



HOUSE OF LORDS

European Union Committee

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48th Report of Session 2005–06

# Europe in the World

Report with Evidence

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(p) refers to a page or written evidence

## **FOREWORD—What this Report is about**

The EU has wide and growing responsibilities on the international scene: supporting political and economic development; mediating in and helping to resolve crisis situations; promoting effective multilateralism, to name a few. Whilst the EU's policy objectives are clear, responsibility for implementation falls on a number of actors, notably the Commission, the Council and the Member States. Though separate, the growing importance of EU foreign policy means that the three must work together to create a unified EU global presence.

In this Report we consider the Commission's recent proposals for better cooperation and coordination, contained in the Communication *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility*. The Communication considers what can be done within the scope of the existing Treaties, dealing in particular with issues of strategic planning, cooperation at EU headquarters and in the field, and democratic accountability.

We believe that the Commission's proposals are sensible and pragmatic and will lead to better working relationships and to a more visible and credible EU presence in third countries and in multilateral organisations. The implementation of the proposals would undoubtedly lead to more streamlined and effective EU action in the world.

However, there is scope for the EU to go beyond the proposals contained in the present Communication on the basis of the current Treaty provisions, and we would encourage the EU and its Member States to continue to explore ways to strengthen the coherence and effectiveness of the EU's action in this area.

We believe that the EU is an important contributor to global development and security. Only by adopting and implementing coherent and effective policies will the EU be able to properly fulfil its role in the world. This Communication is therefore a timely reminder of both what has already been achieved and what more remains to be done.



# Europe in the World

## CHAPTER 1: INTRODUCTION

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1. EU external relations are the responsibility of the Member States, the Council and the Commission, each with their own role and competencies. Though separate, the growing importance of EU foreign policy in the world means that the three must work together to create a unified EU global presence.
2. At the October 2005 Hampton Court Summit, held under the United Kingdom Presidency of the EU, both the High Representative and the President of the Commission were asked to take forward work on cooperation on external relations. The Commission, under the leadership of President Barroso, but involving all the external relations Commissioners, prepared a Communication to consider how the EU might make its external policies more coherent and effective.<sup>1</sup>
3. The Communication was published in June 2006 and welcomed by the June European Council which invited the Presidency, the Council, the High Representative and the Commission to examine the measures contained in the paper “with a view to improving inter alia strategic planning and coherence between the EU institutions and between the latter and the Member States.”<sup>2</sup> The European Council also agreed that a first stocktaking in relation to the implementation of the measures would be made at the end of the Finnish European Council.
4. In this Report we consider the Commission’s proposals. Chapter Two investigates the issues covered by the Commission Communication as well as the legal and political scope for taking these proposals forward. Chapters Three to Six examine a number of the specific proposals.
5. We took evidence in June 2006 from the Minister for Europe, the Rt Hon Geoff Hoon. In October 2006 we heard from Ambassador José Cutileiro, Special Advisor on external relations to President Barroso, Patrick Child, Chef de Cabinet, Commissioner for External Relations, Robert Cooper, Director General, External Economic Relations and Politico-Military Affairs in the Council Secretariat, Erwan Fouéré, EU Special Representative and Head of Commission Delegation, the Former Yugoslav Republic of Macedonia, Lord Brittan of Spennithorne, former Commissioner for External Affairs and Vice-President of the Commission, and Professor Alan Dashwood, Professor of European Law, University of Cambridge. We are grateful for their time and counsel.
6. **We make this Report to the House for debate.**

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<sup>1</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* COM(2006)278 final.

<sup>2</sup> 10633/1/06 Rev 1 Brussels European Council 15/16 June 2006 *Presidency Conclusions* para 32.

## CHAPTER 2: IMPROVED COOPERATION AND COHERENCE IN EU EXTERNAL RELATIONS

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### The coherence of the EU's external relations

7. The EU's role in the world has been expanding rapidly over the last decade. The EU has strategic partnerships with a growing number of countries and regions; there is a growing number of European Security and Defence Policy (ESDP) missions in areas of the world ranging from the western Balkans to Aceh in Indonesia, Baghdad and Kinshasa; meanwhile, the EU is promoting political and economic development in eastern Europe and the Mediterranean under the European Neighbourhood Policy.
8. According to Lord Brittan, getting the Commission, the Council and the Member States together on important issues of foreign policy is desirable because "Europe does have certain common interests which if applied in the areas of foreign affairs would be beneficial for Europe's citizens. So if you could achieve it, I unhesitatingly say this would be a good thing." (Q 230)
9. The Minister for Europe also highlighted how the EU can bring the Member States together in acting with a common voice. At the EU-Latin America Summit the Minister noted "that there were lines of communication and political contact from the South of Europe which simply are not available to the UK. I think that is an area where EU activity benefits the UK". (Q 25)
10. One example of this is the negotiations between the EU3 and Iran which evolved from a pragmatic decision by three Member States<sup>3</sup> to take action in an area where action was urgently needed. The High Representative, Javier Solana, became involved, conducting the negotiations and relating outcomes of the negotiations back to the Council of Ministers. Poland and Lithuania also worked with the High Representative in trying to resolve problems in Ukraine.
11. The Minister for Europe stressed that far from undermining the EU, the Iran negotiations had demonstrated "the way in which a wider European Union carries considerable weight in international negotiations and...the importance of having this kind of coordinated response on behalf of the EU." (Q 27)
12. In order to ensure that such a coordinated response becomes the norm, it is essential that, according to the Commission Communication, "all actors...work more closely together to maximise the collective impact of the Union."<sup>4</sup> The Commission Communication is an attempt to make this happen, focusing on those aspects of EU external relations in which the Commission itself has a role, and in which it can complement the Council's role in Common Foreign and Security Policy (CFSP).
13. Professor Dashwood stressed that "the assets of foreign policy, such as diplomatic influence, intelligence and ultimately military hardware and military personnel, belong to the Member States". (Q 177) The Commission cannot pursue a foreign policy which might require use of such assets. But

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<sup>3</sup> Britain, France and Germany.

<sup>4</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 6.



this does not prevent the Commission's external relations activities from supporting and complementing the Member States' common foreign policy conducted under CFSP.

14. For example, in the western Balkans there have been a number of civilian and military missions to deal with the consequences of the break-up of the former Yugoslavia; but the various republics would not have been able to develop without Community aid programmes, whilst the prospect of EU accession has been the EU's greatest means of bringing about political and economic stability. Whilst the Council of Ministers and the Commission have performed different functions in the Balkans they have been pursuing the same goals. Cooperation and coordination are essential for ensuring that the EU institutions and Member States always speak with one voice.

### **The need for better cooperation and coordination**

15. The need for better cooperation and coordination between the Commission, Council and the Member States has been a recurring theme of many of our reports on EU foreign policy.
16. In our Report on the EU's Strategy against the proliferation of weapons of mass destruction (WMD) we found that administrative divisions were obstructing the flow of WMD-relevant information and the pursuit of action.<sup>5</sup> Similarly, our Report on the EU's Strategy for Africa concluded that the EU should rationalise the working of its institutions and instruments in order to avoid duplication and turf-fighting.<sup>6</sup> In that Report we did, however, commend the Commission's commitment to policy coherence.<sup>7</sup> Whilst acknowledging the importance of the current Commission proposals relating to the coherence of its own internal policies,<sup>8</sup> we accordingly use this Report to examine coherence and coordination between the Commission and the Council and Member States.
17. In taking evidence for this inquiry we were pleased to hear that there are areas in which coordination, at least between the Commission and the Council, is improving. For example, Erwan Fouéré argued that his double-hatted role as EU Special Representative and Head of Commission Delegation for Macedonia had led to closer working relationships between those Commission and Council officials responsible for providing him with his instructions. (Q 149)<sup>9</sup> More generally, Robert Cooper argued that relations between the Commission and the Council secretariat "works on a practical, day-to-day level extremely well." (Q 98)
18. At a broader policy level the recent crisis in Lebanon provided a test for the Finnish Presidency, one in which the Finnish Prime Minister believes that "the EU performed well." Matti Vanhanen stated: "I am not hiding the fact that there were real differences of opinion between Member States about

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<sup>5</sup> European Union Committee, 13th Report (2004–05): *Preventing Proliferation of Weapons of Mass Destruction: The EU Contribution* (HL 96) paras 68–69.

<sup>6</sup> European Union Committee, 34th Report (2005–06): *The EU and Africa: Towards a Strategic Partnership* (HL 206-I) para 439.

<sup>7</sup> European Union Committee, 34th Report (2005–06): *The EU and Africa: Towards a Strategic Partnership* (HL 206-I) para 109.

<sup>8</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 7.

<sup>9</sup> See below paras 84–102.

this...But a solid common position was nevertheless forged, in a constructive manner, and EU Member States played a decisive role in shaping the UN Security Council resolution, allowing for a robust UNIFIL<sup>10</sup> operation to effectively end the conflict.”<sup>11</sup>

19. Indeed, Lord Brittan stressed that the degree of cooperation and common policy which has already been achieved should not be underestimated. The Commission’s paper was not, in his view, “tremendously radical” but rather suggesting that the institutions and Member States “do more of the same.” (Q 218) Robert Cooper agreed that much of what the Commission was proposing was obvious and already being done. (Q 83)
20. Nevertheless, as the Commission Communication itself states: “Unsatisfactory coordination between different actions and policies means that the EU loses potential leverage internationally, both politically and economically. Despite progress with improving coordination, there is considerable scope to bring together different instruments and assets, whether within the Commission, between the Council and Commission, or between the EU institutions and the Member States. Furthermore, the impact of EU’s policy is weakened by a lack of focus and continuity in external representation. Within the framework of the existing treaties the Community and intergovernmental methods need to be combined on the basis of what achieves the desired outcome, rather than institutional theory or dogma.”<sup>12</sup>

### **The scope for increased coordination**

21. Whilst recognising the need for increased coordination and cooperation, the first question to ask must be how successful the Commission’s proposals are likely to be in achieving that aim. Given that this paper was written partly as a response to the failure of the Member States to ratify the Constitutional Treaty, are the proposals legally sound and politically achievable?

