each Member State to accept applications from its residents or nationals injured in other EU countries and to channel those applications from its residents or nationals in other EU countries and to channel those applications to the Member State where the crime occurred for consideration.

At Council the UK urged caution on the issue of the legal base arguing that it important that Member States did not allow their common desire to help victims to lead to an inappropriate use of the Treaty. The new Member States underlined the financial difficulties that the proposal would cause them as few have compensation schemes. The Presidency concluded that the question of the legal base should be considered along with the substance of the proposal. The Irish suggested that a detailed analysis of the different systems in Member States should be carried out before any attempt to approximate systems could be made. The Presidency agreed that an analysis should be carried out during the Irish Presidency and it was clear that there was a financial problem for Member States which would need to be taken into account.

Follow Up of Brussels European Council on Managing the Union’s Common Borders and Controlling Migratory Flows

The Commission confirmed that the proposal for a European Borders Agency was due to be presented for approval at a Commissioner’s meeting on 11 November. The UK and Ireland were excluded from participating, as the regulation as currently drafted is a Schengen Building measure.

The Borders Agency would have an EU 15 million budget for both 2005 and 2006 and would employ around 30 staff.

Draft Council Framework Decision on the Application of the Ne Bis In Idem Principle

An initiative of the Greek Presidency. The Framework Decision does not require changes to domestic provision; it is about how double jeopardy is recognised between Member States. It sets to update provisions in Schengen and as such does not do anything to compromise the principles of double jeopardy. The discussion focussed on the scope and exceptions to the Ne Bis In Idem rule. Council failed to reach a consensus on either the scope of reducing the exceptions and inserting a sunset clause. The dossier will return to Working Group for further work.
Post-Council Report – Competitiveness Council, 10-11 November

The Council was attended by Ms Jacqui Smith MP, Minister of State, DTI.

Summary

Agreement on electromagnetic compatibility directive plus resolutions on new approach directives and researchers’ careers. Commission proposal on chemicals (REACH) seen as considerable improvement on previous approach, but requiring further impact assessment and simplification. Support for better regulation working group to help the Council develop its cross-cutting role. Growth initiative priorities for research focus mainly on shared themes.

Electromagnetic Compatibility

Council agreed unanimously on a general approach on the proposal for a Directive on the approximation of the laws of the Member states on electromagnetic compatibility with the aim of reaching agreement with the European Parliament at first reading. The objective of the Directive is to guarantee the free movement of electrical and electronic apparatus within the Internal Market without lowering justified levels of protection in the Member States.

Chemicals Regulation (REACH)

Council took note of Commissioner Liikanen’s presentation on the legislative proposal for putting in place the new EU Chemicals strategy and instructed the Permanent Representatives Committee to examine the proposal as a matter of priority. An extensive exchange of views took place. The majority of delegations welcomed the amendments introduced which take into account some of the concerns expressed by those consulted particularly in respect of the scope of the REACH system and the associated potential costs for industry. The proposal was now better balanced and costs cut but differing views of the impact on downstream users emerged. Delegations welcomed the decision taken by the Permanent Representative Committee to set up an ad hoc Working Party on Chemicals with a broad mandate to examine the proposal in all its aspects.

Unfair Commercial Practices

Ministers held a first exchange of views on this proposed Directive. The proposal was adopted by the Commission in June. It is a general horizontal measure intended to outlaw unfair trading practices in the Internal Market which adversely affect consumers. Some delegations: stressed the need to ensure consistency with existing parallel Community legislation; were in favour of extending the scope of the proposal to business-to-business practices. The Presidency drew no specific conclusions.

New Approach Directives

These Directives regulate free movement in the Internal Market of a large proportion of all manufactured goods. Council unanimously adopted a resolution welcoming the Commission’s recent communication “Enhancing the Implementation of the New Approach Directives” and the objectives it contained.
Enhancing Competitiveness and Growth

Council held an exchange of views based on 2 questions put by the Presidency concerning impact assessment and priority areas in relation to R&D projects in the context of the “growth initiative” and the “quick start programme”. It was noted that both matters would be taken up again in the context of the discussions to be held at the Competitiveness Council scheduled for 26/27 November on European Competitiveness.

Research – ITER (International Thermonuclear Experimental Reactor)

Ministers discussed the way forward on the question of the EU site for ITER. No breakthrough.

Resolution on Researchers’ Careers

Resolution agreed without substantial debate. Council agreed to add a reference to mobility between different private sector functions.
EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

BRIEFING PAPER

“Outstanding correspondence received from Scottish Executive on pre- and post-Council scrutiny conducted on 4 November”

Introduction

1 At its 6th meeting 2003 (4 November), the Committee asked for further information on a variety of subjects following its analysis of material on pre-Council of the EU annotated agendas. On behalf of the Committee, the Convener sent letters to various ministers in the Scottish Executive seeking more information. Copies of these letters for which replies were outstanding are attached as Annex A. Where replies have now been received, these are set out next to the appropriate letter from the Committee.

Action requested

2 Members are requested to consider the letters and the responses set out in Annex A.

Richard Lochhead MSP
Convener
Tel: 0131 348 5234
Email: europe@scottish.parliament.uk
ANNEX A

LETTERS SENT TO THE SCOTTISH EXECUTIVE BY THE CONVENOR (DATED 5 NOVEMBER)

MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT

Following the recent meeting of the Committee, it was agreed that further information be sought on various items relating to the information you kindly provided on the Council of the EU agendas.

Agriculture and Fisheries Council

1. To ask the Scottish Executive why no annotated notes were provided on the Fisheries aspects on this agenda, setting out the Executive’s initial view of the Council agenda item. This prevented the Committee from understanding the nature of the agenda items and the Executive’s view.

2. To ask the Scottish Executive for a statement on its position vis-à-vis the establishment of Regional Advisory Councils and whether these will, as agreed by a previous Committee, have now or in the fullness of time delegated decision-making powers and be inclusive of all stakeholders.

3. To ask the Scottish Executive for a view on whether it is possible and whether it will seek a financial contribution to the new build within the Scottish fishery protection fleet under the proposed scheme amending the financial contribution by the Community to Member States’ expenditure incurred in implementing the control, inspection and surveillance systems applicable to the CFP. Additionally, could such a contribution be sought to assist with the contribution made by the Scottish fishery protection fleet in the North East Atlantic?

4. To note developments relating to the discussions on animal welfare during transportation and to ask that the post-Council report sets out the discussions on this agenda item in full, including the views put forward by the UK delegation at the Council and any decisions taken.

As these information requests are to do with the scrutiny of EC/EU legislation, it is my view that they are not covered by the usual timescales set out in the relevant concordat. In this respect, if possible, may we have a reply in time for the next meeting of the Committee. To this extent, a response by Monday 1 December would be greatly appreciated.

EXECUTIVE’S RESPONSE

Awaiting response from the Executive
Please note that this Pre Council Report is based on a provisional agenda set in July 2003. The agenda may be subject to substantial change.

Asylum and Immigration

Follow up to Thessaloniki:
- Commission communication on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external border and the return of illegal residents

The SE has a co-ordination role with regard to the provision of services for asylum seekers and refugees. Any changes to operations in Scotland will be for the Home Office to implement.

Follow-up to the Commission’s feasibility study on improving sea border control

Follow-up to the study on the creation of a common European system for an exchange of visa data (VIS)

Readmission Agreements: state of play

Proposal for a Council Directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities


Adoption of a Common Handbook for the Immigration Liaison Officers

Proposal for a Council Regulation or Conclusions on simplified procedures of border control following enlargement

Outcome of Seminar on entry in the European Union for the purpose of study and research

Conclusions on asylum applications submitted outside the European Union

Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of study and vocational training
Proposal for a Council Directive on the conditions of entry and residence of third country nationals for the purpose of paid employment and self-employed economic activities (Possible)

Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of research

The SE has a co-ordination role with regard to the provision of services for asylum seekers and refugees. Any changes to operations in Scotland will be for the Home Office to implement.

POLICE CO-OPERATION

Recommendation on a Code of Conduct on Joint Investigation Teams on Terrorism

This is reserved and there are no distinctly Scottish aspects. The proposal was introduced by the Italian Presidency. Its main aim is to produce an operational manual for the Counter-Terrorist Joint Investigation Teams (CT JITs). The operational manual will set out legal provisions relevant to work of the CT JITs in each Member State and Accession Countries. The UK Government has been broadly supportive of this proposal, but has emphasised the need for any procedures governing the work of CT JITs (including any Memorandum of Understanding) to be flexible and at the discretion of the countries participating in the teams. Highly unlikely to be on final agenda.

List of Terrorist Organisations – updating with indication potential threat

This is a reserved issue with no distinctly Scottish aspects. Highly unlikely to be on final agenda.

Proposal for a Council Resolution on the exchange of personal data in the framework of re-establishment of internal border control on the occasion of European Councils or similar events

An Italian Presidency initiative stimulated by disturbances at European Council meetings and other major events. The disturbances highlighted the need for better co-ordination and co-operation between Member States’ police forces. The resolution aims to prevent public order disruption by those whose aims or actions constitute an offence or involve the use of violence to be achieved by the targeted exchange of information. The UK currently has a Parliamentary reservation in place. There is no special Scottish interest. Highly unlikely to be on final agenda.

Proposal for a Council Decision on the exchange of lists of hooligans and the adoption of common rules to prohibit the admittance to sport installations to persons who have been responsible for violent acts

This proposal seeks to prevent persons banned from attending football matches in their own country from attending matches played in other Member States. The UK supports (with Scrutiny Reserve) the proposal in principle – and strongly believes that the onus must be on the Member State with a domestic hooligan problem to take steps to prevent the export of that
problem. This is not currently an issue for Scotland, whose football fans generally have an excellent reputation for their behaviour both at home and abroad (which is why the Football (Disorder) Act 2000 and banning orders do not apply in Scotland – it was introduced to tackle what was perceived to be predominately an English problem). Scottish police are, however, keeping the situation under review in case the law in Scotland needs strengthening in the future—for example to deal with a British Football league or cup or a future Euro Tournament in Scotland. The Scottish Police work closely with their counterparts South of the border, and the National Criminal Intelligence Service (NCIS) Scotland Office has adopted the role of centrally co-ordinating football intelligence in Scotland. **Highly unlikely to be on final agenda.**

**Proposal for a Council Resolution on drug related undercover operations and controlled deliveries**

This is unlikely to be on the final agenda. We have no evidence of it having been considered in any third pillar for including Article 36 Committee. **Highly unlikely to be on final agenda.**

**Triennial report on CEPOL and eventual follow-up**

The European Police College Network (CEPOL) was set up on 1 January 2001. It was established to help train senior police officers of the Member States (although provision has been made for other ranks) by optimising co-operation between its various component police training institutes. It supports the development of a European approach to the main problems facing Member States in the fight against crime, crime prevention, and the maintenance of law and order and public security, in particular the cross-border dimensions of those problems. The Director of the Scottish Police College is a member of the Governing Board. A permanent secretariat to assist CEPOL with the administrative tasks is to be set up by the Governing Board. The permanent secretariat may be set up within one of the national police academies and the UK Government are keen to see this being established at Bramshill with a representative of the Scottish Police College being a member of the secretariat. Costs will be met by CEPOL.

**Development of SIS II**

SIS II is the new generation Schengen which is planned for implementation at the end of 2006. The latest position is that the SIS II invitation to tender has been issued and the Home Office agreed to set-up a project team to cover the UK’s interests. The present SIS allows information exchange, through the use of queries to the SIS database, with a view to policing the free movement of persons as well as maintaining public security, and in particular assisting national authorities in the fight against trans-national crime. SIS II will allow for new functionalities such as:

- The addition of new categories of alerts, both on persons and objects (including the possibility that certain alerts be automatically deleted after a specific event/date)
- The inter-linking of any alerts, ensuring that this does not change the existing access rights to the different categories of alerts;
- The modification of the duration of the alerts;
- New authorities to get access to the SIS (including the possibility to give partial access or access with a purpose from the original one set in the alerts); and
The storage, transfer and possible querying of biometric data, especially photographs and fingerprints.

The benefits of these additional functions will accrue to Scotland.

Proposal for a Council Decision or Conclusions on Europol participation to the start and development of national inquiries

Proposal for a Council Decision or Conclusions on the exchange of information between Europol and Member States

These items are unlikely to be on the final agenda. We have seen no specific consideration of these items in any third pillar for a (including Article 36 Committee). Highly unlikely to be on final agenda.

CRIMINAL AND JUDICIAL CO-OPERATION

Proposal for a Council Framework Decision on minimum standards for procedural guarantees in criminal proceedings: Orientation Debate

The Commission published a Green Paper in February 2003 which considered the need for EU action on establishing common minimum standards of procedure for suspects and defendants in criminal proceedings and identified the areas in which they might be applied. The Commission believed that common minimum standards were desirable to strengthen the trust between Member States in their fairness of their judicial systems.

The Green Paper took as its starting point that the Member States of the EU were all signatories to the ECHR and other instruments such as the International Covenant on Civil and Political Rights. It identified those rights which it regarded as “so fundamental that they should be given priority”. These were:–

- Access to legal representation
- Access to interpretation and translation
- Protection of vulnerable groups
- Consular assistance to foreign detainees; and
- Providing suspects with a “letter of rights”.

The Green Paper did not seek to create new rights or monitor compliance with the rights that existed under the ECHR or other instruments but rather to identify the existing rights the Commission considered as basic and to promote their visibility.

The Executive contributed to the UK response and the subject area is devolved.

At the time of writing the anticipated draft FD has not yet been published, but the Executive is ready to engage fully in analysing it and ensuring that Scottish interests are fully reflected in the UK position. Highly unlikely to be on final agenda.

Proposal for a Council Framework Decision on mutual recognition of decisions aimed to the obtaining of evidence: Orientation Debate
This proposal was first published as a Commission non-paper in December 2002. It proposed that the FD on the freezing of assets and evidence should be built on and supplemented to provide a single mechanism to obtain and transfer evidence to the issuing state.

The non-paper asked for responses to various questions, such as whether the dual criminality provision should be relaxed for certain cases in relation to such requests, and whether there should be certain minimum standards in relation to matters such as proportionality, necessity and specificity.

The Executive contributed to the UK response. Obtaining evidence in Scotland is of course a devolved matter and this proposal will probably relate in particular to the area of search and seizure.

The FD has yet to be published and it is unlikely that this item will be on the final agenda.

CIVIL LAW MATTERS

Proposal for a Council Regulation creating a European Enforcement Order for uncontested claims: possible common position

The Commission presented on 18 April 2002 a proposal for a Regulation creating a European Enforcement Order for uncontested claims.

The European Parliament adopted its opinion in first reading on 8 April 2003, fully endorsing the architecture of the proposal and most of its main principles and provisions. The Economic and Social Committee delivered its favourable opinion on 11 December 2002.

The proposal is on its second reading with the next meeting of the European Committee on Civil Law matters due to take place on 10 November 2003.

Agreement of the proposal and adoption of it would speed up and simplify the recognition and enforcement of decisions in uncontested civil and commercial cases. The impact would be on court rules.

Our involvement has been in attending regular meetings of the European Committee on Civil Law matters in Brussels ensuring Scottish interests are looked after as part of the UK delegation.

Proposal for a Council Regulation on the Law applicable to non-contractual obligations (Rome II): orientation debate

Highly unlikely to be on final agenda.
CONVENER’S REPORT

1. Scottish Executive’s position with regards to tripartite contracts between itself, the UK Government and the European Union. Members may be aware that one of the initiatives emerging from the debate on the Governance of the EU and the role of the European Commission is the creation of “tripartite contracts”. These would see a more direct role for regional or sub-state national parliaments in the management of Community obligations (e.g. regional development, environmental issues etc.). To date, the Commission has been working on ideas for the implementation of these contracts, which would see direct contacts between the Commission and regional or sub-state national parliaments, set in the overall framework of EU to Member State government relations.

During the previous session, the Committee wrote encouragingly to the Commission and to the First Minister (see Annex A) urging support for such contracts and that Scotland would be in the vanguard for any initial tranche. This position was seemingly supported by the UK Government and Scottish Executive in its joint submission to the Convention (see Annex A) and again by the First Minister in his Opinion produced for the Committee of the Regions which states that, “greater use should be made of target-based tripartite contracts, to implement policies with a minimum of bureaucracy and prescription”. It is also a view supported by Prof. Sir Neil MacCormick MEP in his role as rapporteur on this subject in the European Parliament (draft report circulated).

However, in an answer to a recent Parliamentary Question (Ref. 03565) on whether the Executive has made any applications on behalf of Scotland for tripartite contracts, the response from the Executive was simply, “No”. The Convener now recommends that:

Members note the seemingly contradictory message and agree to enquire of the Executive its latest position and intentions vis-à-vis tripartite contracts.

2. Letter received from Hon. Mrs Gwyneth Dunwoody MP, Chair, House of Commons Transport Committee on the Convener’s letter regarding the ‘Eurovignette’ and heavy goods vehicles in the UK. At the suggestion of John Home Robertson MSP, the Convener wrote to the House of Commons Transport Committee to enquire whether it has made any effort to look into the use in the UK of a ‘Eurovignette’ for HGVs using UK roads. The Chair of the Transport Committee has kindly replied (see Annex B). The Convener now recommends that:


The Committee welcomes the response by the House of Commons Committee, agrees that it should take up the offer of responding to the Transport Committee’s inquiry and suggests that John Home Robertson MSP works with the Clerk to produce a short, draft response for approval by the Committee prior to delivery to the House of Commons.

3. Letter received from the Minister for Finance and Public Services on the Scottish Euro Preparations Committee. Recently, the Committee asked the Executive to send it details of the meetings of the Scottish Euro Preparations Committee that it attends. The Committee has now received a response (see Annex C). The Convener now recommends that:

The Committee welcomes the response by the Executive but, given pressure of resources in the Committee, asks that the Executive itself pro-actively sends the Committee the minutes of the Euro Preparations Committee as this will ensure these arrive on a regular basis. Furthermore, that the Committee recommends that the Executive arranges to deposit such minutes in SPICe.

4. Videoconference held with the Finnish Grand Committee and its transcript. As part of the Parliament’s efforts to build links with the Nordic States, the Committee held recently a videoconference with the Finnish Parliament where issues around the IGC and also regional development were discussed. A transcript of the videoconference was produced and is available as part of today’s papers. The Convener now recommends that:

The Committee thanks its counterpart in Helsinki for taking part in what proved to be both a useful and enjoyable event. Furthermore, that the Committee records its thanks to the Official Report for their assistance in producing the transcript and to the Parliament’s IT services for setting up the event itself.

5. Letter received from Christopher Leslie MP, Parliamentary Under Secretary of State, UK Department of Constitutional Affairs, on Numbers of MEPs for Scotland. Following discussion of evidence on this issue, the Committee wrote to Lord Falconer, UK Secretary of State for Constitutional Affairs. A reply has now been received (see Annex D). The Convener now recommends that:

The Committee thanks the UK department for its response.

6. Publication of the latest evidence on the Committee’s two Inquiries. Copies of all the written submissions for these Inquiries can now be found online at the Committee’s page on the Parliament’s website. The Convener now recommends that:

Any interested party consults the Committee’s homepage for up-to-date information on the development of these two Inquiries: http://www.scottish.parliament.uk/european/index.htm
7. Analysis of the European Commission’s Annual Work Programme for 2004. At the previous meeting of the Committee, the clerks undertook to produce a short analysis of the European Commission’s 2004 legislative and non-legislative work programme. This has been re-produced in Annex E. Much of this draws upon the analysis undertaken by Scotland Europa. This material has been sent to all other subject Committees in the Parliament for their interest. Additionally, as agreed to by the Committee at its previous meeting, the subject of the Commission’s work programme has been referred to the Bureau with a recommendation that the Scottish Executive agrees to a debate in its time in the Chamber. The subject is also set to form the main topic of discussion at the EMILE group on 8 December, where the Deputy Convener will give a short overview on behalf of the Committee. The Convener now recommends that:

Members thank Scotland Europa for its analysis and give any additional views today to the Deputy Convener in order that she can best represent the Committee at the EMILE Group on 8 December.

Richard Lochhead MSP
Convener
27 November 2003
LETTER SENT TO THE FIRST MINISTER (DATED 17 FEBRUARY 2003)

Dear First Minister,

SUBJECT: Tripartite contracts

The Scottish Parliament’s European Committee recently considered the following Communication from the Commission, “A framework for target-based tripartite contracts and agreements between the Community, the States and regional and local authorities”, (COM (2002) 709 final).

We have written to the European Commission to welcome the positive progress made on this initiative as this was one of the key recommendations made by this Committee to the European Convention as part of its own submission.

This is also an issue referred to in your recent joint submission with the UK Government and the Welsh Assembly Government to the Convention in advance of its debate on the regional dimension.

The comments made in your submission are something the European Committee endorses fully and we hope the Scottish Executive will be at the vanguard of any pilot target-based scheme.

We believe Scotland has demonstrated exemplary competences in relation to the management of European Structural Funds and trust that this will hold us in good standing in the decisions to be taken regarding future pilot schemes.

Yours sincerely

Irene Oldfather MSP
Convener

EXTRACT FROM THE JOINT SUBMISSION TO THE EUROPEAN CONVENTION BY THE UK GOVERNMENT, SCOTTISH EXECUTIVE AND WELSH ASSEMBLY GOVERNMENT.

“The UK wishes to explore further the concept of tripartite agreements, as set out in the Commission’s Communication on Target-Based Tripartite Contracts and Agreements, under which the Commission, Member States and regional and local authorities are encouraged to work together to develop and implement policy. A "one size fits all" approach fails to take account of varying local circumstances and priorities. Tripartite agreements offer a potentially useful mechanism for developing policy in a flexible way. Such agreements should be light-touch and low on bureaucracy. We should welcome the opportunity to help design pilot tripartite agreements involving one or more devolved administrations in the UK in order to assess the potential of this approach.”
Convener’s letter (7 November)

At a recent meeting of the Scottish Parliament’s European and External Relations Committee, we discussed a document issued in the EU (EC Reference 12198/03). This referred to transit arrangements for Heavy Goods Vehicles in Austria. One of our Members, John Home Robertson MSP (Labour, East Lothian), commented on his personal experience of continental truck journeys, which included having to pay for transit across Austria.

He reported that Scottish road hauliers have strong feelings about the increasing number of trucks from other EU member states carrying goods on UK roads without contributing to road costs through UK fuel taxation, because they use diesel purchased at mainland European ferry ports. He highlighted the "vignette" system, which enables Austria to charge such transit traffic for the use of Austrian roads, and in his view, there must be a powerful case for a similar arrangement to address the same problem in the UK.

I agreed that on behalf of the Committee we would raise this issue with Westminster colleagues to see what work may have been done in the House of Commons on this issue or what the view of your committee may be on this subject.
Response

MRS GWYNETH DUNWOODY MP.

HOUSE OF COMMONS
LONDON SW1A 0AA
Tel: 020 7219 3490
Fax: 020 7219 6046

Mr Richard Lochhead MSP
The Scottish Parliament
Parliament Headquarters
George IV Bridge
Edinburgh
EH99 1SP

11th November 2003

Dear Mr Lochhead

**Euro Vignette**

Thank you for your letter about Euro Vignette.

The Transport Committee will be conducting an inquiry into Transport and the European Union, and I attach a document which sets out how to make a submission, should you wish to do so on the Euro Vignette.

If you would like further details, please check our website

http://parliament.uk/parliamentary_committees/transport_committee.cfm

Yours sincerely
New Inquiry: European Union Competence and Transport

The Transport Committee has decided to conduct an inquiry into European Union competence and transport, with particular reference to the principles of proportionality and subsidiarity.

The Committee is particularly interested in:

- What powers the Commission has;
- What it needs;
- What it would like;
- What should be reserved to individual countries.

and will look at

- the interrelationship between transport matters and the single European market;
- the actual and appropriate extent of community competence;
- the level of detail needed in European regulation.

The Committee wishes to draw its terms of reference to those working in or interested in transport, and invites them to comment on these issues, particularly in the context of specific cases. Witnesses are invited to submit memoranda to the Committee before Monday 5 January 2004. Witnesses who wish their memoranda to be treated in confidence should contact the Committee Clerk in advance.

Memoranda should be a maximum of 6 A4 pages in length with numbered paragraphs or pages.

Witnesses are requested to submit a single hard copy of their memorandum by post to the above address, together with an electronic version (in Word format) either by e-mail to transcom@parliament.uk (with the title of the inquiry in the subject heading) or on a disk accompanying the hard copy. Witnesses who are unable to submit electronic versions of their submissions are respectfully requested to take particular care that their submissions are legible.

All submissions should be final and complete; the Committee will not accept draft memoranda or subsequent amendments. Memoranda submitted to the Committee should be kept confidential until published by the Committee.
Dear Richard

Thank you for your letter of 10 September. I apologise for the delay in replying.

You asked me to consider providing a written report shortly after each meeting of the Scottish Euro Preparations Committee. I have looked into this and understand that the minutes of each meeting are published, and give details of the Committee’s deliberations. I do not believe that a report would add anything to the information already contained in the minutes. The minutes of the first SEPC meeting of 2 September are available at the following location:

http://www.scottishsecretary.gov.uk/Publications/SEPC%20minutes%2002/09/03%20FINAL.doc

Information on the SEPC is available on the Scottish Executive web site, location:


On the question of the estimated financial costs in Scotland of a changeover to the euro, such costs would clearly be spread over a period of time whose duration is presently unknown. For example, organisations are already building in euro compliance when they introduce new IT systems or upgrades to existing IT systems, which will result in reductions in costs that would otherwise be incurred during a changeover. In these circumstances, it is not possible to provide any meaningful information.
LETTER RECEIVED FROM CHRISTOPHER LESLIE MP, PARLIAMENTARY UNDER SECRETARY OF STATE, UK DEPARTMENT OF CONSTITUTIONAL AFFAIRS, ON NUMBERS OF MEPS FOR SCOTLAND.

From the Parliamentary Under Secretary of State
Christopher Leslie MP

The Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London SW1E 6QW

DX 117000
Telephone 020 7210 8683
Fax 020 7210 8620
e mail: chris.leslie@dca.dti.gov.uk

Richard Lochhead MSP
The Scottish Parliament
European and External Relations Committee
c/o Room 5.16
Parliament Headquarters
George IV Bridge
Edinburgh
EH99 1SP

18 NOV 2003

NUMBERS OF MEPS FOR SCOTLAND

Thank you for your letter of 5 November to Lord Falconer, welcoming the forthcoming enlargement of the EU but also expressing your disappointment, and that of the Scottish Parliament’s European and External Relations Committee, that the Electoral Commission’s recommendations for the future allocation of MEP seats included a reduction from eight to seven for Scottish MEPs. I am replying as Minister responsible for electoral policy.

I am glad that you embrace the opportunities and challenges of a larger EU so positively. I am aware, too, that some Scottish representatives have made a case - not least during the passage of the European Parliament (Representation) Act 2003 - for Scotland to receive greater representation in recognition of its status as a country as well as a European electoral region of the UK. However, Scotland is a constituent part of the UK in Europe and constitutes just one of twelve UK European electoral regions.

As I think was explained during the debates on this issue when it went through Parliament, the Act aims at equality of representation, as far as possible, between each of the UK electoral regions. Any reduction is, of course, painful, but we took the view that it would be fairest to share that pain equally. It would not be right to single out one electoral region of the UK for special treatment, beyond the minimum requirement of 3 MEPs each, particularly since a disproportionate increase for one region would necessarily be made at the expense of another region. In the event, the necessary reductions will be shared across the UK very evenly once the Electoral Commission’s recommendations are implemented.

I think you will agree that the independent Electoral Commission’s recommendations have been made with scrupulous regard to the requirements in the Act. The Commission’s consultation resulted in the consideration of a number of possible systems of calculation, with the final choice...
of the Sainte Lague method as the fairest possible. A full explanation of the Commission's conclusions and how they were reached has been published (see www.electoralcommission.org.uk).