### *Treaty constraints*

22. The Constitutional Treaty, if ratified, would have brought about a number of institutional changes with the aim of improving the external action of the EU. Firstly the rotating Presidency would have been removed in order to improve continuity. Secondly there would have been an EU Foreign Minister, combining (and extending) the current roles of the High Representative and the Commissioner for External Relations who would represent the EU on CFSP matters and coordinate Member States’ action in international organisations and at international conferences. Thirdly an External Action Service would have been established to work in cooperation with the diplomatic services of the Member States.
23. Robert Cooper felt that the Constitutional Treaty would have strengthened EU foreign policy both by mobilising the Member States and by providing clarity: “The EU’s ambition is to speak with one voice and it is a very

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<sup>10</sup> United Nations Interim Force in Lebanon.

<sup>11</sup> Speech given by the Finnish Prime Minister Matti Vanhanen to the Conference of Foreign Affairs Committee Chairmen, Helsinki, 28 September 2006 <http://uutisruutu.eduskunta.fi/dman/Document.phx?documentId=oe27106114657892>.

<sup>12</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 6.

laudable one, but then we send three people to do it—the Presidency, the High Representative and the Commissioner. The Constitution fused those three.” (Q 98)

24. The Commission Communication is designed to address these issues and to “see what we could do to make the external role of the Union more efficient and coherent”. (Q 53) The aim was “to be able to use better the [existing] resources of the European Union, many of them in the Commission, for the benefit of the European Union through its external action...We did not cherry-pick.” (Q 53) The Minister for Europe agreed that the Commission’s proposals are not linked to the future of the Treaty. (Q 3)
25. The Minister, in a letter dated 26 July 2006, also stated that the proposals “could be introduced without the Constitutional Treaty.” (p13) Professor Dashwood confirmed that there was no “legal impediment in the Treaties to the broad lines of what the Commission is proposing.” (Q 178)

### *Political constraints*

26. Whilst there are no legal constraints preventing the proposals from being adopted, we did hear evidence that the success of the proposals would depend on political willingness to make them work, and on the personal relationships of those expected to work together.
27. Lord Brittan argued that whilst it was inevitable that the two main institutions, each with its own bureaucracy, would sometimes differ in their views, this did not necessarily mean there was a turf war between the two institutions. Where there was an overlap in functions it was necessary for the people involved to build good personal relations since infighting “would be damaging to both and to the cause of Europe generally.” (Q 215)
28. The willingness of the Member States to endorse further cooperation will also be essential to the success of the EU’s external relations: “There is only a limited amount of what the institutions and even one Presidency or another can do, without an overall agreement by the 25 for this or that aspect of foreign policy.” (Q 53)

### **The sufficiency of the Commission’s proposals**

29. There are a number of measures which would lead to greater coherence and visibility in EU external relations which cannot be achieved without the reforms contained in the Constitutional Treaty: notably the creation of a Foreign Minister and of a President of the European Council. However, short of such reforms, there are few limits to the extent to which cooperation and coordination can be increased. The existing Treaties allow the institutions and the Member States to agree priorities and common positions and to speak with a united voice. Do the Commission’s proposals, therefore, go far enough?
30. The Commission Communication only speaks to those areas in which the Commission has a role to play. Further work may be required in relation to the relationship between the Member States themselves or within the Council secretariat. “[I]t is important to avoid the perception that somehow everything that is wrong with EU foreign policy is because of some lack of understanding or cooperation between the Commission and the Council secretariat.” (Q 54)

31. As an example of increased coherence between the Council and the Member States, the Council is currently undertaking a review<sup>13</sup> of the Member States' commitments and activities under the EU Strategy for Africa<sup>14</sup> to be presented at the December European Council. This is a welcome development, but we focus in this Report on the Commission and its relations with the Council and Member States.
32. Our witnesses suggested that the Commission could indeed have gone further in its proposals. For example, Professor Dashwood argued that the High Representative should attend meetings of the whole Commission, as well as of the Relex group of external relations Commissioners. (Q 209) Lord Brittan argued that there was further scope for Commission delegations to take a lead in negotiations with third countries, for example as had happened in relation to Japan when trade issues had come to the fore. (Q 233) A discussion paper by Jeannette Ladzik<sup>15</sup> argues that there is no legal impediment to the establishment of the External Action Service, an argument reflected in oral evidence from Professor Dashwood given in the context of our recent inquiry into future enlargement of the EU.<sup>16</sup>
33. These proposals, particularly the latter, could, however, have proved politically unacceptable.<sup>17</sup> Had the Commission's proposals been too radical, objections raised could have overshadowed the widely welcomed proposals made in this Communication. The Commission Communication is, accordingly, only a first step towards achieving a coordinated and coherent EU foreign policy: "to have what is recommended in the paper flowing, and with enthusiasm from all concerned, would be an enormous advance." (Q 55)
34. **We welcome and endorse the Commission's desire to improve the coherence of the EU's external relations by strengthening cooperation between the Presidency, the High Representative and Council secretariat, the Commission and the Member States through action within the existing Treaty provisions. We do not regard these proposals as either cherry-picking from the Constitutional Treaty nor as requiring Treaty change.**
35. **The present Communication may well not exhaust the EU's scope for such action within the existing Treaties. We hope that both the EU institutions and Member States will continue to search for pragmatic ways to strengthen cooperation and that lessons learnt where cooperation has been successful will continue to be applied in other areas.**

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<sup>13</sup> *Joint Progress Report by the European Commission and the General Secretariat of the Council to the General Affairs and External Relations Council on the implementation of the EU Strategy for Africa* 12 October 2006 p 1 [http://www.europe-cares.org/africa/docs/061012\\_FINAL\\_VERSION.pdf](http://www.europe-cares.org/africa/docs/061012_FINAL_VERSION.pdf).

<sup>14</sup> 15961/05 *The EU and Africa: Towards a Strategic Partnership* Council of the European Union, Brussels, 19 December 2005.

<sup>15</sup> *A European Diplomatic Service?* European Policy Brief, the Federal Trust for Education and Research, January 2006, Issue 20.

<sup>16</sup> Oral evidence given by Alan Dashwood and Charles Grant to the Select Committee of the European Union, 27 June 2006, for the inquiry into "Further Enlargement of the EU". Q95.

<sup>17</sup> For example, in a letter from Geoff Hoon, the Minister for Europe, to Lord Grenfell, Chairman of the EU Select Committee, dated 13 July 2006, the Minister stated: "the Government supported the idea of a European External Action Service only as part of the Constitutional Treaty settlement, and as a body to support the proposed European Foreign Minister. Without the provisions of the CT we therefore see no useful role for an EEAS."

### CHAPTER 3: STRATEGIC PLANNING

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36. If the EU is to speak with one voice on both geographic and thematic policies, it is necessary for strategic objectives and political priorities to be set. Whilst this can be achieved through overarching strategy documents such as the EU's recent Strategy for Africa,<sup>18</sup> such documents cannot be produced for every potential issue which the EU and its Member States may collectively have to face. It is therefore necessary for those involved in EU external relations to meet regularly in order to discuss what their priorities should be.

#### Overview meetings

37. The Communication proposes that “Every six months the incoming President of the European Council and Foreign Minister, the President of the Commission and External Relations Commissioner and the High Representative should meet informally to undertake an overview of the Union's external action. Other Commissioners may also be associated with these meetings.”<sup>19</sup>
38. Ambassador Cutileiro noted that the Finnish Presidency has already held such a meeting, though Javier Solana was not present due to the negotiations with Iran. (Q 53) Furthermore, the Commissioner and the High Representative often attend the same meetings as the Presidency which requires careful coordination of the EU position and close day-to-day coordination. (Q 67)
39. According to Commission officials, the idea behind such meetings is not for the Commission to interfere with the European Council or the Presidency, but to ensure that the Commission “know more or less how they are going to tackle things.” (Q 53) These meetings will enable the Commission to coordinate its activities with the Presidency work programme.
40. Robert Cooper agreed that the six-monthly formal meetings could be useful, but stressed that day-to-day cooperation was what really mattered since “[d]ecisions do not conveniently organise themselves to happen once every six months.” (Q 97)
41. Aside from the difficulty of only taking serious decisions every six months, there is an additional concern that such meetings might replace the role of the Council of Ministers in strategic decision-making. Whilst the Presidency takes the lead in the EU's relations with third countries, it is important that other Member States are not excluded from the process of determining the direction of the EU's foreign policy. Therefore, such meetings should supplement, rather than replace, day-to-day cooperation and the Council's decision-making powers.
42. **We welcome the Commission proposal that there should be a high-level strategic planning meeting at the beginning of each Presidency between the Presidency, Commission and High Representative enabling issues of coherence and the overall direction of EU external**

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<sup>18</sup> 15961/05 *The EU and Africa: Towards a Strategic Partnership* Council of the European Union, Brussels, 19 December 2005.

<sup>19</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 7.

**action for the duration of the six month Presidency to be discussed, in order that the EU institutions and the Member States understand each other's priorities.**

### **Cooperation between the High Representative and the Commission**

43. The Commission intends to “strengthen the role of the External Relations Group of Commissioners [Relex] under the authority of the President in identifying strategic priorities”<sup>20</sup> and “will invite the High Representative to be associated with the work of the Relex Group, particularly on strategic planning.”<sup>21</sup>
44. The High Representative has attended a small number of meetings of the Relex group in the past, though not since the publication of the Commission Communication. Communication between Commission and Council officials has also proved important for informing the work of the Relex Group. (Q 67)
45. This proposal was regarded as one of the most important by the Minister for Europe who felt that “there is a real advantage in closer coordination”. (Q 3) He argued that whilst Javier Solana had made a great success of putting the role of the High Representative on the political map, further thought had to be given to how the relationship with the Commission should develop. (Q 21)
46. Lord Brittan was more sceptical about the usefulness of this proposal. He pointed out that without the Constitutional Treaty the High Representative cannot be a member of the Relex group, therefore his position within the meetings is unclear. Although the group does not itself have any legal status, (Q 183) its decisions are usually taken on board by the Commission as a whole so the group's political status within the Commission is extremely important. The High Representative could not therefore be a member of it as such, though he could have an impact “by the force of his personality and the content of his views”. (QQ 224, 225)
47. Professor Dashwood considered that the Commission could have taken this proposal further, arguing that the High Representative ought to attend all meetings of the Commission as an observer, without a vote, when discussing external relations questions. (Q 209) Such attendance would not, he argued, be contrary to the existing Treaty provisions. (Q 178)
48. Political will is required for attendance of the High Representative at the Relex Group to become a regular occurrence. (Q 59) It will also be necessary for the High Representative and the Commissioners to respect each other's role and responsibilities and so successful coordination will depend “on the personalities involved.” (Q 22)
49. It is therefore encouraging to see that close working relationships have been formed between the external relations Commissioners and Javier Solana on a number of issues. For example, Olli Rehn and Javier Solana have worked closely together on Bosnia and Kosovo, Louis Michel and Javier Solana on Africa and Benita Ferrero-Waldner and Javier Solana on the Middle East peace process. (Q 98)

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<sup>20</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 7.

<sup>21</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 7.

50. Professor Dashwood was concerned more generally by the Commission's proposal to strengthen the Relex Group. If such meetings "were to become the main engine of strategic planning that would be against at least the spirit of Title V, because it would effectively put the planning capacity inside the Commission rather than inside the Council where...Title V expects that it should be." (Q 178)
51. However, the Commission only has the competence to strengthen its own internal groupings in relation to the Commission as a whole; the Commission has no power to usurp Council functions relating to CFSP. The institutional concern ought to be that by attending such meetings the High Representative will interfere in areas in which the Commission has competence, such as the European Neighbourhood Policy. This concern should not be overplayed, however, since one of the main purposes of increased coordination is to ensure greater coherence between the external relations policies of the Council of Ministers and those of the Commission.
52. **Attendance of the High Representative at meetings of the Relex Group will improve the coherence of EU external relations and is to be welcomed. The High Representative cannot be involved in decision-making but will have an influential role and should work closely with the Commissioners to agree priorities in those geographical and thematic areas in which both the Commission and the Council have competence.**
53. **We hope that these meetings will lead to closer cooperation between Commission and Council officials, both in preparing for the meetings, and more generally.**

#### **Cooperation between Council and Commission officials**

54. The Commission Communication makes a number of proposals which relate directly to improved working relationships between Commission and Council officials:
- the Commission will improve reporting and analytical capacities both in Brussels and in its Delegations to enable the Commission to provide better input to Coreper, the Political and Security Committee (PSC) and relevant Council Working Groups;
  - when appropriate, Commission Heads of Delegation could be invited to participate in the work of Council groups;
  - there should be intensified cooperation and contacts between the Commission Services and Council Policy Unit.
55. Lord Brittan argued that such cooperation was the key to the success that the EU has had in foreign policy. If low-level meetings were held at an early stage between people with no fixed ideas then the ideas and recommendations presented to those at a higher level would "be remarkably similar because they will have talked it through and worked it through together." However, he also felt that "anything that is too mechanistic is not likely to achieve anything". (Q 215) Officials should be encouraged to speak to each other as much as possible, without necessarily having to go through formal channels of communication or set meetings.
56. **We endorse the concept of closer working relationships at all levels within the Commission and the Council secretariat. Officials need to**

**build relationships with their counterparts in order to ensure that strategic objectives and priorities are complementary and achievable by both institutions.**

### Joint papers

57. The Communication states that the “principle of joint papers for policy discussions in the Council and its working groups should be established, based on intensified cooperation and contacts between the Commission services and Council Policy Unit.”<sup>22</sup>
58. Professor Dashwood confirmed that under the Treaties the Commission, the Member States and the Presidency all have the right of initiative for papers to be presented to Council<sup>23</sup> and this right does not have to be exercised independently. (Q 178) There is accordingly no legal impediment to the production of joint papers.
59. There have in fact been recent examples of joint papers on such issues as external energy policy, Iraq and the Balkans. (Q 54) Robert Cooper argued that “it does absolutely no good to the working of the Council to have two papers on the same subject” and that joint papers were produced wherever possible. (Q 82)
60. Lord Brittan agreed that the production of joint papers was a good thing since “invariably it means that two people coming from different places have arrived at the same place together”. Furthermore, he saw no institutional difficulty with this approach. (Q 226)
61. Where a joint paper is produced both the High Representative and the Commission will be responsible for its contents. This may cause some difficulties where a paper covers areas which are the competence of only the one institution. It would not, therefore, be appropriate for there to be a joint paper on, for example, intergovernmental defence issues. However, joint papers will, in areas of joint responsibility, have a greater impact and visibility than separate papers from each institution.
62. We note that this Communication was not itself a joint paper. Although the Council secretariat were consulted on the proposals, it remains focused on those areas in which the Commission is involved. Robert Cooper stated that the Council secretariat “would have been very happy to have written the paper with them”, (Q 82) though Professor Dashwood reasoned that it would have had a different emphasis had the Council written it. (Q 188) It is not possible to speculate what proposals might have been included or excluded had the paper been jointly produced.
63. **We endorse the concept of joint papers for discussion in Council and its working groups both as promoting closer working relationships between Commission and Council officials and as a means of ensuring that the two institutions reach a common position which takes into account the priorities and expertise of each. Joint papers should become standard practice in areas of overlap between Commission competencies and the CFSP.**

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<sup>22</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 7.

<sup>23</sup> Article 22(1) Treaty on European Union.



64. **We note with regret that the present Communication was not a joint paper. The United Kingdom Government should, at the December European Council, urge the Commission and Council secretariat to take forward the Commission proposals on cooperation together.**

### Information exchange

65. The Commission proposes that the two institutions should “explore better ways of exchanging reporting and other information” including “sharing of reporting and analytical resources...between the Situation Centre in the Council Secretariat and the Crisis Room in the Commission.”<sup>24</sup>
66. Our witnesses considered the general exchange of information to be beneficial, but did express some concern with the specific proposal regarding the situation centre and the crisis room. The former is a 24 hour facility responsible for bringing together intelligence from a number of Member States on, for example, the activities of Hezbollah. (Q 52) The Commission’s crisis room is intended to operate in specific crises providing information, compiling agreed situation reports and identifying questions and issues for discussion, decision and action. The two bodies do not, therefore, share the same function; though there will be information and situation analyses which are useful to both.
67. One difficulty with the proposal for sharing of resources is that the Commission and the Council are separately responsible for financing their own responses to crises: the Commission has competence for humanitarian assistance and reconstruction, whilst the Council has to lead and coordinate the political response. (Q 55) Patrick Child accepted that this proposal would have been “more straightforward” had the Constitutional Treaty and the new foreign minister been in place. (Q 55) However, without a unified set-up, it would not be possible to bring the two bodies closer towards becoming a joint service. (Q 57)
68. Robert Cooper also stressed that the Council’s situation centre was responsible for bringing together intelligence from a number of Member States which most Commission officials were not cleared to see. (QQ 103, 105). The Commission does not have experience of handling highly sensitive information and the work of the situation centre, producing integrated intelligence assessments, could not be based there. (Q 105) However, it might be possible for the production of quick summaries of dramatic events to be a shared function. (Q 110)
69. **We agree that the functions of the Commission’s crisis centre and the Council’s situation centre are distinct and cannot be amalgamated. However, in crisis situations analyses produced by one should be shared with the other.**

### EU participation in multilateral organisations

70. The Commission Communication proposes that the Council could improve up-stream coordination to promote the emergence of consensus on issues of EU relevance that are subject to discussions in multilateral organisations. The Commission argues that such coordination is already well established

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<sup>24</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 8.

where the Community is already a member of UN bodies, multilateral and regional organisations. The Community is also represented in other international fora. In these cases the Commission recommends there be:

- joint identification of future agenda items, advance distribution of analyses and policy papers to all Member State representatives;
- joint presentation of the EU line to partner countries by the Commission and the Presidency in key, third country capitals; and
- a reinforced presence of Commission experts to facilitate coordination by the Presidency.<sup>25</sup>

71. These proposals must be seen in the context of the growing number of international conferences and fora which require significant upstream coordination, planning and cross-cutting policy-making by the Commission, the Council and the Member States.
72. Increasingly, the EU Institutions and the Member States are willing to engage and harmonise their policies, for example as set out in the recent *European Consensus on Development* (December 2005).<sup>26</sup> The weight and impact of the EU's voice is boosted by well-thought out and harmonised policies and by conveying a common message to third parties, both within international fora and afterwards at the stage of implementation, follow-up and review.
73. The reinforced presence of Commission experts, in support of the Presidency, can improve the capacity of the Union to participate in international fora and negotiations, where the Presidency does not have sufficient expertise in particular fields in its embassy or delegation. Such a presence can also improve the exchange of information and analyses, as well as the harmonisation of positions, between the Commission and the Presidency.
74. With regards to advance distribution of analyses and policy papers by the Council and Commission to the Member States, this is already being done to some extent, but there is room for greater upstream exchange of information and analyses.
75. Similarly, there is a room for the expansion of the joint presentation of the EU line to partner countries by the Presidency, assisted by the Commission. The Troika of Presidency, High Representative and Commission has become a defining and successful ambassador for the Union: their joint presence in meetings with third parties has reinforced the perception and reality that the EU acts and speaks as one.
76. **We welcome the Commission's proposals on upstream preparation for major international meetings into which the EU has an input. Such preparation will facilitate the joint presentation of a coordinated EU position and increase the impact of the EU's message.**

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<sup>25</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 8.