Under the terms of the European Parliament (Representation) Act 2003, the Commission's recommendations must be laid before Parliament. Thereafter, an Order, subject to affirmative resolution procedures, needs to be made to implement them. Alterations may only be made if Parliament rejects the Order; even if that should occur, amendments may only be made in consultation with the Commission. But I am confident that the recommendations as they stand provide as fair a distribution of the reduced number of MEP seats as possible. We therefore intend to make the Order implementing the Commission's recommendations as soon as all the EU member and accession states have ratified the Treaty of Athens.

I am copying this letter to Alasdair Darling for his information.
ANNEX E

ANALYSIS OF THE 2004 EUROPEAN COMMISSION WORK PROGRAMME

Introduction

Next year will be an eventful one for the EU with the accession of ten new member states, the signature of a new constitutional treaty and European parliamentary elections. With such a chaotic year in prospect, and in view of the fact that 2004 will be the last year of the Prodi Commission (a new Commission will take office from 1 November 2004), the Commission claims it has drafted a realistic, focused, and deliverable legislative and work programme for 2004.

The Commission's annual legislative and work programme:

- Announces new (and carried forward) proposals for adoption in the coming year.
- Lists those proposals requiring an extended impact assessment.
- Provides a preliminary assessment of the progress made so far towards achieving the Commission's strategic objectives.
- Highlights those proposals already adopted but upon which the onus rests on the Council and European Parliament to move forward.
- Reports on the Commission's work on simplification and codification of the acquis.

This report will focus only on the first aspect with a view to identifying the general priorities of the Commission in 2004 and highlighting key forthcoming proposals. Brief mention will also be made of the new impact assessment procedure.

In the Appendices to this report are lists of selected proposals. In Appendix 1 are those new proposals corresponding to the Commission's stated priorities for 2004. In Appendix 2 are those proposals which are carried forward from previous years but which ought to receive attention this year as they also correspond to the 2004 priorities. Finally, in Appendix 3 are certain new proposals which, whilst they do not fall within the key priorities, nevertheless are intended to be presented during 2004. These lists are not comprehensive but represent those proposals which the Scotland Europa Team considers of potential relevance to its members or otherwise worthy of note. For the full list of all proposals reference should be made to the official legislative and work programme, which is part in English, part in French, at http://www.europa.eu.int/comm/off/work_programme/index_en.htm

The Commission's Priorities for 2004

The Commission's priorities for 2004 are:

1. The accession of new member states
2. Stability
3. Sustainable Growth

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1 Source: Scotland Europa.
1. The Accession of New Member States

The Commission’s principal objective is to ensure the smooth accession and integration of the ten new member states that will join the Union on 1 May 2004. In addition to the necessary internal administrative preparations, this involves adapting existing programmes to the new members and ensuring the application of all existing Community legislation (known as the *acquis*) in the new member states. Key areas will include agriculture, food safety, the environment, maritime and nuclear safety, justice and home affairs (notably the Schengen space and external border control) and of course the internal market. Furthermore, the Commission will have to prepare a new financial perspective for beyond 2006 as the current proposals for major spending programmes are only valid until then.

The Commission is already looking beyond the present “wave” of enlargement and negotiations, monitoring and analysis of further candidates for accession will proceed throughout 2004: Accession negotiations will continue with Romania and Bulgaria, while Turkey and Croatia’s membership bids will be further analysed.

Finally, the Commission will have to follow up the Intergovernmental Conference and implement any changes contained in the new Constitutional Treaty, which will modify the EU’s institutional structure within the perspective of enlargement.

2. Stability

The Commission seeks to promote stability both internally and externally through a handful of key initiatives.

Internally, the so-called Tampere Agenda (from the Tampere European Council, October 1999) to create a “European area of freedom, security and justice” by 1 May 2004 will be completed and evaluated. An external border management agency and a second generation Schengen Information System database will be priorities and cooperation programmes with third countries on migration will be pursued. Finally, the Commission intends to draw up a policy on security of communications and information networks.

Externally, the Commission will attempt to bolster stability in neighbouring regions by using the carrot of limited access to the Single Market to entice countries in Eastern Europe and on the Mediterranean Rim to effect appropriate economic and political reforms. Partnership Agreements will also be pursued with Russia, the Ukraine, and potentially with the Balkans.

3. Sustainable Growth

Sustainable growth is of course a longstanding priority, notably in the context of the 2000 Lisbon Strategy. The Commission will make its customary Spring Report on economic matters to the European Council but it also proposes to review the EU’s Sustainable Development Strategy (adopted at Gothenburg in 2001) and to implement EU water and energy initiatives announced at the 2002 Johannesburg World Summit on Sustainable Development.
As regards growth, the Commission intends to focus on investment in networks and knowledge. It intends to develop European transport, energy and other infrastructure networks to increase the “interconnectivity” of the enlarged EU’s economy. Preparations for the Galileo satellite will be advanced to improve traffic management and energy infrastructure monitoring. The eEurope 2005 initiative will be reviewed and adjusted to promote the development and use of a secure broadband infrastructure across Europe. Investment in knowledge will be achieved through further development of the European Research Area with a view to achieving the 3% of GDP target for investment in R & I. The human resources aspect will also be addressed in an attempt to attract more talented personnel into the field.

As regards the sustainability of any such growth, the Commission also proposes action on the environmental and social fronts. It will present a Communication on the use of economic instruments to protect the environment. It will continue to present thematic strategies on themes such as soil, pesticides, waste prevention and recycling, and it wishes to support the development of new energy-saving technologies. It will also put forward an action plan on environment and health 2004-2010. Socially, it intends to implement the second half of the Social Policy Agenda it revised in June 2003.

Sustainable growth will also have an external aspect as the Commission continues to promote sustainable development in third countries around the world through the WTO and bilateral negotiations and agreements.

**Extended Impact Assessments**

Worthy of note is the fact that 2004 will be the first year for full implementation of the Commission's new impact assessment procedure which was set out in its Communication of 5 June 2002 (COM (2002)276). These extended impact assessments will look at the economic, social, environmental and regulatory impact of selected proposals, examining them also for subsidiarity and proportionality. Interested parties and relevant experts will be consulted in each case.

Those proposals for which an extended impact assessment will be carried out are set out in the work programme and are selected on the basis of whether or not the proposal will have a “substantial” economic, environmental or social impact on a specific sector or otherwise represents a major policy reform. Where this new procedure applies to the proposals selected below, this is indicated in the brief description.
## Appendix 1

### Selected list of new proposals corresponding to 2004 political priorities

Those marked in **bold** have been identified by the Clerks as being potentially of interest to the European and External Relations Committee and/or to a subject Committee.

<table>
<thead>
<tr>
<th>Policy Area</th>
<th>Title</th>
<th>Reference</th>
<th>Expected Date</th>
<th>Brief Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture and rural development</td>
<td>Council regulation on support for rural development from the EAGGF</td>
<td>2004/AGRI/003</td>
<td>May 2004</td>
<td>Council regulation to establish a Community framework to support the development of rural areas for the next programming period 2007-2013 (successor regulation to Reg. 1257/1999 applicable for the 2000-06 programming period). [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Employment and social affairs</td>
<td>Decision of the Council on common and member state employment policy guidelines</td>
<td>2004/EMPL/002</td>
<td>Apr 2004</td>
<td>The employment coordination process of art. 128 TEU is based on the adoption of common guidelines for employment policies, complemented with country-specific recommendations, and an annual review mechanism through the Joint Employment Report. The Employment Guidelines have been reviewed in 2003 with the aim of a better integration of the European Employment Strategy in the Lisbon process.</td>
</tr>
<tr>
<td>Employment and social affairs</td>
<td>Regulation on the European Social Fund from 2007</td>
<td>2004/EMPL/036</td>
<td>May 2004</td>
<td>Revision to the ESF Regulation for the period from 2007. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Employment and social affairs</td>
<td>Follow up to the 2nd stage consultation with the social partners on transferability of pension rights</td>
<td>2004/EMPL/012</td>
<td>Sept 2004</td>
<td>The Commission's action will depend on the results of the 2nd stage consultation of the social partners (launched in September 2003). The initiative could cover the following areas: conditions for the acquisition of occupational pension rights; preservation of dormant rights; enabling job movers to choose between preservation of rights in the scheme of origin or transferring rights to another scheme; fair actuarial conditions in the case of transfer of pension rights; information provided to the scheme members on their rights.</td>
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<tr>
<td>Enterprise</td>
<td>Communication on the implementation of the strategy for industrial policy in an enlarged Europe</td>
<td>2004/ENTR/033</td>
<td>March 2004</td>
<td>The Communication &quot;Industrial Policy in an Enlarged Europe&quot; (COM(2002) 714 final) began a process of examining the appropriateness and balance with which the EU's industrial policy is applied. The progress achieved will be reviewed in a follow-up Communication which will map the way ahead.</td>
</tr>
<tr>
<td>Enterprise</td>
<td>Plan of action/follow up to the communication on innovation policy</td>
<td>2004/ENTR/086</td>
<td>June 2004</td>
<td>Following communication COM(2003)112 on innovation policy and the conclusions of the Competitiveness Council of 13 May 2003, a plan of action in favour of innovation will be established to increase the competitiveness of European firms through Community, national and local actions as well as through the trans-national mobilisation of private actors. [<em>Extended Impact Assessment</em>]</td>
</tr>
<tr>
<td>Enterprise</td>
<td>Programme for the competitiveness of enterprises</td>
<td>2004/ENTR/007</td>
<td>Sept 2004</td>
<td>In the context of the expiry of the current Multiannual Programme for Enterprise and Entrepreneurship (MAP, 2001-2005), the Commission will present in 2004 a package for a new programme. The new programme will aim to implement the Lisbon goals in an enlarged Europe, adding or completing the coverage of innovation, competitiveness, and sustainable development. The programme will pay particular attention to SMEs and entrepreneurship. [<em>Extended Impact Assessment</em>]</td>
</tr>
<tr>
<td>Environment</td>
<td>Thematic strategy for the prevention and recycling of waste</td>
<td>2004/ENV/001</td>
<td>Sept 2004</td>
<td>This Communication follows the consultation paper COM(2003)301 “Towards a thematic strategy on the prevention and recycling of waste”. It will identify means to further develop waste management policy and will focus on the means to promote more sustainable waste management, by minimising the environmental impacts of waste while also taking into account economic and social considerations. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Environment</td>
<td>Thematic strategy for soil</td>
<td>2004/ENV/002</td>
<td>Sept 2004</td>
<td>The Soil Strategy will address the issue of how to protect European soils and use them in a sustainable manner. The Communication will look at the priority areas of erosion, organic matter content and soil contamination, analysing the causes of problems and recommending the most cost-effective combination of measures (local, national, regional, EU) to protect and improve soil resources. One directive will establish the framework for the monitoring of soil at a European level. The second directive will address the issue of composting and establish common ground-rules for the processing and use of composted organic matter. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Environment</td>
<td>Thematic strategy on the sustainable use of pesticides</td>
<td>2004/ENV/003</td>
<td>Sept 2004</td>
<td>Communication or White Paper from the Commission to the Council and Parliament detailing all measures and initiatives that should constitute the thematic strategy complemented with the first proposals for appropriate legislation (according to the envisaged measure). [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Environment/Health/Consumer Protection/Research</td>
<td>Communication on a European plan of action on environment and health 2004-2010</td>
<td>2004/ENV+/006</td>
<td>June 2004</td>
<td>The &quot;Action Plan 2004-2010&quot; relates to the scope of the first cycle as announced in the Communication, notably: to establish a good understanding of the link between environmental factors and childhood respiratory diseases, asthma and allergies, neurodevelopmental disorders, childhood cancer and endocrine disrupting effects. The selected items for the first cycle related to the &quot;European Environment and Health Monitoring &amp; Response System&quot;, to further research and to reducing exposure. Options for actions and recommendations will be developed for all the items of this first cycle. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Information Society</td>
<td>Communication “Connecting Europe at high speed” on recent developments in the electronic communications centre</td>
<td>2004/INFSO/020</td>
<td>March 2004</td>
<td>Follow-up to the previous communication &quot;The Road to the knowledge economy&quot;.</td>
</tr>
<tr>
<td>Information Society</td>
<td>Revised eEurope 2005 Action Plan in an enlarged Europe</td>
<td>2004/INFSO/019</td>
<td>June 2004</td>
<td>Revised eEurope 2005 Action Plan to integrate requirements for the new Member States and further adaptation following the results of the mid-term review. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Justice and Home Affairs</td>
<td>Communication presenting the results of a study on how legal immigration measures can contribute to the fight against illegal immigration</td>
<td>2004/JAI/044</td>
<td>June 2004</td>
<td>The Communication will present the results of the study on the establishment of European quotas for legal migration to be carried out by the Commission during the period October 2003 to spring 2004. In the light of the conclusions of the study it will review the possible development and use of legal migration quotas for the EU within the context of managing migration flows, in particular with respect to the conclusion of readmission agreements with third countries.</td>
</tr>
<tr>
<td>Internal Market</td>
<td>Directive on capital adequacy for banks and investment firms</td>
<td>2001/103</td>
<td>April 2004</td>
<td>Harmonise national laws regarding requirements of capital adequacy for banks and investments firms; linked to international developments in the context of the Basle agreement on capital adequacy. [Extended Impact Assessment]</td>
</tr>
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<tr>
<td>Internal Market</td>
<td>Directive on capital continuity – Second Company Law Directive</td>
<td>2004/MARKT/002</td>
<td>June 2004</td>
<td>The Second Company Law Directive of 1976 contains detailed provisions applicable to the formation of public limited liability companies (including a minimum capital) and to the maintenance and alteration of their capital with a view to protecting their shareholders and creditors. The modernisation of the Directive will seek to simplify some of these provisions, essentially on the basis of the proposals put forward in 1999 by the Company Law SLIM Group.</td>
</tr>
<tr>
<td>Regional Policy</td>
<td>Regulation on Structural Funds and the Cohesion Fund post-2006</td>
<td>2004/REGIO/001</td>
<td>May 2004</td>
<td>As the present implementation period of Structural Funds and the Cohesion Fund runs out end 2006, the basis for new guidelines should be set by this draft regulation. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Research</td>
<td>Communication on a European Research Council</td>
<td>2004/RTD/006</td>
<td>April 2004</td>
<td>This communication will propose a concept for a European Research Council to be implemented as part of the Seventh Framework Programme.</td>
</tr>
<tr>
<td>Research</td>
<td>Consultation “Preparing the future: reinforcing European Research Policy”</td>
<td>2004/RTD/005</td>
<td>May 2004</td>
<td>Consultative document about strengths and weaknesses of European research policies in the context of the challenges the European societies and economies will have to face in the next decade. The document will pay particular attention to lessons from past actions in the field (including FP implementation and policy coordination) and to expectations from other policy areas, on the basis of internal consultation and external contacts.</td>
</tr>
<tr>
<td>Policy coordination</td>
<td>Revision of the Sustainable Development Strategy</td>
<td>2004/SG/010</td>
<td>May 2004</td>
<td>A comprehensive review of the EU's sustainable development strategy, adopted at the Göteborg European Council in June 2001. The review will include an examination of progress made, the effectiveness of the strategy in achieving sustainable development and next steps in the implementation of the strategy. As set out in COM(2001)264, the review should be adopted by the new Commission in late 2004. It was decided, however, to bring it forward to May 2004. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Taxation &amp; Customs Union</td>
<td>Communication concerning the experimental application of “Home State Taxation” for small and medium sized companies in the EU</td>
<td>2004/TAXUD/007</td>
<td>Sept 2004</td>
<td>The concept of “Home State Taxation” provides in simple terms that the profits of a group of companies active in more than one Member State should be computed according to the rules of one company tax system only, the system of the Home State of the parent company of the group. Each participating Member State would continue, however, to tax at its own corporate tax rate its share of the profits of the group’s business activities in that State. This approach addresses precisely the tax issues which hamper SMEs most in their cross-border activities: disproportionately high tax compliance costs resulting from the administrative tax formalities, bookkeeping requirements etc.; current difficulties with the cross-border offsetting of losses. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Energy and Transport</td>
<td>Communication on consumer rights in the transport sector</td>
<td>2004/TREN/052</td>
<td>March 2004</td>
<td>The Communication will examine the protection of consumers in the transport and energy sectors and identify problem areas in order to justify action at Community level through new regulatory measures aimed at reinforcing users’ rights in those sectors. [Extended Impact Assessment]</td>
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</tbody>
</table>
**Appendix 2**