<sup>26</sup> Joint Statement by the Council and the Representatives of the Member States meeting within the Council, the European Parliament and the Commission "The European Consensus on Development" [http://ec.europa.eu/comm/development/body/development\\_policy\\_statement/docs/edp\\_declaration\\_signed\\_20\\_12\\_2005\\_en.pdf#zoom=125](http://ec.europa.eu/comm/development/body/development_policy_statement/docs/edp_declaration_signed_20_12_2005_en.pdf#zoom=125).

77. **The Presidency should be able to call upon the assistance of Commission experts wherever necessary, possibly at short notice. The Council secretariat and Commission should work together to determine how best to implement this proposal.**

#### **Commission representation of the euro-zone**

78. The Commission Communication further suggests that “Member States could actively pursue agreement with non-EU members to ensure full Commission participation e.g. in the external representation of the euro-zone in the context of G7, G20 or the Financial Stability Forum.”<sup>27</sup>
79. Professor Dashwood argued that, “I would have thought that in financial bodies, in bodies that are concerned with currency, there is an exclusive Community competence for monetary policy for the Member States in the euro. I think it could be perfectly proper for the Commission to represent those Member States in the euro in international bodies that were concerned with monetary questions.” (Q 210)
80. Representation of the euro-zone is governed by the Conclusions of the 1998 Vienna European Council which endorsed a Council report foreseeing that “the President of the ECOFIN Council, or if the President is from a non-euro area Member State, the President of the Euro 11, assisted by the Commission, shall participate in meetings of the G7 (finance). The ECB, as the Community body competent for monetary policy, should be granted observer status at the IMF board.”<sup>28</sup>
81. The proposal made by the Commission would potentially enhance its role, particularly in fora other than the G7. The proposal is therefore a sensitive one for some Member States given the political and symbolic importance of monetary union.
82. **We recognise that the proposal for full Commission participation in the external representation of the euro-zone raises sensitive issues for those Member States which are members of the euro-zone. We believe this proposal will need to be carefully weighed, taking into account the comments of those Member States.**

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<sup>27</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 8.

<sup>28</sup> Vienna European Council 11/12 December 1998 *Presidency Conclusions* para 14.

## CHAPTER 4: THE EU PRESENCE AND COMMISSION AND COUNCIL RELATIONS IN THE FIELD

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83. The Commission has an external service, consisting of 118 delegations in third countries and 5 delegations to international organisations, whereas under the CFSP local representatives of the Presidency, EU Special Representatives (EUSRs),<sup>29</sup> Council secretariat liaison offices and representatives of ESDP missions all work towards implementation of EU policy. In this chapter we consider, first, how the direct relationship between EUSRs and the heads of Commission delegations can be strengthened and, second, how cooperation more broadly can be achieved in the field.

### Double-hatting of Special Representatives and heads of Commission delegations

84. In recent years the Council has increasingly resorted to the appointment of EUSRs, of which there are currently 11, with mandates of a geographical or thematic nature.<sup>30</sup> EUSRs are not always based in the field: some are based in Brussels, and their geographical remit does not always correspond perfectly with those of Commission heads of delegation (HoD).
85. The existence of both delegations and EUSRs has led, in some cases, to a situation where third countries have several EU interlocutors (including the Commission delegation, the EUSR, the Presidency representation), leading to confusion, and a lack of visibility and coherence.
86. A case in point was the EU presence in the Former Yugoslav Republic of Macedonia, where up until recently the EU presence was divided between an EUSR and a head of Commission delegation (HoD). The division of responsibilities, which had worked well at first became less and less clear as greater political stability was achieved, perhaps best illustrated by the simultaneous deployment of an ESDP Police Mission (Proxima) and a Commission Police Reform Project (ECPRP). Upon the recommendation of EUSR Michael Sahlin, the Council and Commission decided to carry out the first-ever personal union or double-hatting of the two roles, implemented by separate but simultaneous nominations: a Council Joint Action nominating Mr Erwan Fouéré as EUSR, and a Commission appointment of the same person to the post of HoD.<sup>31</sup>
87. The Commission proposes to extend the double-hatting model to other situations, in particular in the western Balkans:
- “The Council and the Commission should propose double-hatting of Heads of Delegations and EU Special Representatives where appropriate, for example in the western Balkans, while respecting Treaty responsibilities and institutional balance. Such arrangements should draw on the positive experience of double-hatting in Skopje, aiming to unite the EU’s presence as far as possible in Sarajevo and Pristina. Elsewhere, the Commission will continue cooperating with EUSRs and supporting their tasks.”<sup>32</sup>

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<sup>29</sup> Article 18(5) Treaty on European Union.

<sup>30</sup> Including “EU Special Envoys” and the “Special Coordinator of the Stability Pact”.

<sup>31</sup> Council decision 2005/724/CFSP; Commission appointment dated 17 October 2005.

<sup>32</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 9.

88. The Minister for Europe recognised that the double-hatting model in Macedonia has been successful: “appropriate accountability has been maintained and having a single individual speaking for both the Council and the Commission has helped”. (Q 18) However, he also stated that the Government did not anticipate the model being used as a precedent elsewhere, despite it being in his view a sensible arrangement, for the EU presence in Bosnia. Any decisions should be taken on a case-by-case basis, on the basis of the particular requirements of the country or territory in question. (Q 18)
89. The Minister underlined that the Government would seek for the Council to have the lead role if such a model were to be used elsewhere. In his view the role should be filled by “a senior national official, perhaps a political figure, to demonstrate that this is very much carrying through a range of responsibilities on behalf of the Council.” (Q 18)
90. Ambassador Cutileiro agreed that it makes a lot of sense for the EU to be represented in a unified way, but he noted that EUSRs are often appointed not so much to represent the Council in a third country but to deal with a specific crisis or issue. He therefore felt that the double-hatting arrangement would not be appropriate in all circumstances. However, he stressed that in Macedonia it had worked very well and that it should cautiously be tried elsewhere in countries or situations where it would make sense. (Q 61)
91. Similarly, Patrick Child restated the Commission’s view that double-hatting is an arrangement which can offer advantages in specific cases, of which Macedonia was one: “we have a strong preference to see double-hatting rather than a proliferation of Special Representatives and associated support staff which could over time lead to a total duplication of the Commission’s delegations.” Therefore, he concluded that: “even though double-hatting is not without its legal, budgetary and political complications we are open to examining it on a case-by-case basis where it makes sense.” (Q 62)
92. On a more general note, Robert Cooper felt that, broadly speaking, the double-hatting model had worked quite well in Macedonia, noting that “no doubt the individual concerned had played an important part in that.” He stressed that the EUSR/HoD had made a particular effort to build close relationships with the Political and Security Committee and others. He also felt that there were “practical and political reasons” why it had worked well, but went on to say that “Bosnia is in quite a different state and the reasons, I think, for wanting double-hatting in Bosnia are slightly different from those in Macedonia, and we probably want a different sort of person in Bosnia.” (Q 87)
93. The view of Erwan Fouéré was that the double-hatting model was a success in Macedonia. He added that, generally, the Member States also seemed to feel that it has worked “extremely well.” (Q 149) He underlined the greater impact of the message of the EU in the field, the greater EU visibility and the greater leverage vis-à-vis the EU’s interlocutors that has resulted, while increasing consistency and coherence. (Q 152) He noted that the arrangement had also led to better communication and policy consistency at headquarters, with the Council and Commission now regularly issuing joint directives. (Q 153)
94. He went on to stress the added value of having a single interlocutor for the EU: “our interlocutors, before I came, were not quite sure who they should

speak to if they wanted to convey a message or they could perhaps misuse the fact that there were different actors. Now...they know exactly who to call, who to talk to and they know that person has a direct link with both the Council and the Commission and *vice versa*. I can convey messages which have much greater impact than if there were several different actors out in the field.” (Q 152)

95. In Erwan Fouéré’s view, this has not affected the lines of accountability and the chains of command which are clearly set out in the Council decision that confirmed his appointment as EUSR. Reporting under this decision goes specifically to the Council, and the EUSR has to regularly attend meeting of the Political and Security Committee (PSC) to report to the Member States. (Q 156) He explained that written reports go to the Council and are then circulated to the Member States by the COREU<sup>33</sup> system, to which the Commission also has access. (Q 153)
96. Reports are also prepared by Erwan Fouéré on specific issues, such as telecommunications law, an area which is linked to the accession process: “there the dialogue is with the Commission which has the expertise and the responsibility, so I report to them on that and they give me instructions in those areas.” (Q 153)
97. Referring to areas of overlap, he attempted to dispel the picture of potentially contradictory instructions: “In those areas where both Council and Commission have a joint interest, which is many of them of course, related to the development of the country, there I always get joint instructions.” (Q 153) He expounded the notion that, far from leading to conflict between the headquarters Institutions, the double-hatting has greatly boosted cooperation and contacts between the various desks, units and authorities dealing with Macedonia. (Q 153)
98. Concerning the question of the primary authority to which the EUSR/HoD is accountable, he clarified that in the area of ESDP the Council clearly has primacy, whereas in relation to traditional Community areas of competence, the line of accountability is to the Commission, concluding that: “there is no blurring of the lines.” Still, he admitted that there were perhaps a limited number of “grey areas” which required a particular sensitivity in their treatment on the part of the incumbent. (Q 156)
99. In response to a question on whether Macedonia was a special case, Mr Fouéré said: “No, I think it is a good idea *per se* and of course it would have to be adapted according to the particular circumstances of each country but if this was possible in Skopje, there is no reason why it would not be possible in other parts of the Balkans.” (Q 151)
100. **We consider that the double-hatting arrangement has been a success in Macedonia, has led to greater visibility for the EU presence, greater impact and coherence, and has contributed to resolving the issue of division of responsibilities. The presence on the ground of a double-hatted EUSR and Head of Commission Delegation means that the EU now speaks with one voice in Macedonia.**

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<sup>33</sup> CORespondence EUropéene—Coreu is an EU communication network between the Member States and the Commission for cooperation in the fields of foreign policy. It makes it easier for decisions to be taken swiftly in emergencies.