**Selected list of carried forward proposals corresponding to 2004 political priorities**

Those marked in **bold** have been identified by the Clerks as being potentially of interest to the European and External Relations Committee and/or to a subject Committee.

<table>
<thead>
<tr>
<th>Policy Area</th>
<th>Title</th>
<th>Reference</th>
<th>Expected Date</th>
<th>Brief Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture and rural development</td>
<td>Report on the implementation of the EU Forestry Strategy</td>
<td>2003/AGRI/23</td>
<td>June 2004</td>
<td>Following the request of the Council in its resolution of 15 December 1998, the Commission will report on the progress made in the implementation of the forestry strategy.</td>
</tr>
<tr>
<td>Education and culture</td>
<td>Interim evaluation of the “Culture 2000” programme</td>
<td>2003/EAC/7</td>
<td>Feb 2004</td>
<td>Interim evaluation report aiming to present in a detailed manner the results of the Culture 2000 programme, taking account of its objectives.</td>
</tr>
<tr>
<td>Education and culture</td>
<td>Interim evaluation of the “Youth” programme</td>
<td>2003/EAC/31</td>
<td>Feb 2004</td>
<td>Interim evaluation report aiming to present in a detailed manner the results of the Youth programme over the period 2000-2002.</td>
</tr>
<tr>
<td>Policy Area</td>
<td>Title</td>
<td>Reference</td>
<td>Date</td>
<td>Description</td>
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</tr>
<tr>
<td>Enterprise/Internal Market/Health &amp; Consumer Protection</td>
<td>Directive on human tissue engineered products</td>
<td>2003/ENTR/37</td>
<td>Sept 2004</td>
<td>Diverging national initiatives on human tissue engineered products that restore, maintain or improve the function of human tissues or organs, require a Community-wide legislative framework. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Environment/Regional Policy/Agriculture &amp; rural development</td>
<td>Communication concerning the financing of the Natura 2000 network</td>
<td>2003/ENV+/40</td>
<td>March 2004</td>
<td>Scope: (1) Assessment of likely costs for management of Community network Natura 2000. (2) Presentation of potential options to implement co-financing of costs as committed in article 8 of the Habitats Directive. Objective: Stimulate debate and discussion of issue with a view to inter-institutional agreement on strategy to follow. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Justice and Home Affairs</td>
<td>Framework decision on adequate safeguards for the transfer of personal data for police and judicial purposes</td>
<td>2002/JAI/122</td>
<td>March 2004</td>
<td>Personal data cannot be shared with the USA or any other third country unless there is an agreement in place. The agreement must ensure that the transmission of personal data to the entities and to the authorities of third States which are not subject to the Council of Europe Convention of 28.1.1981 may be effected only when an adequate level of data protection is ensured. The proposed decision would define exactly what is meant by “an adequate level of data protection”.</td>
</tr>
<tr>
<td>Internal Market</td>
<td>Directive modifying the 8th Company Law Directive concerning statutory audits and accounting documents</td>
<td>2003/MARKT/11</td>
<td>Jan 2004</td>
<td>The purpose of the modification is to provide for a principles-based framework aiming at ensuring a high degree of harmonisation of and confidence in statutory audits of accounting documents in the internal market.</td>
</tr>
<tr>
<td>Internal Market</td>
<td>Directive on reinsurance</td>
<td>2003/MARKT/21</td>
<td>March 2004</td>
<td>This proposal will complete the legal framework for financial services in the Internal market and will set for the first time a legislative framework at Community level in the field of reinsurance. [Extended Impact Assessment]</td>
</tr>
<tr>
<td>Internal Market</td>
<td>Green Paper on Private/Public partnerships</td>
<td>2003/MARKT/12</td>
<td>March 2004</td>
<td>Green paper describing the phenomenon of concessions of public services and of public/private partnerships and exploring the means to ensure a better effectiveness of the rights given to economic operators by the treaty in this field.</td>
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<tr>
<td>Internal Market</td>
<td>Third anti-money laundering directive</td>
<td>2003/MARKT/20</td>
<td>June 2004</td>
<td>This third anti-money laundering directive was foreseen in the existing directive. It will also be necessary to integrate 40 recommendations made by the Financial Action Task Force.</td>
</tr>
<tr>
<td>Policy Coordination</td>
<td>Life Sciences and Biotechnology: A Strategy for Europe – 2nd annual report</td>
<td>2003/SG/9</td>
<td>March 2004</td>
<td>To present a regular report on the implementation of the strategy and action plan of the Commission Communication on Life Sciences and Biotechnology (COM(2002)27) in order to monitor progress and indicate possible specific proposal to ensure policy and legislative coherence in this area.</td>
</tr>
</tbody>
</table>
Selected list of other new proposals likely to be brought forward in 2004

Those marked in **bold** have been identified by the Clerks as being potentially of interest to the European and External Relations Committee and/or to a subject Committee.

<table>
<thead>
<tr>
<th>Policy Area</th>
<th>Title</th>
<th>Reference</th>
<th>Expected Date</th>
<th>Brief Description</th>
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</thead>
<tbody>
<tr>
<td>Competition</td>
<td>Regulation on the application of competition law to intellectual</td>
<td>2004/COMP/008</td>
<td>April 2004</td>
<td>The revision of the Transfer of Technology Regulation and accompanying Guidelines on the licensing of Intellectual Property should clarify and simplify the application of competition law to licensing agreements. This revision will bring policy in the area of Licensing up to date with the reforms that have been undertaken in the fields of Vertical Restraints and Horizontal agreements. It is indispensable, particularly in the context of forthcoming enlargement, to ensure DG COMP’s mission on efficient protection of competition to the benefit of consumers and European competitiveness.</td>
</tr>
<tr>
<td>Education &amp; Culture</td>
<td>Communication relative to the interpretation of certain dispositions regarding advertising of the “television without frontiers” directive</td>
<td>2004/EAC/006</td>
<td>March 2004</td>
<td>Clarify how the principles of the Directive “television without frontiers” (Directive 89/552/EEC as amended by Directive 97/36 EC) concerning advertising apply to new forms of television advertising such as interactive, split-screen and virtual advertising. Provide greater legal certainty to national regulators as well as to market players in promoting access to new advertising revenues.</td>
</tr>
<tr>
<td>Education and culture</td>
<td>The European dimension in media education</td>
<td>2004/EAC/009</td>
<td>June 2004</td>
<td>Defining and proposing Media Literature objectives for formal and informal educational systems.</td>
</tr>
<tr>
<td>Education and Culture</td>
<td>Common objectives for youth volunteering and research in the field of youth</td>
<td>2004/EAC/003</td>
<td>June 2004</td>
<td>Proposition of common objectives for the member states in the field of volunteering and research for a better awareness among the young.</td>
</tr>
<tr>
<td>Education and culture</td>
<td>Proposed improvements to the objectives process in education and training</td>
<td>2004/EAC/021</td>
<td>June 2004</td>
<td>Following the first two years of implementation of the objectives process and the Interim Report, which will be adopted by the Commission in October 2003, the Commission services will propose certain improvements to the process in order to make it more efficient and simpler.</td>
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<tr>
<td>Education and culture</td>
<td>Decision creating an executive agency to manage certain centralised programmes in education and culture</td>
<td>2004/EAC/021</td>
<td>June 2004</td>
<td>Following the adoption of Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies the Commission intends to establish an executive agency that it will entrust with the management of certain centralised strands of certain programmes in the field of education and culture.</td>
</tr>
<tr>
<td>Education and culture</td>
<td>Communication on European Capitals of Culture</td>
<td>2004/EAC/001</td>
<td>Sept 2004</td>
<td>To review the selection procedure for European Capitals of Culture</td>
</tr>
<tr>
<td>Education and culture/Research</td>
<td>Communication on universities in the knowledge society</td>
<td>2004/EAC+/012</td>
<td>June 2004</td>
<td>Following the consultation which took place on the occasion of the Commission Communication of «the role of the universities in the Europe of knowledge» (COM (2003) 58 Final) adopted by the Commission on 05/02/2003, there will be some areas for community and national action in order to give the possibility to the universities to assume their role in the knowledge society.</td>
</tr>
<tr>
<td>Economic and financial affairs</td>
<td>The EU economy: 2004 review</td>
<td>2004/ECFIN/014</td>
<td>Nov 2004</td>
<td>Annual publication that provides a comprehensive report on recent and prospective economic trends in the EU and moreover studies specific economic topics of particular importance for economic policies. It thereby serves as analytical input to the forthcoming BEPGs.</td>
</tr>
<tr>
<td>Economic and financial affairs</td>
<td>Possible proposal for a decision on a guarantee facility to support private sector funding in PPPs on TEN projects</td>
<td>2004/ECFIN+/024</td>
<td>June 2004</td>
<td>In the framework of the Growth Initiative, the Commission interim report COM(2003)573 states that is the Commission’s intention to examine the feasibility of an innovative Guarantee Facility to support private sector funding in PPPs on TENs projects.</td>
</tr>
<tr>
<td>Employment and Social Affairs</td>
<td>Update on the implementation of the Social Policy Agenda</td>
<td>2004/EMPL/033</td>
<td>Jan 2004</td>
<td>Annual update with regard to both activities and achievements relevant to the Social Policy Agenda.</td>
</tr>
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<tr>
<td>Employment and Social Affairs</td>
<td>Communication on equality between women and men</td>
<td>2004/EMPL/013</td>
<td>Jan 2004</td>
<td>The aim of the report is to support and strengthen the ongoing work, to confirm the political commitment on policy orientations for the forthcoming year and raise the visibility of progress made so far with regard to gender equality and gender mainstreaming at national and EU level.</td>
</tr>
<tr>
<td>Employment and Social Affairs</td>
<td>Communication on the implementation of the Action Plan on Skills and Mobility</td>
<td>2004/EMPL/014</td>
<td>Jan 2004</td>
<td>Provide a mid-term review of how and the extent to which the 2002 Action Plan on Skills and Mobility has been carried out.</td>
</tr>
<tr>
<td>Employment and Social Affairs</td>
<td>Communication on social inclusion in the candidate countries</td>
<td>2004/EMPL/020</td>
<td>March 2004</td>
<td>The 10 Joint Memoranda on social inclusion (JIM) - by DG EMPL and Candidate Countries - are about major challenges, policy measures and follow-up in the open method of co-ordination in order to translate EU's social objectives into national policies and contribute to building capacity and mobilising stakeholders. The synthesis report will pave the ground for the first NAPs/inclusion from the 10 new Member States.</td>
</tr>
<tr>
<td>Employment and Social Affairs</td>
<td>Future strategy for anti-discrimination</td>
<td>2004/EMPL/010</td>
<td>April 2004</td>
<td>Public consultation paper to take stock of progress made in EU anti-discrimination policy and to put forward questions regarding future policy objectives in this area.</td>
</tr>
<tr>
<td>Employment and Social Affairs</td>
<td>Communication on Corporate Social Responsibility</td>
<td>2004/EMPL+/017</td>
<td>Oct 2004</td>
<td>Report foreseen in Communication of 2002 “on CSR, on the work of the CSR EMS Forum and the results reached, as well as the integration of CSR in all EU policies”.</td>
</tr>
<tr>
<td>Environment</td>
<td>Report on environmental policy</td>
<td>2004/ENV/007</td>
<td>Nov 2004</td>
<td>Reports on main developments in environmental policy since the adoption of the EU sustainable development strategy in 2001. It highlights priority issues for the year to come in EU and national environmental policies, to contribute to the Spring European Council debate. The Review complements Community reporting mechanisms set in place to monitor the implementation of the economic (Broad Economic Policy Guidelines) and social (Employment Guidelines) pillars of the Lisbon Strategy, which feed into the Commission Spring Report.</td>
</tr>
<tr>
<td>Statistics</td>
<td>Regulation on the development and production of EU statistics on vocational training in enterprises</td>
<td>2004/ESTAT/008</td>
<td>March 2004</td>
<td>The objective of the Regulation is the provision of a legal basis for the production of Community statistics on enterprise training, after two continuing vocational training surveys, CVTS1 (1993) and CVTS2 (1999), which were based on a &quot;gentlemen's agreements&quot;.</td>
</tr>
<tr>
<td>Statistics</td>
<td>Report on the implementation of a statistical information infrastructure relating to the audiovisual and related sectors</td>
<td>2004/ESTAT/006</td>
<td>March 2004</td>
<td>Upon the expiry of Council Decision 1999/297/EC, the European Parliament and the Council will be informed about the measures taken to improve the availability of statistical information relating to the industry and markets of the audiovisual and related sectors.</td>
</tr>
<tr>
<td>Information Society</td>
<td>Communication &quot;Towards a Global Information Society Partnership: the WSIS follow-up&quot;</td>
<td>2004/INFSO/007</td>
<td>March 2004</td>
<td>Commission Communication Towards a Global Information Society Partnership: the WSIS follow-up INFSO mars-04 Project non législatif Prepare ways and means to be used by the EC, including coordination with MS to ensure active follow-up of the political declaration and the Plan of Action to be endorsed by the WSIS in December 2003</td>
</tr>
<tr>
<td>Information Society</td>
<td>Communication on a European eHealth area</td>
<td>2004/INFSO/008</td>
<td>June 2004</td>
<td>Conclusion and follow-up of the eHealth Conferences of 2003 and early 2004</td>
</tr>
<tr>
<td>Information Society</td>
<td>Recommendation on Relevant Product and Services Market within the electronics communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC on a common regulatory framework for electronic communication networks and services</td>
<td>2004/INFSO/002</td>
<td>June 2004</td>
<td>Review of existing recommendation</td>
</tr>
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<tr>
<td>Information Society</td>
<td>Communication on Member States’ plans for their transition from analogue to digital broadcasting (“digital switchover”)</td>
<td>2004/INFSO/004</td>
<td>June 2004</td>
<td>Communication from the Commission to the Council and the EP on Member States are due to report on national switchover plans by 31.12.2003</td>
</tr>
<tr>
<td>Information Society</td>
<td>European Electronic Communications Regulation and Markets 2004</td>
<td>2004/INFSO/021</td>
<td>Dec 2004</td>
<td>Report on the implementation of the EU regulatory framework for electronic communications and services and on the global situation of the sector</td>
</tr>
<tr>
<td>Internal Market</td>
<td>Proposed directive on the transfer of company seat – 14th Company Law Directive</td>
<td>2004/MARKT/001</td>
<td>Sept 2004</td>
<td>The single market demands that companies which have been set up in one of the Member States be able to enjoy full freedom of establishment, including the right to transfer their seat in a Member State other than that in which they were set up.</td>
</tr>
<tr>
<td>Research</td>
<td>Communication on the European research cooperation initiatives and intergovernmental research organisations in the context of the ERA</td>
<td>2004/RTD/003</td>
<td>June 2004</td>
<td>Communication on the European research cooperation initiatives and intergovernmental research organisations in the context of the ERA RTD juin-04 Projet non législatif. The Communication will have a twofold objective: a) to take stock of the present situation as regards the ongoing efforts towards achieving closer linkage between the FP and these other European research initiatives, as well as among themselves, and b) explore new ways of creating improved synergies among them in the context of ERA, while respecting their complementary roles.</td>
</tr>
<tr>
<td>Research</td>
<td>Communication on Satellite broadband communication for the digital divide</td>
<td>2004/RTD/026</td>
<td>June 2004</td>
<td>A follow-up of the Green/White paper activity in the field of communication by satellite. It is a strategic element for Space policy implementation.</td>
</tr>
<tr>
<td>Research</td>
<td>Communication “Towards a European Strategy in Nanotechnology”</td>
<td>2004/RTD/001</td>
<td>June 2004</td>
<td>To look at the state of the art in the development of nanosciences and nanotechnologies in Europe, and on their implementation and use for higher added value products and services. Analysis of the bottlenecks and formulation of an action plan.</td>
</tr>
<tr>
<td>Research</td>
<td>Communication on research infrastructures</td>
<td>2004/RTD/009</td>
<td>June 2004</td>
<td>The Communication will outline the role of the EU in support of research infrastructures in the next five years, taking into account the experience gained so far in both the Framework Programme and in other related Community actions (e.g. Structural Funds).</td>
</tr>
<tr>
<td>Research</td>
<td>Communication on the implementation of the action plan “Investing in Research: An Action Plan for Europe”</td>
<td>2004/RTD/015</td>
<td>Dec 2004</td>
<td>The annual progress report on implementation of the 3 % action plan will take stock of progress and difficulties encountered at both EU and national levels of implementation. It will report on the OMC applied to 3 % and both review and analyse developments in relation to the individual actions, as well as flag any new emerging issues requiring attention.</td>
</tr>
<tr>
<td>Research</td>
<td>Communication on the Report of the Group of Personalities in the field of Security Research</td>
<td>2004/RTD+/014</td>
<td>June 2004</td>
<td>To establish a vision on a secure Europe and to “spear-head” the process of enhancing the European industrial potential in the field of security research for the protection of the European citizens.</td>
</tr>
<tr>
<td>Energy and Transport</td>
<td>Communication on the development of “Short Sea Shipping”</td>
<td>2004/TREN/033</td>
<td>June 2004</td>
<td>A comprehensive overview of measures and achievements in the Commission policy to promote Short Sea Shipping. As was the case with the corresponding earlier documents, public administrations and industry will see this as the reference document on progress to date and the basis for further work. It should provide a sound foundation to continue EU and national promotion of Short Sea Shipping, co-ordinate common actions and avoid unnecessary duplication.</td>
</tr>
<tr>
<td>Policy Coordination</td>
<td>Decision on the annual political strategy for 2005</td>
<td>2004/SG+/012</td>
<td>March 2004</td>
<td>Establishes the Commission’s political priorities and broad budgetary framework for 2005, to be discussed with the European Parliament and the Council. The APS provides the basis for preparing the Provisional Draft Budget, DGs’ annual management plans and the Commission’s Legislative and Work Programme.</td>
</tr>
</tbody>
</table>
10 September 2003