101. **We accordingly support the proactive consideration of extending this model on a case-by-case basis and adapting it to other situations where a Commission delegation and EUSR are on the ground in the same city, country or region.**
102. **Due to the high level of responsibility and the political sensitivity of such posts, persons nominated for double-hatting should have a strong capacity to build relationships with the Council, the Commission, and the Member States, and ideally have experience of working for both European Institutions.**

### **Cooperation between Commission and Council representatives in the field**

103. Cooperation in the field fundamentally conditions how the EU is perceived in third countries. The local representative of the Presidency, the EUSR, any ESDP mission or Council secretariat liaison office and the Commission delegation will often be the most visible EU presence. The coherence of the messages that they collectively convey will often determine their impact.
104. The Commission recognises in its Communication that “the impact and effectiveness of our action is often hampered by mixed messages” and seeks to address this by “better use of the network of Commission Delegations, EU Special Representatives and Member States.”<sup>34</sup>
105. Whilst the competencies of the Commission delegations and the various Council representatives are distinct, there are cases where these overlap, creating a potential for confusion and conflicting messages vis-à-vis third parties. For example, the Commission plays a leading role in the field of enlargement and manages the European Neighbourhood Policy; and yet the Council adopts Common Positions, Joint Actions etc. on the same geographical areas under the CFSP.
106. There exists the potential for more extensive cooperation between the Commission and Council representatives in these areas of overlap. It is important, for example, that delegations working in the area of development and humanitarian assistance work closely with colleagues who are involved in work relating to peacekeeping and conflict prevention since the two are interdependent. The work of each institution should enhance and complement that of the other to make the best use of the Union’s resources. Accordingly the onus is on the Council and the Commission to give joint or compatible instructions to their representatives on the ground.
107. We examined this issue in our Report on the EU Strategy for Africa in which we recommended that the EU create a more unified structure for its presence in Addis Ababa in order to facilitate relations with the African Union.<sup>35</sup> Patrick Child confirmed that the case of the EU presence in Addis Ababa was currently under discussion. (Q 73)
108. **The Government should take a pragmatic approach to the issue of closer cooperation between Commission delegations and the**

<sup>34</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 9.

<sup>35</sup> European Union Committee, 34th Report (2005–06): *The EU and Africa: Towards a Strategic Partnership* (HL 206–I) para 421.

**Presidency Representations, EUSRs, ESDP mission representatives and Council secretariat officials.**

109. **Commission delegations and EUSR staff offices should explore means of closer collaboration, taking into account each particular set of circumstances. Special consideration should be given to the western Balkans and Addis Ababa where the EU presence particularly stands to benefit from such arrangements.**

**Reporting and analytical capacities**

110. The Commission has pledged to improve reporting and analytical capacities in the field. The Communication also recommends that “The Council and Commission should explore ways of exchanging reporting and other information, on the basis of reciprocity, including from Commission Delegations and EUSRs.”<sup>36</sup>
111. **Greater coordination at field level between Commission delegations and EUSRs or ESDP missions should be encouraged. We note that the exchange of reporting information is already being carried out, but the institutions should continue to explore avenues for greater cooperation.**

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<sup>36</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 7–8.



## CHAPTER 5: COOPERATION BETWEEN EU INSTITUTIONS AND MEMBER STATES

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### Consular assistance

112. The Commission Communication proposes to “develop cooperation between the Member States in the area of consular assistance, particularly in crisis situations,” and to “explore scope for Commission Delegations to play a supporting/complementary role in this area.”<sup>37</sup>
113. Under the Treaty establishing the European Community, all European Union citizens are entitled to “protection by the diplomatic or consular authorities of any Member State” in third countries where the Member State of which they are a national is not represented.<sup>38</sup> Many Member States already have mutual consular assistance arrangements in place among themselves. However, consular assistance is a politically sensitive area, covering the issuing of visas, for example, and is the preserve of the Member States. It involves specific legal and diplomatic rights and privileges which are recognised in international law.
114. There is a legal duty of cooperation under Article 20 of the Treaty on European Union: “The diplomatic and consular missions of the Member States and the Commission delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that the common positions and joint actions adopted by the Council are complied with and implemented. They shall step up cooperation by exchanging information, carrying out joint assessments and contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community.”
115. The Government’s evidence on cooperation in the field, notably between Commission delegations and the representations of Member States, emphasised the issues of competencies and complementarity. Concerning development cooperation activities, the Minister for Europe said that the Commission delegations currently often play a coordinating role in development work, and that he was perfectly happy with this situation. What would not be acceptable, however, would be for the Commission to “duplicate existing services provided very effectively already by the Member States.” (Q 10)
116. Robert Cooper was sceptical about this aspect of the Commission’s proposals. (Q 86) He stressed that “consular work involves a whole lot of legal powers which are different for each Member State” (Q 145) and is “very difficult and fraught with dangers.” (Q 140) His view was that it would be best to drop this proposal, but he did not specifically make any comments on the idea of Commission delegations providing practical support.
117. This issue came to the forefront during the Asian Tsunami (January 2005) and Lebanon crisis (Summer 2006). As some Member States did not have a diplomatic presence in these countries, the question arose as to who could provide them with consular assistance and other services. The Commission

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<sup>37</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 9.

<sup>38</sup> Article 20.

delegations occasionally played a supporting role, such as in organising logistics solutions for evacuations, and this appears to be the kind of activity to which the Communication is referring.

118. Patrick Child described the proposal as a “pragmatic, demand-driven proposal”, whereby a Commission delegation might be able to provide “some help in coordinating the response of the different services and Member States that might be involved”, citing Lebanon as a good example. (Q 65) He dispelled some confusion by saying that it is important to draw a clear distinction between “consular relief for European citizens who are caught up in third countries in difficult situations and the business of issuing visas and looking after the flow of people in the other direction which is clearly a national responsibility and will remain so.” (Q 65)
119. There is room for the Commission delegations to play a greater role in certain practical ways, such as offering their services during a crisis for the organisation of logistics or other similar services, so long as this is done in support of the Member States’ representations, not in competition with them. It is important to avoid confusion as to who should take the lead and who is responsible for what.
120. One issue is preparedness: in an emergency, Member State representations and Commission delegations must be prepared to act quickly. Guidelines on support to Member States in the field might usefully be prepared for Commission delegations so as to ensure the optimum level of communication and coordination if and when a crisis occurs.
121. **Consular assistance is the responsibility of the Member States. On a practical level, delegations may be able to support Member States’ representations in crisis situations, such as in the field of logistics. We would encourage the Commission to develop guidelines in this latter area for its delegations, in close consultation with the Council and the Member States, taking into account the need for a high level of preparedness in the event of an emergency.**

### Sharing of premises and support services

122. The Commission advocates that “the EU should give further consideration to sharing of premises and support services for Member State and EU external representations in third countries.”<sup>39</sup>
123. The sharing of premises and support services is already happening in some cases, on a pragmatic basis. Patrick Child noted that it was not very common, but that there was no institutional or legal reason to be opposed to it. He noted some successful examples: one in an African country involving at least four Member States and the Commission delegation. (Q 62)
124. He informed us that “We have recently opened a delegation in Baghdad and have been pleased that it has been possible to have our staff working out of premises at the British Embassy and also benefiting from the security that goes with that. Similarly, the people who are working from the Council Secretariat on the EUJUSTLEX mission are also based on those same buildings in Baghdad and that helps with the cooperation between the two and is also successful”. (Q 62)

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<sup>39</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 9.

125. Patrick Child noted that the Commission was also open to the idea of sharing premises, on a short-term basis, citing a case where the Spanish government had approached the Commission concerning some migration work in an African country where they did not have an embassy. The Commission was able to accommodate the experts who remained under the authority of the Spanish diplomatic service but for practical reasons were able to take advantage of the Commission infrastructure. (Q 62)
126. **We welcome the Commission's pragmatic proposal for the sharing of premises and support services between Commission delegation offices and EUSR or Member State missions, where these are in the same city. Decisions should be taken on a case-by-case basis taking into account the needs and capacities of each party.**

### **Staff exchange programme**

127. The Commission is preparing an enhanced programme of exchange of personnel with diplomatic services of the Member States and the staff of the Council secretariat, both in delegations and at Headquarters. The Commission also suggests that Member States could open up national diplomatic training schemes to staff in EU institutions working on external relations issues. Commission and Council could include national diplomats in training at EU level.
128. Patrick Child noted that the Commission is already pushing ahead with a scheme of staff exchanges between the Commission officials and diplomats from national diplomatic services. Two pilot cases are up and running and a larger scale scheme will be opened in 2007. (Q 54) One of the purposes of this exchange programme is to build a "shared culture of European external relations in a joined-up operation throughout all our institutions and the Member States." (Q 75)
129. Erwan Fouéré strongly supported the proposal arguing that staff who had worked in both the institutions and the national foreign services would understand the sensitivities of each, as well as "the unique nature of the European Union institutional system and the importance of promoting a coherent European Union policy out in the field." (Q 171)
130. In relation to national diplomatic staff, the Minister for Europe agreed that "it is enormously beneficial for officials to have experience, albeit of a limited time, of working in the Community institutions and I think the more we can encourage that the better." (Q 9)
131. **We believe that the Commission's proposals for the exchange of its personnel with diplomatic services of the Member States and the staff of the Council secretariat will bring real benefits to staff of greater understanding and knowledge of the EU institutions and Member States. The United Kingdom Government should strongly encourage their diplomatic staff to participate in the exchange programme.**

## CHAPTER 6: IMPROVED ACCOUNTABILITY AND VISIBILITY

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### Relations with the European and National Parliaments