DRAFT REPORT

on the Communication from the Commission entitled "A framework for target-based tripartite contracts and agreements between the Community, the States and regional and local authorities"

Committee on Constitutional Affairs

Rapporteur: Sir Neil MacCormick
PROCEDURAL PAGE

By letter of ...... the Commission forwarded to Parliament its Communication entitled "A framework for target-based tripartite contracts and agreements between the Community, the States and regional and local authorities" (COM(2002) 709), which had been referred to the Committee on Constitutional Affairs.

At the sitting of 15 May 2003 the President of Parliament announced that the Committee on Constitutional Affairs had been authorised to draw up an own-initiative report on the subject under Rules 47(2) and 163, and the Committee on the Environment, Public Health and Consumer Policy and the Committee on Legal affairs and the Internal Market had been asked for their opinions.

The Committee on Constitutional Affairs had appointed Sir Neil MacCormick rapporteur at its meeting of 23 April 2003.

The committee considered the draft report at its meeting of xx.

At the latter meeting it adopted the draft resolution by xx votes to xx, with xx abstentionxx.

The following were present for the vote xx (xx), xx (xx), xx (xx), Sir Neil MacCormick (rapporteur), xx, xx (for xx), xx.

The opinions of the Committee on the Environment, Public Health and Consumer Policy and the Committee on Legal Affairs and the Internal Market .........

The report was tabled on .....  2003.
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the Communication from the Commission entitled "A framework for target-based tripartite contracts and agreements between the Community, the States and regional and local authorities" (COM(2002) 709 – 2003/2088(INI))

The European Parliament,

– having regard to the Communication from the Commission "A framework for target-based tripartite contracts and agreements between the Community, the States and regional and local authorities"(COM(2002) 709),

– having regard to Rules 47(2) and 163 of its Rules of Procedure,

– having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on the Environment, Public Health and Consumer Policy and the Committee on Legal Affairs and the Internal Market (A5-xxxx),

Whereas:

A. In some cases, the attempt to regulate every part of the whole territory of the Union in exactly the same terms can give rise to anomalies. This can occur even when framework Directives leave considerable scope to Member States in the implementation of essential common provisions. For the essential common provisions may have anomalous, unintended and undesired effects in particular situations;

B. There is a particular problem when the objective of the Union’s legislation is clear, but some element in the means enacted for achieving it prove to be self-defeating or disproportionately costly at the point of their practical application in particular places or conditions;

C. Rules concerning environmental protection, or bathing water quality, or the impounding of water, or animal transport, for example, may have differential impact in climatic or geographical conditions that differ greatly from an assumed normal case, such as in islands or mountain areas, or areas of very low population density, or in unusual urban contexts;

D. To some extent, observance of the principle of subsidiarity reduces the likelihood of such problems arising. For this should bring it about that appropriate scope is left for local decisions about those matters that are best left for decision on the basis of local knowledge about local conditions;

E. This cannot always be a sufficient safeguard, however. Especially the farther outlying areas or regions of the Union may differ very widely from what is normal in most other

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1 OJ C not yet published,
places. Where this is so, there may be a dilemma between unsatisfactory under-regulation of what is a common problem for most areas, and unsatisfactory over-regulation or misregulation of the problem as it affects those outlying places;

F. Target-based Tripartite Contracts or Agreements may provide a solution to this problem. They could provide a method for the Commission, a Member State, and a territorial authority or authorities of the Member State to deal in a locally sensitive way with problems which simple application of common European rules would solve less satisfactorily;

G. In relation to Tripartite Contracts of a legally binding character, this would require that a Directive or Regulation both state in clear terms the regulatory objective of the legislative act in question and then also provide for an enabling clause permitting the negotiation of Tripartite Contracts and permitting derogation from or modification to certain of its other provisions to the extent covered by the enabling clause and the eventual contract;

H. Such a contract would bind the Member State and its relevant territorial authority or authorities to achieve the objective or objectives stated by means of appropriate actions tailored to local circumstances. The agreement or contract would state targets to be achieved, either of a qualitative or of a quantitative kind, in terms principally of outcomes rather than inputs. Achievement of these targets would be calculated to ensure satisfaction of the regulatory objective, albeit by means other than the standard provisions stipulated for normal situations but from which derogation is authorised in cases covered by such a contract or agreement.

1. Expresses again its satisfaction that the Commission is carrying forward its proposal to embark on Tripartite Contracts and Agreements, starting with Tripartite Agreements on a trial basis;

2. Accordingly welcomes the Commission’s Communication laying out a Framework for these;

3. Exhorts the Commission to press ahead with its pilot programme in a number and range of cases sufficient to test in an adequately representative and rigorous way this proposed method for achieving flexibility in the means provided for implementing legislation;

4. Exhorts the Commission to ensure that there is adequate monitoring of the progress of the pilot programme, and to ensure that the Parliament receives full information about this, and has a proper opportunity to carry out its own evaluation thereof;

5. Exhorts the Commission to ensure, by adequate publicity, that there is full and fair opportunity for interested territorial authorities, acting in concert with their respective Member States, to participate in the pilot programme;

6. Calls on the Commission to include in the statement about subsidiarity annexed to each

\[\text{1 See Parliament’s Report on the Role of Regional and Local Authorities in European Integration (A5-0427/2002, Rapporteur Giorgio Napolitano)}\]
future legislative proposal a review of the appropriateness of including in the proposal an enabling clause to facilitate use of a Tripartite Contract;

7. Calls on the Commission to undertake a review of legislation already in force in respect of relevant policy domains with a view to considering the potential usefulness of legislation to establish a general enabling provision for Tripartite Contracts in relation to appropriate Regulations or Directives, or specified parts thereof;

8. Calls on the Commission to observe the necessity of ensuring that resort to Tripartite Contracts or Agreements is facilitated only for genuinely unusual cases and conditions; otherwise, since there is a great multiplicity of relevant territorial authorities in the Union, a device intended to render administration of the law more simple and appropriately flexible could give rise to extreme complexity;

9. In the same spirit, welcomes and endorses the firm statements by the Commission of its intention to preserve a level playing field, to avoid obstacles to intra-Union trade, and to prevent any distortion of the single market through resort to these devices;

10. Requests the Commission to embark on its pilot programme with a sense of urgency, and to keep the Parliament informed about progress;

11. Instructs the President to forward this resolution to the Commission, the Council, the Court of Justice, the Ombudsman, and to the parliaments of the Member States, requesting the latter to further disseminate the resolution to parliaments exercising legislative powers in territories within the respective Member State.
EXPLANATORY STATEMENT

Introduction

There is reason to regret the absence of fully effective connections between the European Institutions, especially the Commission, and territorial authorities within Member States of an internal-national, regional or local kind. Areas in which this is particularly disadvantageous are economic development, environmental policy, transport, and agriculture and fisheries. Often it is actors at the regional and local level who have to implement agreed Union policies, and yet insufficiently often have they adequate opportunities for input early in the policy-forming stage, or opportunities to devise and agree strategies for implementation of established policies or legal obligations under Union law.

One suggested way to diminish distance between levels of government that should interact more effectively with each other are the proposed "Tripartite Contracts and Agreements" that the Commission has proposed to develop on a trial basis. These could facilitate contact between union-level institutions and implementation agencies on the ground, while at the same time fully involving and respecting the constitutional authority of the central Government of the relevant Member State - the third party of the "tripartite" relationship.

In this context one can envisage valuable new developments in the context of a reformed system of structural funds and of selective regional assistance in relation, for example, to infra-structural improvements.