132. Noting that the European Parliament and National Parliaments have an essential role to play in strengthening the accountability of the EU's external action, the Commission recommends that there should be more regular exchanges between competent European Parliament bodies with the High Representative and members of the Commission.<sup>40</sup>
133. Whilst the European Parliament has a limited role in relation to CFSP, there are benefits to be gained from engaging with MEPs on matters of foreign policy in order to increase the transparency with which CFSP is conducted, and to enable questions to be asked about the various policies and their implementation. The Minister for Europe agreed that the European Parliament foreign affairs committee (AFET) should be briefed by the High Representative on important developments. (Q 6) Commissioners also need to make themselves available to the European Parliament in order that the work of the Commission can be scrutinised.
134. AFET holds two meetings each year to which members of national parliament foreign affairs committees are invited in order to discuss current issues of EU external relations. It is common for both the High Representative and a commissioner to give an overview of their current work, and to answer questions. The national parliament of whichever country holds the Presidency will also host a joint meeting of the chairmen of the various national parliamentary foreign affairs committees, known as COFACC (Conference of Foreign Affairs Committee Chairmen).
135. Having a smaller number of participants, COFACC is a valuable forum for discussion and benefits from meeting with the Presidency (usually in the form of the foreign minister and/or Prime Minister) and various experts in the field. It is common for a commission representative to attend these meetings, though not always the Commissioner for External Relations. The participation of the High Representative would be equally desirable.
136. **We welcome efforts by the national parliaments of the Presidency countries, and by AFET, to encourage the attendance of both the High Representative and the Commissioner for External Relations at all meetings of COFACC as well as at joint meetings of the European Parliament and national Parliamentary foreign affairs committees. We would welcome a joint contribution in order to promote discussion of the effectiveness of coordination and coherence.**

### Public support

137. The Commission argues that there is a need to explain better and mobilise public support:
- reinforcing public diplomacy in third countries to promote EU policies and models, to increase the visibility of the EU's external action, development assistance and disaster relief;

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<sup>40</sup> 10325/06 Communication from the Commission to the European Council on *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility* p 9.

- developing awareness of the EU;
  - promoting the involvement of EU citizens in public debates on EU external policy by Member States and the institutions;
  - issuing joint public and press statements on issues of shared responsibility between the Commission and the Council; and
  - developing cooperation between Member States and EU institutions on information policy on external relations issues, both in the EU and in third countries.
138. We did not examine these specific proposals in detail, but note that Lord Brittan argued for a more public approach to the proposals more generally stating that “if you try to do by stealth what you are not prepared to do or think you cannot achieve overtly, it will not take long before there will be people who will tell the horses what is going on and would exaggerate it for mischievous purposes”. (Q 220)
139. This does not mean there has to be a wide-scale debate about what the EU might hypothetically do in every situation; rather that specific successes should be recognised and welcomed. In order to progress, Patrick Child argued that it is necessary “to pick on those concrete examples where the system is working well,...like the work we have done recently on the Temporary International Mechanism to support the Palestinians under the mandate from the Quartet, where there are very good examples of the EU working together making a significant and positive contribution to a big external relations challenge that we collectively face. Thus we can demonstrate to ourselves, to our Member States, to public opinion and to actors in third countries that it is through those sorts of concrete examples that we can make progress. Then...we may have the courage to put the high jump just a little bit higher next time.” (Q 73)
140. It is essential that the EU Member States and institutions not only work together to better develop and implement external relations policies, but that that cooperation extends to the presentation of the EU’s role in the world. The EU has substantial economic and political resources at its disposal, but its position on the world stage needs to be reinforced through being seen to act. This cannot be done unless the Member States in particular publicly acknowledge what the EU is doing.
141. A recent Eurobarometer poll found that whilst only 18 per cent of European citizens had heard of the European Neighbourhood Policy, 70 per cent agreed with the idea that the EU should offer its neighbouring countries a special relationship falling short of full accession.<sup>41</sup> Whilst it is not possible to ensure public awareness of the details of EU external relations policy, there is clearly scope for increased awareness of the EU’s relations with third countries and of its actions in places such as Darfur and the Middle East.
142. **The United Kingdom Government should give a political lead by publicly recognising what the EU is doing in the field of external relations and in giving due credit to the EU for its successes. Only through greater visibility and increased public awareness in both the EU and third countries will the EU be able to properly fulfil its role in the world.**

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<sup>41</sup> *The European Union and its Neighbours* Special Eurobarometer 259, October 2006 p 5 [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_259\\_sum\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_259_sum_en.pdf).

## CHAPTER 7: CONCLUSIONS

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143. We welcome and endorse the Commission's desire to improve the coherence of the EU's external relations by strengthening cooperation between the Presidency, the High Representative and Council secretariat, the Commission and the Member States through action within the existing Treaty provisions. We do not regard these proposals as either cherry-picking from the Constitutional Treaty nor as requiring Treaty change. (para 34)
144. The present Communication may well not exhaust the EU's scope for such action within the existing Treaties. We hope that both the EU institutions and Member States will continue to search for pragmatic ways to strengthen cooperation and that lessons learnt where cooperation has been successful will continue to be applied in other areas. (para 35)
145. We welcome the Commission proposal that there should be a high-level strategic planning meeting at the beginning of each Presidency between the Presidency, Commission and High Representative enabling issues of coherence and the overall direction of EU external action for the duration of the six month Presidency to be discussed, in order that the EU institutions and the Member States understand each other's priorities. (para 42)
146. Attendance of the High Representative at meetings of the Relex Group will improve the coherence of EU external relations and is to be welcomed. The High Representative cannot be involved in decision-making but will have an influential role and should work closely with the Commissioners to agree priorities in those geographical and thematic areas in which both the Commission and the Council have competence. (para 52)
147. We hope that these meetings will lead to closer cooperation between Commission and Council officials, both in preparing for the meetings, and more generally. (para 53)
148. We endorse the concept of closer working relationships at all levels within the Commission and the Council secretariat. Officials need to build relationships with their counterparts in order to ensure that strategic objectives and priorities are complementary and achievable by both institutions. (para 56)
149. We endorse the concept of joint papers for discussion in Council and its working groups both as promoting closer working relationships between Commission and Council officials and as a means of ensuring that the two institutions reach a common position which takes into account the priorities and expertise of each. Joint papers should become standard practice in areas of overlap between Commission competencies and the CFSP. (para 63)
150. We note with regret that the present Communication was not a joint paper. The United Kingdom Government should, at the December European Council, urge the Commission and Council secretariat to take forward the Commission proposals on cooperation together. (para 64)
151. We agree that the functions of the Commission's crisis centre and the Council's situation centre are distinct and cannot be amalgamated. However, in crisis situations analyses produced by one should be shared with the other. (para 69)
152. We welcome the Commission's proposals on upstream preparation for major international meetings into which the EU has an input. Such preparation will

facilitate the joint presentation of a coordinated EU position and increase the impact of the EU's message. (para 76)

153. The Presidency should be able to call upon the assistance of Commission experts wherever necessary, possibly at short notice. The Council secretariat and Commission should work together to determine how best to implement this proposal. (para 77)
154. We recognise that the proposal for full Commission participation in the external representation of the euro-zone raises sensitive issues for those Member States which are members of the euro-zone. We believe this proposal will need to be carefully weighed, taking into account the comments of those Member States. (para 82)
155. We consider that the double-hatting arrangement has been a success in Macedonia, has led to greater visibility for the EU presence, greater impact and coherence, and has contributed to resolving the issue of division of responsibilities. The presence on the ground of a double-hatted EUSR and Head of Commission Delegation means that the EU now speaks with one voice in Macedonia. (para 100)
156. We accordingly support the proactive consideration of extending this model on a case-by-case basis and adapting it to other situations where a Commission delegation and EUSR are on the ground in the same city, country or region. (para 101)
157. Due to the high level of responsibility and the political sensitivity of such posts, persons nominated for double-hatting should have a strong capacity to build relationships with the Council, the Commission, and the Member States, and ideally have experience of working for both European Institutions. (para 102)
158. The Government should take a pragmatic approach to the issue of closer cooperation between Commission delegations and the Presidency representations, EUSRs, ESDP mission representatives and Council secretariat officials. (para 108)
159. Commission delegations and EUSR staff offices should explore means of closer collaboration, taking into account each particular set of circumstances. Special consideration should be given to the western Balkans and Addis Ababa where the EU presence particularly stands to benefit from such arrangements. (para 109)
160. Greater coordination at field level between Commission delegations and EUSRs or ESDP missions should be encouraged. We note that the exchange of reporting information is already being carried out, but the institutions should continue to explore avenues for greater cooperation. (para 111)
161. Consular assistance is the responsibility of the Member States. On a practical level, delegations may be able to support Member States' representations in crisis situations, such as in the field of logistics. We would encourage the Commission to develop guidelines in this latter area for its delegations, in close consultation with the Council and the Member States, taking into account the need for a high level of preparedness in the event of an emergency. (para 121)
162. We welcome the Commission's pragmatic proposal for the sharing of premises and support services between Commission delegation offices and EUSR or Member State missions, where these are in the same city.