In its 2001 Governance White Paper, the Commission advanced the thesis that “there should be more flexibility in the means provided for implementing legislation and programmes with a strong territorial impact, provided the level playing field at the heart of the internal market can be maintained”. Domains in which this seemed particularly urgent were stated to be economic and social cohesion, and environmental policy. The Commission sketched out the idea of ‘Target Based Tripartite Contracts” as a possible means to this end. This was generally well received, and Parliament in the Napolitano Report On the Role of Regional and Local Authorities in European Integration (A5-0427/2002) warmly welcomed this idea, the point of which is sufficiently stated in the body of the motion for a resolution. The Mastorakis Report adopted by Parliament on 3 September 2003 has most recently drawn attention to the relevance of Tripartite Agreements in this context.

Tripartite Contracts and Agreements as elements of flexibility

Tripartite Agreements will concern subjects where no legal obligation under Union law is in issue, but where formally co-ordinated actions have the promise of improving the implementation of policies. The Commission proposes to run an initial pilot programme in relation to non-obligatory subjects. By contrast, Tripartite Contracts would involve new methods of implementing the law whereby targeted contracts set up among the three relevant parties, subject to appropriate enabling provisions in legislation, could create scope for

enhanced local sensitivity to particular problems.

The ordinary constituency experience of most MEPs will surely have drawn to their attention topics on which a measure of flexibility seems justified. Your Rapporteur can from personal experience mention such cases as the following:

- Problems about standards for bathing water purity in Northern countries, where heavy rainfall in areas of animal pasturage coupled with reduced exposure to ultra violet radiation can give rise to occasional and intermittent failures to fulfil standards. This occurs usually in weather conditions quite adverse to sea-bathing, and in this light the great expense of additional protective measures would be hugely disproportional to any real benefit achieved;

- Problems about animal transport over long distances in relatively low atmospheric temperatures in thinly populated regions, or involving ferry transport from islands followed by road journeys to distant market places. An equivalent standard of animal welfare to that demanded for transport of animals in hotter places with shorter distances between farm and market place could be achieved with some relaxation of normal maximum transport times, or other special arrangements carefully scrutinised in respect of effects on animal welfare;

- Measures to control industrial effluents into sea water in sparsely peripheral areas with very low concentrations of industry can sometimes seem self-defeating from an environmental point of view, since preventive measures may cause worse – but unregulated – environmental damage than that which the rules are designed to obviate.

- It would therefore be a good idea to take forward with vigour and speed the pilot programme announced by the Commission in its communication *A Framework for Target-based Tripartite Contracts and Agreements between the Community, the States and regional and local authorities* (COM (2002) 709 final).
The Convener (Richard Lochhead): I extend a warm welcome to the Grand Committee of the Finnish Parliament from the Scottish Parliament’s European and External Relations Committee. I hope that you can all hear me in Helsinki. It is a lovely crisp morning with blue skies here in Edinburgh and I hope that it is a nice morning in Helsinki too. We are delighted to be able to take advantage of the wonderful technology that allows us to have this videoconference. This is my first videoconference, although the committee has had several before. I begin by asking the members of our committee to introduce themselves to you.

Mrs Margaret Ewing (Moray) (SNP): I am Margaret Ewing, member of the Scottish National Party for the Moray constituency in the Highlands of Scotland and therefore, obviously, I am interested in objective 1 status.

Irene Oldfather (Cunninghame South) (Lab): Good afternoon, Helsinki. I am Irene Oldfather, member of the Scottish Parliament for Cunninghame South, which is in Ayrshire. I am also deputy convener of the committee and a member of the European Committee of the Regions on Scotland’s behalf. I should mention that I am a member of the Labour Party.

The Convener: My name is Richard Lochhead and I am the committee’s convener. I am a Scottish National Party member of the Scottish Parliament and I represent the region of North East Scotland.

Phil Gallie (South of Scotland) (Con): I am Phil Gallie. I am a Scottish Conservative and Unionist Party member and I represent the South of Scotland. I am known for some criticism of the European constitution.

The Convener: I wonder whether you could introduce yourselves as well, please.

Mr Ville Itälä (Chair, Finnish Grand Committee): Thank you. It is a pleasure to meet our Scottish colleagues. The topics of our discussion are very much on the agenda. I know that you have been provided with the position of the Eduskunta—the Finnish Parliament—on the intergovernmental conference. Generally speaking, we feel that the convention on the future of Europe has made useful proposals in parts 1 and 2 of the draft treaty. We are less happy about the institutional provision in part 3, which might create a two-tier Europe in which the smaller member states are given less than equal treatment. We are particularly concerned about the European Commission, which we feel should have a full member from each member state.

The Grand Committee plans to follow the final stage of the IGC on a weekly basis. We are prepared to hold a telephone conference with the Prime Minister throughout the final session of the IGC.

About a month ago, the Grand Committee heard from our minister for regional policy about planned regional policy reform in the European Union. Finland’s concern will be familiar to a Scot. Low population density, long distances and a severe climate create economic handicaps that need to be addressed.

Let me introduce those who are present on the Finnish side today. I am Ville Itälä. I am chairman of the Finnish Grand Committee and I am also chairman of the conservative party. We will do the same as our Scottish colleagues did—everyone will introduce themselves.

Ms Katri Komi (Finnish Grand Committee): Good afternoon. I am Katri Komi. I am a member of the Finnish Centre Party and I am in my second term in the Eduskunta. I am a member of the Grand Committee and the Agriculture and Forestry Committee. I am also a deputy member of the Transport and Communications Committee.

Ms Heidi Hautala (Finnish Grand Committee): Hello there. My name is Heidi Hautala. I am from the Green party. Not long ago, I was in the same political group as the SNP members of the European Parliament. I am now back in the national Parliament. I work here in the EU scrutiny group as the SNP members of the European Parliament. I am also active on all sorts of environment, development and equality issues.

Mr Kimmo Kiljunen (Finnish Grand Committee): My name is Kimmo Kiljunen and I, too, am a social democrat by background. I am vice-president of the Grand Committee and a member of the Foreign Affairs Committee. In international terms, I am vice-president of the Organisation for Security and Co-operation in Europe Parliamentary Assembly, so security policy issues have been very much on my agenda. Furthermore, whereas a member of your committee said that he was famous for being too critical of the European Union constitution, I am famous in Finland for not criticising it enough. Why is that? I was the Finnish representative on the national Parliament side in the EU convention. My part was to understand what took place there and what the compromises were.

Mr Roger Jansson (Finnish Grand Committee): Hello friends. My name is Roger Jansson and I represent the autonomous Åland
Islands constituency in the Finnish Parliament. In the islands, I am a member of the conservative party.

Mr Kiljunen: Mr Jansson will be more familiar with Scotland than with Finland itself.

Mr Jansson: Probably.

Ms Outi Ojala (Finnish Grand Committee): Hello, Scotland. My name is Outi Ojala and I represent the Left Alliance. I am a member of the Grand Committee and the leader of the party in the Parliament. I was also a member of the European Parliament between 1996 and 1999. During that time, I became very good friends with some people from Scotland, so it is nice to be having this discussion.

Peter Saramo (Finnish Grand Committee): I am Peter Saramo, the clerk to the Finnish Grand Committee.

Intergovernmental Conference (Draft European Union Constitutional Treaty)

12:11

Mr Itälä: Let us proceed to the first item on the agenda, which is discussion of the IGC and the draft EU constitutional treaty.

The Convener: Thank you very much. It is appropriate that we are meeting today, during the intergovernmental conference on the EU constitution. I know that that will dominate our conversation today.

I will kick off with a question to the Finnish Grand Committee. To what extent is the public in Finland taking an interest in the EU constitution? Is it a big political issue in Finland at the moment?

Mr Itälä: I think so. It is not a big topic of discussion between the citizens, but the politicians are talking about it. We are trying to find a way of telling the people how important the issue is. There is also the question of how the media are handling it. Committee members may want to comment on that.

Ms Ojala: An opinion poll in our newspapers found that, within Europe, the Danish population had the best knowledge of the constitution. Finland was in second place, so we are happy that our people are interested in it—even if there is no hot discussion going on.

Ms Hautala: During the autumn, many of us observed or attended the public discussions on the EU constitution. There is a particular dispute among the politicians as to whether we should allow the people to participate in the decision through a referendum. We do not have any kind of obligation for referenda in our constitution, but the Parliament has the chance to invoke a consultative referendum if it wants to. In my view, too many politicians think that the EU constitution is something that people do not understand and that it is the Parliament that has to decide. I do not agree with that.

Mr Kiljunen: I should add something about Finnish opinion. It is interesting that, in Finland, not only do many people know about the constitutional process, but opposition to the constitution is the highest in the whole of Europe, with 39 per cent of people opposed to the constitutional process. That figure is higher than in Denmark and Britain, which have traditionally been the Eurosceptic countries. That is unfortunate, but that is the situation in Finland. That is why it is very important that we engage in a lively debate to help people to understand the essence of the constitutional process.
The Convener: The campaign for a referendum is also a big feature of our debate in Scotland. My colleague Phil Gallie would like to comment on that.

Phil Gallie: One of the duties of politicians is to engage people in the democratic process. Especially in Scotland and the UK, there is a lack of interest in European issues, which is reflected in low turnouts for European Parliament elections. Do you feel that we should engage the population in a full debate on the constitution that has been put before us—a constitution that will make major changes to the way in which we govern ourselves, or are governed, in the future? Should we put the issue to the people? It is one thing for the politicians to be favourable towards it, as Mr Itälä said, but what about the people? Surely it should be their say that counts.

Mr Kiljunen: That is very important—should we organise a referendum or not? We should consider what forces are requesting a referendum today. The requests come from two angles. On one side, Eurosceptics would like a referendum in order to destabilise the process somewhat. As for the other side, there is an important question that I would like to ask people in Scotland who are requesting a referendum: are you ready for a federal state? It is obvious that many of the forces that are asking for a referendum in Europe are doing so because they would like to achieve legitimacy for the constitution directly from the people. Those forces would probably like to hold a referendum throughout Europe so that the mandate for the constitution would clearly come directly from citizens. In other words, the referendum would express citizens’ sovereignty. However, in my opinion, the constitution contains member states’ common understanding of how to share power in Europe. That is why I am against the referendum.

12:15

Mr Itälä: I think that we should hear some other views, because we all have different views on this issue.

Ms Ojala: Yes—perhaps even within the same party.

Mr Jansson: But a majority is against a referendum in Finland—today.

Ms Ojala: In the Parliament.

Mr Jansson: However, we do not know what will happen after the IGC. Everything will depend on the result of that.

Ms Alho: I would like to add one point—one on the view of our Constitutional Law Committee. When we studied this, we decided that the question of referendums should be an open question, so that we could evaluate in peace what would happen at the IGC and could study what was happening in other European countries. The main responsibility for ratifying the new constitution is in the hands of the Parliament, but the people should also give legitimacy to the process. A referendum is one way of getting people more involved. The main argument against that way of thinking is that people might vote the wrong way. I strongly disagree with that argument. If, in a referendum—which, in Finland, would always be a consultative referendum—we ask people whether we should be willing to continue as a member of the European Union in the new situation, I suppose that the answer would be yes. However, the Constitutional Law Committee feels that the question whether to have a referendum is premature.

The Convener: Is it therefore unlikely that Finland will have a referendum?

Ms Alho: You never know. That is a hard question.

Ms Ojala: Some parties—mine, for example—have already decided that we should demand a referendum.

Mr Itälä: Yes, but most parties are open-minded. It will depend on the results of the IGC.

The Convener: The political parties in Scotland are similarly split.

Mrs Ewing: One of the ladies said that the Finnish Parliament had the power to evoke a referendum. Does that mean that your constitution enables you to hold a referendum should your Parliament so vote?

Ms Alho: In our system, the Parliament can legislate for a consultative referendum. However, the question is open because we do not know what the result of the IGC will be. The Constitutional Law Committee sees good sides and bad sides to holding a referendum. However, the referendum would be consultative—sovereignty would always be in the hands of the Parliament of Finland.

Irene Oldfather: There are probably as many views on a referendum in Finland as there are here. One of the things that we discussed in this committee is the point that the last member raised, which is that until we see the outcome of the IGC, it is difficult to measure some of the issues.

To set the context for today, is your committee a member of COSAC—the Conference of Community and European Affairs Committees of Parliaments of the European Union—and does your committee have discussions with other European committees across the European Union? Has your committee had discussions with our sister committee, the House of Commons.
European Scrutiny Committee, which is chaired by Jimmy Hood? Could you fill us in on the background?

Mr Itälä: We are in COSAC and we are always represented at its meetings. Of course, we have good relations and bilateral working with other EU member states, and have had many meetings with other committees.

Ms Hautala: I would like to add something that is interesting from the Scottish point of view. Our colleague Roger Jansson represents the autonomous Åland Islands. It is important to give his constituency a voice in the Finnish delegation. I wonder how such things are handled in the UK by the House of Commons and the House of Lords.

Mr Kiljunen: I will explain a little bit more, because it is an important question in Scotland too. The convention proposes a so-called early-warning mechanism regarding proposals from the Commission. When there are regions such as the Åland Islands that have legislative functions, scrutiny vis-à-vis the subsidiarity principle also covers them. That is why we have started a debate as to whether that region should have representation on our COSAC delegation, because COSAC has the same power to look at the annual legislative programme of the Commission from the point of view of proportionality and subsidiarity. It is a new situation for us to consider its position in our COSAC delegation.

The Convener: On the early-warning mechanism, if I understood your point correctly, we have very little relationship with the House of Commons European Scrutiny Committee, but we want to develop that, because Scotland is represented by the UK Government in Europe. However, under the constitution’s proposals for the early-warning mechanism, we understand that the House of Commons committee would automatically refer legislation to the Scottish Parliament and the committee have been running, which is just four years. In that time we have evolved, developed and fine-tuned our scrutiny procedures. However, in terms of subsidiarity, I hope that we will have closer links with the United Kingdom bodies if the constitution includes a role for regional Governments.

Phil Gallie: I would like to go back to the constitution and the IGC. It has been suggested that we are being premature in talking about a referendum, but the Italian presidency wants the constitution to be adopted during its presidency. The major countries within the European Union—Germany, France, Italy and the UK—all seem to believe that there is little scope for changing the constitution. On that basis, would a majority of your committee be in favour of signing up to the current proposed constitution with very little change?