Decisions should be taken on a case-by-case basis taking into account the needs and capacities of each party. (para 126)

163. We believe that the Commission's proposals for the exchange of its personnel with diplomatic services of the Member States and the staff of the Council secretariat will bring real benefits to staff of greater understanding and knowledge of the EU institutions and Member States. The United Kingdom Government should strongly encourage their diplomatic staff to participate in the exchange programme. (para 131)
164. We welcome efforts by the national parliaments of the Presidency countries, and by AFET, to encourage the attendance of both the High Representative and the Commissioner for External Relations at all meetings of COFACC as well as at joint meetings of the European Parliament and national parliamentary foreign affairs committees. We would welcome a joint contribution in order to promote discussion of the effectiveness of coordination and coherence. (para 136)
165. The United Kingdom Government should give a political lead by publicly recognising what the EU is doing in the field of external relations and in giving due credit to the EU for its successes. Only through greater visibility and increased public awareness in both the EU and third countries will the EU be able to properly fulfil its role in the world. (para 142)



## **APPENDIX 1: SUB-COMMITTEE C (FOREIGN AFFAIRS, DEFENCE AND DEVELOPMENT POLICY)**

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### **Sub-Committee C**

The members of the Sub-Committee which conducted this inquiry were:

- Lord Bowness (Chairman)
- Lord Boyce
- Lord Dykes
- Baroness Falkner of Margravine
- Lord Freeman
- Lord Hannay of Chiswick
- Lord Lea of Crondall
- Lord King of Bridgwater
- Baroness Symons of Vernham Dean
- Lord Tomlinson
- Lord Truscott

### **Declarations of Interest**

A full list of Members' interests can be found in the Register of Lords Interests:  
<http://www.publications.parliament.uk/pa/ld/ldreg.htm>

## **APPENDIX 2: LIST OF WITNESSES**

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The following witnesses gave evidence:

Lord Brittan of Spennithorne, Former Commissioner for External Affairs and Vice-President of the Commission

Mr Patrick Child, Chef de Cabinet, Commissioner for External Relations

Mr Robert Cooper, Director General, External Economic Relations and Politico-Military Affairs

Ambassador Cutileiro, Special Adviser to President Barroso

Professor Alan Dashwood CBE, Professor of European Law, University of Cambridge

Mr Peter Dun, Adviser, Directorate for Strategy Coordination and Analysis, Directorate General for External Relations, European Commission

Foreign and Commonwealth Office

Mr Erwan Fouéré, EU Special Representative and Head of Commission Delegation, Former Yugoslav Republic of Macedonia

Ms Elena Peresso, Assistant to Mr Cooper, General Secretariat of the Council of the European Union

### **APPENDIX 3: GLOSSARY OF ACRONYMS AND TECHNICAL TERMS**

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AFET	European Parliament Foreign Affairs Committee
CFSP	Common Foreign and Security Policy
COFACC	Conference of Foreign Affairs Committee Chairmen
COREU	Correspondence Européene
CT	Constitutional Treaty
ECB	European Central Bank
ECOFIN	Economic and Financial Affairs Council
ECPRP	Commission Policy Reform Project
EEAS	European External Action Service
ESDP	European Security and Defence Policy
EU	European Union
EU3	Britain, France and Germany
EUJUSTLEX	An integrated Rule of Law and Police Training Mission
Euro 11	Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain
EUSR	European Union Special Representative
G7	United Kingdom, United States of America, France, Canada, Italy, Japan, Germany
G7 (Finance)	Finance Ministers of: United Kingdom, United States of America, France, Canada, Italy, Japan, Germany
G20	Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Korea, Mexico, Russia, Saudi Arabia, South Africa, Turkey, United Kingdom, United States of America, European Union (represented by its Council presidency and the European Central Bank)
HoD	Head of Delegation
IMF	International Monetary Fund
MEP	Member of the European Parliament
Proxima	European Security and Defence Policy Police Mission
PSC	Political and Security Council
Relex Group	External Relations Group
TEU	Treaty on European Union
UN	United Nations
UNIFIL	United Nations Force in Lebanon
WMD	Weapons of Mass Destruction

## **APPENDIX 4: REPORTS**

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### **Recent Reports from the Select Committee**

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

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

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

### **Session 2005–2006 Reports prepared by Sub-Committee C**

The European Union's Role At the Millennium Review Summit (11th Report session 2005–2006, HL Paper 35)

Review of Scrutiny: Common Foreign and Security Policy (19th Report session 2005–2006, HL Paper 100)

Current Developments in European Foreign Policy (26th Report session 2005–06, HL Paper 124)

Current Developments in European Defence Policy (27th Report session 2005–06, HL Paper 125)

Seventh Framework Programme for Research (33rd Report session 2005–2006, HL Paper 182) (prepared jointly with Sub-Committee B)

The EU and Africa: Towards a Strategic Partnership (34th Report session 2005–06, HL Paper 206)

Current Developments in European Defence Policy (35th Report session 2005–06, HL Paper 209)

Current Developments in European Foreign Policy (43rd Report session 2005–06, HL Paper 228)

### **Session 2004–2005 Reports prepared by Sub-Committee C**

Current Developments in European Foreign Policy (2nd Report session 2004–05, HL Paper 44)

European Defence Agency (9th Report session 2004–05, HL Paper 76)

Preventing Proliferation of Weapons of Mass Destruction: The EU Contribution (13th Report session 2004–2005, HL Paper 96)

### **Session 2003–2004 Reports prepared by Sub-Committee C**

Current Developments in European Foreign Policy (4th Report session 2003–04, HL Paper 28)

EU Development Aid in Transition (12th Report session 2003–04, HL Paper 75)

Current Developments in European Foreign Policy (19th Report session 2003–04, HL Paper 118)

EU Security Strategy (31st Report session 2003–04, HL Paper 180)

# Minutes of Evidence

TAKEN BEFORE THE EUROPEAN UNION COMMITTEE (SUB-COMMITTEE C)

THURSDAY 13 JULY 2006

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Present:	Bowness, L (Chairman)	Lea of Crondall, L
	Dykes, L	Symons of Vernham Dean, B
	Freeman, L	Tomlinson, L
		Truscott, L

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## Examination of Witnesses

Witnesses: RT HON GEOFFREY HOON, a Member of the House of Commons, Minister for Europe, MR DOMINIC SCHROEDER, Head of Common Foreign and Security Policy Group, and MR DAVID QUARREY, Deputy Director, Middle East and North Africa Department, Foreign and Commonwealth Office, examined.

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**Q1 Chairman:** My Lords, Minister, good morning. Thank you very much, Mr Hoon, for coming to the Committee to give us evidence on two matters, one your usual Minister of Europe's routine visit to this Committee, but also on the EU's external actions. I think you have been advised of this, that we have decided to conduct a short inquiry into the Commission Communication on 'Europe in the World', and the evidence which you will give us, in answer to the first three questions, will form part of the evidence for that inquiry. As I say, once again, we are particularly grateful that you should find the time to come and, since it is the first time that you are here, congratulations on your reappointment as Minister.  
*Mr Hoon:* Thank you very much indeed, and thank you for the opportunity of being here.

**Q2 Chairman:** May I ask, would you like to say anything, in opening?  
*Mr Hoon:* I do not think so.

**Q3 Chairman:** May I turn then to the question of the Commission Communication 'Europe in the World' and ask you what is the Government's position with regard to the Commission's proposals for closer working relations between the Commission and Dr Solana, the High Representative, contained in that particular paper, and what is the Government's view about the proposals, in relation to the provisions that were contained in the Constitutional Treaty? Do you see them as replicating those provisions or as an alternative, whether a better alternative or a worse alternative, in the absence of the Treaty, to enable some progress to be made in connection with the Common Foreign and Security Policy and co-ordination in that area?

*Mr Hoon:* I shall try to avoid taking up the Committee's time entirely by answering those questions, but I think, broadly, obviously we welcome the proposals from the Commission, although I have to say that there is such a wealth of

detail there and we are engaged in negotiating some aspects of the proposals with other Member States, therefore I am not intending, at this stage, to give a detailed breakdown of our position on each of the proposals. Where I think we believe strongly that there should be work done is in the relationship between the Commission and its High Representative, we think that there is a real advantage in closer co-ordination there. As far as this relationship to the Treaty is concerned, obviously, these are separate proposals and the fact that they may appear to overlap with aspects of the Treaty is coincidental, I think; the future of the Treaty is not linked in any way necessarily to what is being suggested here by the Commission. I think there is an important way forward here, it is something that we support and, in a sense, I think we would reserve our position on the detail at this stage until we have taken forward some of the negotiations with Member States.

**Q4 Lord Tomlinson:** Can I ask really two things. First of all, do you think it is possible for you or your officials to go through the paper and enumerate for us those of the proposals which they think are absolutely, totally distinct from the Constitutional Treaty and could be introduced without any further consideration of the Constitutional Treaty, so that we could have a view from you that, without any doubt, there is no interrelationship between the Commission proposal and the ratification of a Constitutional Treaty? The second thing is just to ask you, on the basis of a specific case, how you think we ought to resolve some of the confusions that there are at the present time? For example, the High Representative, acting as if the Constitutional Treaty were in place, chose, in relation to the EU Mission to the Congo, to give a confidential briefing to the European Parliament's Political Committee, which has absolutely no role in this matter, unless and until the Constitutional Treaty is ratified. Equally, and

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equally forcefully, he refused to give any briefing to the Political Committee of the Western European Union which, until the Constitutional Treaty has been ratified, does have a role, and so there is a paradox and a conflict in attitudes which the High Representative appears to be expressing.

*Mr Hoon:* First of all, we have made some comparisons between the proposal and the Constitutional Treaty. I do not think it is quite in the form that you suggest and I will look to see if we can answer your question directly. I cannot guarantee that we can, because I do not think it is quite as specific as your question suggests.

**Q5 Lord Tomlinson:** Otherwise in the most convenient form?

*Mr Hoon:* We will have a look and see what we can do. I think that is a slightly harsh view of a European Parliament Committee, from a former Member of the European Parliament. I went to the Committee as Secretary of State for Defence. I suspect they did not specifically have direct responsibility to hear evidence from a Secretary of State for Defence, but we had a political discussion about the way in which European defence was being carried forward.

**Q6 Lord Tomlinson:** With respect, Mr Hoon, this was the High Representative choosing, in that role, to give a confidential briefing to a body which did not have competence and refusing to give it to a body which did?

*Mr Hoon:* As I say, I think that these are political issues. I think that if the High Representative makes that judgment, with respect to an extremely important European Parliament Committee, even if that is, to some extent, anticipating the Treaty provisions, I would not be quite so critical of that judgment. It seems to me that engaging an important European Parliament Committee in the work that he does probably is the right approach. Similarly, in relation to the WEU, I think that the High Representative has to make a political judgment about how best to communicate his views to the body that he judges to be the best able to deal with that information.

**Q7 Lord Lea of Crondall:** In terms of how HMG communicates its views on a procedure like this to the Commission, or within the Council of Ministers, could the Minister say something about the way in which the Government's position is presented in these talks? Is there a case, for example, for the Government putting in one convenient document its view over this territory, so that people can see, in a convenient form, what it is, and it might help us to understand the more proactive role of Britain in these negotiations, which is not very convenient to proceed at the moment?