Mr Itälä: That way of thinking has been displayed by Italy and some other big countries. We think that there must be changes to the constitution. The Commission’s role is one of the biggest questions for the IGC. We think that it is not so important to keep to the timetable. Obtaining a good result is more important.

Ms Komi: Of course, we also would like the result to be ready before next year’s European Parliament elections.

Ms Ojala: In general, I would say that we have had good co-operation with our Government, so the opinions of our committee and our Government are almost the same. We do not have a problem with the view of our Government, but the problem is that, as you mentioned, the big countries would not like to have any changes. We are worried about part III of the constitution, because it is not quite clear. For instance, we are concerned about public service.

Phil Gallie: Do you accept that the constitution was supposed to be a tidying-up exercise to allow the new accession countries to enter? Do you feel that we are perhaps going too far at this stage and that we should have had a tidying-up exercise instead of a constitution that will invoke a whole range of new powers?

Ms Hautala: The Parliament and the Government have been almost unanimous in being slightly worried about certain powers that the constitution would transfer to the European Union. Of course, we also welcome some of those transfers. We want to see more qualified majority voting in the field of taxation, which heavily affects the location of enterprises in Europe today. As you will know, we have difficulties with our new neighbour to the south, Estonia, which thinks that tax competition is healthy. Finland does not really share that view.
Nevertheless, some transfers of powers—for instance, in the field of judicial co-operation, which comes under the old third pillar—are a little bit worrying. We would like our Government to push hard for the definitions of those transfers of power to be extremely clear cut before the Parliament accepts the proposal.

Mr Kiljunen: Making the European constitution or basic treaties applicable to enlargement obviously already took place at Nice. The process involved transforming the basic treaties so that enlargement could take place. The convention’s task was to simplify the structure of the union’s basic treaties and the structure of the union itself. It also had the aim of making the union more efficient in its decision making. Obviously, the most challenging task was to increase the transparency and democratic accountability of decisions.

I would say that the convention succeeded quite well in all three areas. On the legislative side, it is a major achievement that laws will be discussed first of all in the European Parliament. The Parliament’s legislative and budgetary powers are much clearer in the new constitution than they were before. Secondly, the role of the Council, which is the major legislative instrument within the union, is clearer than it has been to date. All legislative issues will be dealt with behind open doors. That is important. The convention also tries to provide a separation between the legislative side and the policy co-ordination side of the Council. Unfortunately, that seems to be one aspect that the IGC will transfer or change. An independent legislative council should be a legislature first. We in the convention thought that that was a major achievement to increase accountability. What is your opinion?

Mrs Ewing: I will talk about the Council. Wherever we come from in the European Union, we all recognise that the Council takes the major decisions on a range of policies. I am unhappy about the fact that the constitution seems to give smaller countries less equality, particularly in the Council. I think that you, like us, are unhappy with the proposed voting system. Have you recommended alterations to the voting system for the Council?

12:30

Mr Kiljunen: Very much so. I strongly supported our idea that qualified majority voting should be by simple double majority, so that QMV would require a majority of the countries and a majority of the EU’s population. That would change the system and make it much more simple. Unfortunately, the simple double-majority proposal was not accepted, but the simple majority proposal was accepted, which requires the support of a majority of the countries and 60 per cent of the EU’s population. That is an achievement. We in Finland wanted to go a bit further, but we did not achieve that.

The Convener: Will your Government use the veto to safeguard the interests of small nations in the constitution?

Mr Itälä: I am the leader of the Opposition; I do not know what the Government can do.

Ms Alho: Of course, we have also had a chance.

Mr Itälä: Before talking about how to use votes, we must have the results of the negotiations. Italy and the big countries might try to prevent us from making changes, but let us see what happens.

The Convener: Is it your understanding that the negotiations will be complete by December, which is the aim, or will they go beyond that?

Mr Itälä: I think that they will go beyond that, because no decision has yet been made. Those involved are just talking now. In practice, we have one month, which is too little time for the result. We hope that progress is quite quick but, as I said, it is more important to have a good result.

Irene Oldfather: I can see that the chairman has a good grasp of the idea of negotiation and I agree with his decision not to commit to anything until he sees what might be on offer.

I will pick up a couple of points. I think that other committee members probably agree that enlargement must be accompanied by reform, without which the system would grind to a halt. The reform process must be worked out.

Under the present system, the Council presidency rotates, and proposals have been made about that. If we keep the present system when we have 25 member states, each member state will have a turn at the presidency every 13 or 14 years. That is clearly not viable. What are the Finnish committee members’ views on that? The status quo must change because, with 25 member states, it would prevent continuity of policy.

The United Kingdom is against the extension of qualified majority voting to tax, foreign policy and social security. What are your views on that?

Ms Hautala: Finland has been perhaps the leading opponent of an established Council president, but we have agreed that we could go along with the idea of team presidencies, under which three countries would hold the presidency together for 18 months.

I wonder whether the present presidencies of the EU are too short—although for some, they are too long. How Berlusconi treats us Europeans and how he is dealing with Putin in our name are not a very good thing.
Finland would be a little more open-minded about qualified majority voting, especially for certain taxes that affect competition between countries or investment and jobs. We would also like there to be minimum standards for alcohol taxation, which would be hopeless if we had a unanimity principle. We would also like there to be more qualified majority voting on foreign policy issues. We definitely do not think that the UK is our best friend on those issues.

**Phil Gallie:** It has been acknowledged that because the constitution contains so much, the time scale is too short and should perhaps be elongated. Are there certain aspects of the constitution that you believe all countries in the union will have to agree to before the new countries come in next year?

In Scotland there is one EU issue that we feel very strongly about—the common fisheries policy. The constitution will enshrine further EU control of our fisheries, rather than grasping the opportunities of subsidiarity and allowing nations to take regional control over such issues, particularly as many of the 25 states will have only a minimal interest in the common fisheries policy in the North sea.

**Peter Saramo:** The Finnish quota in the North sea is equivalent to one half of one trawler. We just do not have commercial sea fisheries. It is not an issue here.

**Phil Gallie:** The question was really about subsidiarity. You have made the very point that I was driving at: Finland has very little interest in the issue. Why not trust the states to manage regionally what is closest to them? The constitution seems to be going back on that.

**Ms Komi:** In a way, it is important that we can make common decisions on different subjects. We cannot hand out certain questions to certain groups of states.

**Phil Gallie:** Even though Finland does not have an interest?

**Ms Komi:** We have certain interests, for example in environmental issues relating to fisheries. We are concerned about and interested in fisheries in places other than the Baltic sea.

**Ms Ojala:** When I was a member of the European Parliament, I learned that, even if we have no olive trees in Finland, I had to understand what a big question olive oil is for Spain and Greece. It makes us more concerned about the fisheries of Scotland, the UK and other countries, even if we have no national interest.

**Mr Jansson:** In Finland, the common fisheries policy is important for the Baltic sea basin, because we have special problems with overfishing and low reproduction of fish. The Russians are also fishing in the basin and it is important to be strong in negotiations with the Russians about fisheries in the Baltic sea area. We are in favour of a developed common fisheries policy.

**The Convener:** The European and External Relations Committee has agreed to mount a public information campaign with the people of Scotland after the constitution is agreed, to inform people and to make them aware of what the constitution is all about. Before that, during the negotiations themselves, we will be taking evidence from Scottish ministers—and also, we hope, from UK ministers—on the EU constitution, to ensure that Scotland’s interests are represented and to fulfil our role as a parliamentary committee in scrutinising the Governments. Has your committee undertaken any projects to involve the people of Finland in the matter, or has your Government done that?

**Ms Komi:** I have just taken part in such a one-day event. Our foreign ministry has set up a roadshow about the future of the EU, which has been going on for about one and a half months in different regions of Finland. Perhaps not as many people as we would have hoped have taken part in the discussions, but there has been quite a good number both of people who want us to divorce from the EU and people who would like to develop co-operation with the EU and with European countries. The discussions have been quite good and that has been one way of involving our people.

**Irene Oldfather:** It occurs to me that Finland is participating in the euro. Do you believe that ordinary Finnish people feel more European, are more engaged with Europe or have a better understanding of European issues as a result of the euro, or is it having the opposite effect?

**Mr Itälä:** The euro is not connected with the issue of how European we are. There were not many problems when we changed our money. It has gone quite well and people are not against the euro or the European Union. We were prepared for much more difficulty when we changed our money, but everything went quite well.

**Irene Oldfather:** It is good to know that the people seem to be approaching the euro as an economic issue, which I think is a good thing.

**Mr Itälä:** That is true.

**Ms Hautala:** There is some controversy among the population, as there is among decision makers, because people do not like the way in which the big countries—France and Germany—are handling the commonly agreed rules on the euro. There is a little bit of a feeling that the big member states are not really meeting the standards that they have set with everyone, and
that has added to the political sentiment that has grown up in the country.

Mr Itälä: Our Swedish colleagues said that, when they had a referendum, they did not know that the rules are not the same for everyone, as Heidi Hautala has just said with reference to the big countries. That is an important question for the future.

Ms Alho: The problem is that the convergence criteria were decided at Maastricht, but the world has changed since then. However, we must still respect our common agreements.

Phil Gallie: That is absolutely right. One of the concerns is that the basic rules when the euro was set up were changed before it was implemented. That gives cause for concern, and perhaps that is what Swedish people felt.

Do your comments on the euro reflect back on earlier comments about the wish of Finland—presumably a cross-party wish—to go for tax harmonisation?

Ms Ojala: It is not right to talk about tax harmonisation. What we are after is a minimum level of taxation inside the European Union. It is not right that we have tax competition with other countries; we cannot accept that. As has been mentioned, there will be more unhealthy competition when Estonia and the other Baltic states become members of the European Union next year, for example because of low taxation for companies in Estonia.

Phil Gallie: Does that not show the underlying problem? Our Prime Minister, who is in a different party from me, has made it quite clear that he sees competition in taxation as being imperative for the UK interest. He has assured us that harmonisation is guarded against in the constitution.

12:45

Ms Ojala: When we talk about growth inside the European Union, we should not forget the social dimension. Of course there will always be competition, but we do not want unhealthy competition on taxation. If taxation is very low, that can mean unhealthy competition. I do not want to talk about social dumping, but we are quite concerned about Estonia for instance, which will become a member next year.

Mr Itälä: We are currently having a big discussion about company taxation, which is about 29 per cent in Finland. In Estonia, it is zero. That is quite a big difference. That is not healthy competition.

The Convener: Does the Finnish Grand Committee have any questions on this subject before we move on to talk about regional funding?

Ms Ojala: I would like to hear about your opinions on the role of the regions and on regional policy in future. What challenges do you see in the coming years?

The Convener: I invite my colleagues to answer that question.

Irene Oldfather: Gosh, there are quite a few challenges. I am a member of the European Committee of the Regions. Obviously, the Committee of the Regions itself needs a bit of reform, but there are various views about how it should be reformed.

As you probably know, the Committee of the Regions includes town mayors as well as representatives from parliaments with legislative powers. There is quite a differentiation in the representation. In some ways, that might be viewed as a strength, because the committee is representative of local and regional authorities across Europe. In that respect, the committee can be a powerful lobby.

Within the Committee of the Regions, some of the parliaments and regions with legislative powers would like to see groupings being formed. That is already happening through things such as Regleg—regions with legislative power—which was formed to take forward issues that are of particular relevance to such regions.

As well as that variety of views, another challenge is how we meet the needs of local authorities, cities and regional governments within the Committee of the Regions. We need to reform and at the same time enlarge. That will involve a number of challenges. At the moment, groups are forming to represent particular interests. That may well be how we proceed.

For the IGC, we have been keen to take forward the idea of giving the Committee of the Regions a better and more accented role within the European legislative process. We have had some success in that—although not as much as we would wish—and we certainly would not want to see that lost. The draft constitution proposes that the Committee of the Regions would be able to refer cases to the European Court of Justice. We certainly want to hold on to that.

The Convener: My colleague Margaret Ewing has something to say that may be slightly different from that.

Mrs Ewing: What I will say is slightly different. You have asked quite a difficult question because, along with my party, I want Scotland not to be seen as a region but to have full national status. I am sure that those of you who have served in the European Parliament will have heard that before from Scottish National Party members, including my redoubtable mother-in-law.
I try to accept the reality of where we are at the moment, but we should not just look for influence through bodies such as Regleg—to which the Scottish Parliament's First Minister has, in Salzburg today, been appointed president, so we will now have to call him President McConnell. I am concerned about the reduction in the number of Scotland's members of the European Parliament, which is the democratic aspect of the whole European Union. Our number of members is being reduced from eight to seven, which is a downwards move.

Beyond that, a regional Parliament—as the Scottish Parliament is called—must have the right to direct access to and voting powers in the Council of Ministers. You may not have a huge interest in fishing, but I represent a fishing constituency and it is inadequate that our Parliament's fisheries minister is only talking and not voting, because we are at loggerheads with the UK Government on that policy. That is my view on regional influence.

**The Convener:** I take it that the Finnish committee wishes to respond to some of those comments.

**Mr Jansson:** I will continue by asking about how your discussions with the British Government have proceeded and whether you have made an agreement with it about your Government's and your Parliament's direct contacts with the Council, the Commission and the European Court of Justice.

**Phil Gallie:** The Parliament and our committee have little influence on even the Scottish Executive, which is the Scottish Government. Our legislature is dominated by the Executive, so any influence that the Parliament has over the UK Government is even less.

I take a slightly more positive view than my colleague Margaret Ewing does about the power of the UK Government and the Scottish Government to work together, if they have the will. In the past, Scottish ministers have taken the lead on fishing interests—that happened even before the Scottish Parliament was established. Cooperation among the Scottish Executive, the UK Parliament and the UK Government should be good, but there is room for improvement. If we can get our act together, that augurs well for any work that we do in Europe.

**Irene Oldfather:** All committee members can agree on several matters, one of which is the Scottish Parliament's establishment and the representation that it gives to the people of Scotland. That has been good.

I differ quite a lot from my colleague Margaret Ewing in that I believe in the United Kingdom as an entity and believe that great scope exists for us to work in partnership with our colleagues in the United Kingdom. As I am a Labour member, I would be expected to say that but, in that respect, Scotland can have the best of both worlds. We must fine tune the situation and ensure that we have the weight of the United Kingdom Government behind us on issues that are important to us. We in the Labour Party argue that we do that.

**The Convener:** What is important from the Scottish Parliament's point of view is to have the opportunity to learn from our first four years, because our Parliament has existed only since 1999 and we had our second election only in May this year. As the committee's convener, I think that it is important to learn the lessons from the past four years. No real changes have been made to the arrangements under the devolution settlement or to how it operates. I hope that the Parliament will agree on a cross-party basis on some changes that need to be made to how Scotland is represented in Europe. Such a debate is taking place elsewhere in Europe and not just here in Scotland.

Mr Itälä: We cannot hear you.

**The Convener:** I believe that the sound is back now.

I said briefly that it is important for the Scottish Parliament, which came into being only in 1999, to use the opportunity to learn the lessons about how we are represented in Europe and to apply them to how we implement the devolution settlement and to whether we want to change the settlement. That is the subject of an on-going debate in Scotland.

Mrs Ewing: The members of the Finnish Grand Committee will understand my point, because the Finnish Parliament has had permanent representation in Brussels for a considerable number of years. The Scottish Parliament has established a very small office there, which has one person in it. Through the clerks to our committee, we are conducting a survey to find out what the Parliament's viewpoint is on whether we could extend the work of that office. That is about having early-warning systems for all the various directives and regulations that are brought before us so that, as a Parliament, we can scrutinise them effectively and draw what we think might be their major implications to the attention of the other parliamentary committees. How effective have you found your office?

Peter Saramo: I will give the civil service view. Through our Government, we receive proposed European legislation on average on the 21st day after it has been published in the *Official Journal of the European Union*. Our Brussels office does not deal with those issues at all; it serves more as a provider of background information and analysis.
Structural Funds

12:55

The Convener: Perhaps I could take the liberty of moving the agenda on, given that we have only a few minutes left and I know that we wanted to discuss regional funding. In the United Kingdom, a debate is going on about the repatriation of regional funding to the UK Government. Does the Grand Committee have any views on that?

Ms Komi: I was just going to ask about your view on the future of EU structural funds. In Finland, we think that it is important that parts of Finland such as eastern and northern Finland continue to receive a high level of aid from the EU, because of the special permanent conditions that exist there. Those areas are scarcely populated, they involve travelling long distances and have a certain permanent climate. In a way, we would like such structural funding to continue, but that does not mean that our Government can give up its national policies in that respect.

The Convener: That sounds similar to the view that we are receiving from all the local authorities in Scotland. Our committee is taking evidence on the issue and local councils throughout Scotland, on which different political parties are represented, are expressing the view that they want the regional funding from Europe to continue, too. It is clear that there are some similarities in the needs of Scotland and Finland, both of which have sparsely populated areas.

Irene Oldfather: I am interested in the Finnish members’ viewpoint, because the European and External Relations Committee is taking evidence on the issue. We all face difficult times and a genuine dilemma. We know that many nations want the EU budget to stay the same—for example, Germany wants to cap the budget—and, as far as I am aware, there are no plans to increase the budget. If the budget stays the same and the new member states come in, we will be faced with a redistribution problem. The consultation paper that the UK Government has issued has more or less guaranteed that, during the period of operation of the next set of structural funds, organisations in Scotland will not face a reduction in funding. It is clear that we face a dilemma, because we must consider what will be in Scotland’s best interests. As part of that process, we are taking evidence across the board.

What are Finnish members’ thoughts on the subject? Are you in favour of an increase in the EU budget, which would accommodate member states such as the UK and Finland that will lose out as a result of the entry of the new countries? If we have the same pot, how can we redistribute the money more effectively and spread it further?

Ms Komi: That is the problem; we have no answer to it. We have quite a new Government and its programme includes the aim of ensuring that the northern and eastern parts of Finland continue to receive a high level of aid. We must all discuss how we can achieve that and must try to find a resolution.

The Convener: I appreciate that we have reached the final couple of minutes of the meeting. I wonder whether the convener of the Finnish Grand Committee would like to make any concluding remarks before we close the meeting.

Mr Itälä: The bells are ringing here, so we must close the session. It is time to thank you very much for a very interesting meeting. This is my first experience of such a meeting. The people who are responsible for the Parliament’s finances greatly approve of such co-operation. The meeting was very useful.

The Convener: Thank you very much. On behalf of our committee, I thank you for taking the time to speak to us. The hour has been very enjoyable and has flown by, so it is clear that we have all been engaged in conversation. Even though our committee has only nine members, whereas yours has about 25, we have found the experience worthwhile. I hope that we will be able to hold a similar meeting in the future; given the many similarities between Finland and Scotland, we might even want to meet face to face. Until then, thank you very much again.

Videoconference closed at 13:00.
EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

BRIEFING PAPER

“Update on the IGC”

Introduction

1 Members will be aware that the Inter-governmental Conference (IGC) deliberating on the new draft constitution for the European Union is well underway. This factual paper sets out, as can best be ascertained since the IGC meets in private, what the state-of-play is with respect to the issues being debated (see Annex A). It is also sets out a timetable so far (see Annex B). Finally, it also provides an update on the perceived positions in each of the member states on some of the key issues (see Annex C).

Recommendation

2 Members may like to refer to this paper when discussing this item on the agenda.

Stephen Imrie
Clerk to the European and External Relations Committee
The Scottish Parliament
Tel: 0131 348 5234
Email: europe@scottish.parliament.uk
ANNEX A

IGC – KEY ISSUES

On the 24 November, the Italian Presidency reported on the progress so far with the IGC. It insisted it was still on course to strike a deal within the next month. However, it also reported that there were still a number of unresolved problems. Additional press coverage of speeches and comments by the UK Chancellor of the Exchequer and the Foreign Secretary set out the UK Government’s ‘negotiating stance’ prior to the European Council meeting (12-13 December); the so-called ‘red lines’.

The Italian Prime Minister, Silvio Berlusconi, is undertaking a series of bilateral meetings with the member states in advance of the Council to try to identify national positions and possible compromises. **Before their next meeting, in conclave in Naples on 28 and 29 November, the Italian Presidency has promised to produce a comprehensive proposal covering all points of contention amongst member states on the draft constitutional treaty.**

According to seasoned observers and the press, the key issues that will form the basis of the most sensitive discussions are as follows.

*Distribution of power in the EU*

The distribution of power in the EU, with Poland and Spain aiming to maintain their influence under a simplified new voting system for the Council of Ministers, will be a key feature of the debate between now and the conclusion of the IGC.

*Number of Commissioners*

There is still an ongoing discussion and disagreement between those states that favour one Commissioner per each member state (i.e. 25) and those who want to see either a more streamlined executive of perhaps 15 Commissioners or a College of Commissioners with 31 members (two each for each large member state).

*Role and title of the Foreign ‘Minister’*

Some larger member states want to limit the influence of the Commission in foreign policy. There is also a debate on whether the postholder should be entitled ‘Minister’ or High Representative.

It is understood that practically all national delegations accept the Italians’ proposed amendments, which have the effect of removing the application of certain aspects of Commission collegiality from the Foreign ‘Minister’. The Commission and the European Parliament, however, have argued against the Italian proposals as a step back from the Convention text. At the same time, some national delegations have argued that the Italians’ proposals did not go far enough in reducing possible ambiguities in the Minister’s role. The UK is understood to be seeking further clarification of the Minister’s role chairing the Foreign Affairs Council when it is discussing Commission proposals, arguing that the Minister will not be able to be bound by collective Commission responsibility in such circumstances.
Statements on religion in the Constitution

Poland, Spain and Ireland are amongst those wanting a reference to Christian heritage in the constitutional treaty’s preamble. France and Spain are strongly against.

‘Passarelles’

This is terminology for the provisions in the draft constitutional treaty which allow for changes in legislative procedure or other changes of a quasi-constitutional nature, usually by means of a unanimous European Council decision. They are called "passerelles" (i.e. bridges). The most controversial are the two "general" passerelles in Article 24 which allow for changes to the legislative procedure applying to any of the policies in Part III to use (i) Qualified Majority Voting (QMV) instead of unanimity or (ii) the ordinary legislative procedure instead of the special legislative procedure. There are also general passerelles applying to enhanced co-operation, and specific passerelles applying to individual policy areas.

They are controversial, especially the general passerelles (specific passerelles are precededent, i.e. Amsterdam on immigration and asylum) because they effectively allow the treaty to be "amended" without national ratification. They were added at a late stage of the Convention as a concession to those who wanted QMV extended more widely. These advocates claim that they are needed to introduce flexibility. The UK Government is opposed to the general passerelles, certainly without greater national parliament blocking power.

UK HMG ‘red lines’

According to press coverage of comments made by UK Ministers, the UK Government will want to retain unanimity voting on defence, social security, foreign and tax policy.
### TIMETABLE SO FAR

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<tr>
<th>Date</th>
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<tr>
<td>Tuesday 14 October 2003 – morning (Luxembourg)</td>
<td>Ministers (on the occasion of the General Affairs and External Relations Council meeting)</td>
<td>Minister for Foreign Affairs (questionnaire) Composition of the Commission (questionnaire) Preparation for the meeting of Heads of State or Government: • All institutional issues including: composition of the European Parliament, European Council and its President, definition of Qualified Majority</td>
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<td>Thursday 16 and Friday 17 October 2003 (Brussels)</td>
<td>Heads of State or Government</td>
<td>Institutional issues (orientations)</td>
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<td>Monday 27 October 2003 (Brussels)</td>
<td>Ministers</td>
<td>Follow-up of the Heads of State or Government meeting Scope of Qualified Majority (questionnaire) Institutional questions (examination of pending issues on the basis of drafting proposals submitted by the Presidency in the light of previous discussions on the Legislative Council, the formations of the Council and the system of Council Presidency) Non-institutional questions*</td>
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<td>Tuesday 18 November 2003 – morning (Brussels)</td>
<td>Ministers (on the occasion of the General Affairs and External Relations Council meeting)</td>
<td>Institutional questions (continue examination of pending issues on the basis of drafting proposals submitted by the Presidency in the light of previous discussions on the Union Minister for Foreign Affairs and, if appropriate, on other questions) Defence (questionnaire) Part IV of the draft Constitution (revision procedure)</td>
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<tr>
<td>Friday 28 and Saturday 29 November (&amp; possibly 30 November) 2003 (Rome)</td>
<td>Ministerial conclave</td>
<td>Preparation of the overall package ahead of the meeting of Heads of State or Government</td>
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<td>Tuesday 9 December 2003 – morning (Brussels)</td>
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<tr>
<td>Friday 12 and Saturday 13 December 2003 (Brussels)</td>
<td>European Council, Heads of State or Government</td>
<td>Discussion of the overall package</td>
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Depending on the outcome of the European Council, the Constitution may be agreed to or may be delayed into the Irish Presidency which begins on 1 January 2004.
## Intergovernmental conference: where all the players stand

EUROPEAN Voice has teamed up with the European Policy Centre think-tank in Brussels to plot the positions adopted by the participants during the intergovernmental conference (IGC) in relation to the key points on the agenda.

We will regularly update this table over the coming weeks to take account of any changes in the agenda or in the stance of the participants – including the European Commission and Parliament – which could affect the final content of the draft constitution. This week, the table shows where everyone stands as of 5 November.

### SUMMARY OF MEMBER STATE POSITIONS

| Issue | AU | BE | CY | CZ | DK | ET | FI | FR | GE | GE | HU | IR | IT | LV | LT | LT | MT | NL | PL | PT | SK | SI | SP | SW | UK | NL | GB | EP |
|-------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Refer to Christianity | N | N | N | N | N | N | N | N | N | N | N | Y | Y | Y | N | N | N | N | Y | N | N | N | N | N | Y | Y | N | N | N | N | N | N | N | N |
| Double majority QMV | N | Y | Y | N | Y | Y | Y | N | N | N | Y | N | N | N | N | N | N | Y | N | N | N | N | N | N | Y | N | N | N | N | N | N | N | N | N |
| Nice QMV formula | Y | N | N | N | Y | N | N | N | N | Y | Y | Y | N | N | N | Y | N | N | N | N | Y | N | N | N | Y | N | N | N | N | N | N | N | N | N |
| Separate Legislative Council | N | Y | N | N | N | N | N | N | N | N | N | N | Y | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Current rotating presidency | Y | N | N | N | Y | N | N | N | N | N | N | N | Y | Y | N | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Team presidencies | N | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 15 voting Commissioners | N | Y | N | N | N | N | N | N | N | Y | N | N | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 1 voting Commissioner per MS | Y | N | Y | Y | Y | Y | Y | N | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| FM to chair CFSP council | Y | Y | Y | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| FM full member of Commission | Y | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Defence cooperation | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Collective defence clause | N | Y | N | N | N | Y | N | N | N | N | N | N | N | N | N | N | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| EP able to reject budget | Y | Y | N | N | N | N | Y | Y | N | N | N | N | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| QMV on financial framework | Y | N | Y | Y | Y | N | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| QMV on joint FM/COM proposal | Y | Y | N | Y | Y | Y | N | Y | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
Background
This document contains the list of EC/EU documents received by the European and External Relations Committee for this meeting, classified according to which committee(s) the particular document is most relevant to. The document is sent by the European and External Relations Committee to each of the Scottish Parliament’s committees for their attention.

Table of Contents

Note
As a new feature, this list of recent legislative proposals and developments in the EU contains a preface to the Committee Relevancy lists. This preface highlights certain documents considered of ‘Special Importance’ by the European and External Relations Committee, along with a short explanatory note of why they have been highlighted as such.

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<td>522</td>
<td>14584/03</td>
<td>State Aid Scoreboard - Autumn 2003 update</td>
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<td>537</td>
<td>14793/03</td>
<td>Commission Staff Working Paper entitled &quot;2003 European Innovation Scoreboard&quot;</td>
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Sift of EC/EU legislative proposals and other documents

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