*Mr Hoon:* In response specifically to the Commission Communication?

**Q8 Lord Lea of Crondall:** Yes, indeed.

*Mr Hoon:* As I have indicated, there are areas where we are in negotiation with other Member States. I would prefer at this stage not to make our position too transparent because that is necessarily going to affect those discussions, but I am sure, at an appropriate stage, we will set out our thinking to Parliament, and I am sure therefore to this Committee.

**Q9 Chairman:** Can I ask you a question on the letter which you kindly wrote, this touches on Lord Tomlinson's point really, as to what can and cannot be done. In your letter, you say: "Equally the recommendation that there should be an enhanced programme of exchange of personnel with the diplomatic services of the Member States and the staff of the Council Secretariat also seems worthwhile." I suspect the vast majority of the members of this Committee would agree with that statement. However, it is true that answers have been given in this House, which suggests that anything which approximated or possibly could be confused with the idea of the External Action Service was off everybody's agenda for ever. I know that you are not advocating an External Action Service here but, in a sense, I read that as an alternative to that, whilst you cannot proceed in that particular direction. Can you comment?

*Mr Hoon:* I am not sure that the two are mutually exclusive, in the way that your question implied. It seems to me that it is enormously beneficial for officials to have experience, albeit for a limited time, of working in the Community institutions and I think the more we can encourage that the better. As the answers to the questions in this House have indicated, we are somewhat sceptical about the benefits of a quasi-diplomatic service representing the European Commission and the European Union overseas, so there is a necessary reluctance on our part to see what we would judge to be a significant duplication of effort there. We still believe that this kind of external representation is best done through the Member States, and indeed most Member States are of that opinion.

**Q10 Chairman:** Many people in the development area tell us that actually some co-operation and co-ordination, possibly through the good offices of the European Commission delegations, would be welcomed in donor countries and actually would be more effective, rather than insisting on however many different separate States.

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*Mr Hoon:* I am fairly confident that happens already and that Commission representatives, in effect, are co-ordinating development effort. What our reservation is about, I think, is not so much direct and specific Community competence, as in the development area, it is more to do with the idea of trying to duplicate existing services provided very effectively already by Member States. That is the distinction, I think. Where Commission representatives are carrying through Community competences, the delivery of effective development aid for example, co-ordination happens already, so I cannot say that I have any difficulty with it because I do not.

**Q11 Chairman:** In other words, there may be, and it is not a question of one replacing the other, but would you agree—I do not want to put words into your mouth—that there might be instances in particular places where it would be appropriate for us to concede that the Commission delegation took the lead?

*Mr Hoon:* Only in those areas in which they are competent.

**Q12 Lord Tomlinson:** My Lord Chairman, just finally to be clear on that, though I very much approve of the trend of the answer, but that would be the case whether or not the Constitutional Treaty were ratified?

*Mr Hoon:* It has happened already.

**Q13 Lord Tomlinson:** It is the present situation and it would not change significantly, if at all, with the ratification of the Constitutional Treaty?

*Mr Hoon:* That is right.

**Q14 Lord Dykes:** Minister, can we turn to the question of the Commission's reference to, and suggestions for, increasing its own participation in other external bodies, and you will know the details of this, that they suggested increased Commission participation in a number of important multilateral organisations, and indeed informal bodies as well. There is one very interesting suggestion for their participation for the first time in the external representation of the euro-zone in the context of the G7, there are suggestions for G20 and, for example, the Financial Stability Forum. Are these areas where the Government would recognise that the Commission has a useful part to play in increasing its participatory activity?

*Mr Hoon:* I think Lord Dykes is being slightly unfair to the Commission, because what the Commission proposal is really suggesting is that there should be more effective EU co-ordination. The Commission are not saying necessarily they themselves must always be the body responsible; what they are saying

really is that in contacts with multilateral organisations there needs to be better EU co-ordination, and I think, in a sense, on a step-by-step basis, that is not tremendously radical.

**Q15 Lord Dykes:** It is commonsense.

*Mr Hoon:* The EU leads already in a number of multilateral organisations and has done so extremely effectively. What we would be making a judgment about is the extent to which that should be extended and, as I say, I think we would do that on a case-by-case basis.

**Q16 Lord Dykes:** It would make sense, would it not, for the Commission sometimes to take that role just for convenience really and practicality?

*Mr Hoon:* I think, ultimately, that would be a matter for the Member States to decide, if we judged that it was appropriate for the Commission to take the lead in a given area, as we have done in the past, then that would be right. Essentially, what the paper is talking about is a more effective EU approach to multilateral organisations, and I think the basis on which we would make judgments would be whether we believed that was a more effective way of representing the wider interests of the EU and its Member States, and clearly that is already the case in a number of important multilateral negotiations.

**Q17 Lord Dykes:** My Lord Chairman, if I may continue, how many of these elements would you believe would be, as it were, from now, rolled up towards the German Presidency period and the suggestions they might make, at the request of the European Council at the last meeting, for them to make practical suggestions about these things? Would this Commission document be part of that picture?

*Mr Hoon:* I am reluctant either to give you a timetable or to anticipate what Germany might do during its Presidency, but obviously these are issues that we are continuing to discuss. I do not think I would suggest necessarily that the German Presidency is any more significant than any other, as far as these particular proposals are concerned.

**Q18 Lord Freeman:** Minister, I want to ask question number three in the briefing paper that you have had; if I could read it into the record. How successful has been the double-hatting of the European Union Special Representative and Head of Delegation in Macedonia, and does the Government envisage further use of such double-hatting, and I am thinking here particularly of Bosnia—Herzegovina, once the office of the High Representative closes? You said in your letter, Minister, to Lord Grenfell, on the second page, that you would welcome the chance to discuss

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the Government's thinking on this matter, and we would welcome it being put on the record.

*Mr Hoon:* It is a slightly complex progression, in the sense that we believe that the model of double-hatting for Macedonia has been successful, that appropriate accountability has been maintained and having a single individual speaking for both the Council and the Commission has helped, but the Foreign Secretary made clear, in her evidence to the House of Commons Foreign Affairs Committee, that she did not anticipate that particular model in Macedonia being used as a precedent elsewhere. Nevertheless, it is certainly my view that having a single figure speaking on behalf of the Council and the Commission in Bosnia, for example, is sensible, given the range of activities for which the EU is responsible. Essentially what we would be looking for really is a Council lead, so that whoever was speaking wearing both hats would be seen as a senior national official, perhaps a political figure, to demonstrate that this is very much carrying through a range of responsibilities on behalf of the Council. Obviously, in so doing, the double-hatting will be led very much by the Member States.

**Q19 Lord Freeman:** Would not that imply really that a former politician, or perhaps someone different, might be a better candidate than an official drawn either from a Member State or from the Commission itself?

*Mr Hoon:* I will take that as an application. Yes, I think broadly I would accept that. I think we would judge that the political sensitivities in Bosnia require someone with that sort of background rather than simply a Commission official.

**Q20 Lord Freeman:** Certainly, from the point of view of coherence, in representing and making decisions within a country, a single figure must commend itself surely, rather than two different individuals?

*Mr Hoon:* I agree strongly with that. If I may say, in terms of the process, there are other issues likely to arise in the future and I think our judgment is that we would simply deal with them on a case-by-case basis, trying to assess the particular requirements in the country or territory in question.

**Q21 Chairman:** Minister, you may say this is a matter for the Brussels institutions themselves, but, in a sense arising out of this subject, how do you see the High Representative, under the present arrangements, as they are currently, getting more involved with the RELEX group of Commissioners, and how the Presidency and the Council and the Commission can together have an overview of EU external relations?

*Mr Hoon:* As I have indicated already, there is a need for more effective co-ordination. I think the High Representative has been enormously successful in the way in which he has put the job on the political map, if I can put it in that way. He has brought enormous energy to bear and I think he has demonstrated the benefit of having a single telephone number for the United States to call, if I can refer to that particular quotation, and I think that has worked. For this role to develop, I think it will require some further thought as to how the relationship with the Commission, in particular, should develop. I know that is something to which the High Representative gives a great deal of thought. Coincidentally, I think I am still seeing him this afternoon.

**Q22 Chairman:** How do you think that will play in the Council? I am sure the High Representative will be anxious to co-operate, but how will the Council view his greater involvement with the Commission; will they see that as a trespass on their preserves?

*Mr Hoon:* I said co-ordination with the Commission. I think trying to find the right areas in which the appropriate Commissioners and the High Representative work is one of the institutional challenges currently facing the institutions, and, to some extent, that depends perhaps on the personalities involved. As far as the Council is concerned, essentially I think it has worked perhaps much better than many people anticipated, where we have been able to use the position of High Representative to represent the Council in important negotiations. The current discussions over Iran are a very good illustration of the way it has worked, with a small group of leading Member States co-ordinating the position essentially, but encouraging the High Representative to carry through some of the detailed negotiations where it is not always possible for them to be conducted by committee.

**Q23 Lord Lea of Crondall:** If I may pick up the last point, about the evolution of the role of the EU three on Iran, it may be that I am anticipating question eight, but it is arising from what you have just said. Am I right in thinking that when it started out it was, strictly speaking, three countries, and then we had a system of reporting to the Council of Ministers, so that the three countries are seen not only as representing the EU and reporting to the Council of Ministers but then they fit in naturally with other major players within the UN framework? Could you comment on how that has evolved; am I roughly accurate in my description of it?

*Mr Hoon:* I think that is a fair description. I think it has evolved entirely pragmatically, if I may say so. I do not think anyone has sat down and said "This is the way we will conduct negotiations in the future." It



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was designed specifically to deal with a relatively fast-moving, international situation with Iran, where it would be quite difficult to refer back all the time to a Council of 25 Member States. Obviously, the three Member States do report back regularly to Council, particularly to the General Affairs Council, but, as I indicated, even getting meetings of the EU three requires some co-ordination which is more difficult for busy foreign ministers than sometimes the day-to-day detail of negotiations will allow for. Therefore, the final layer, if you like, of having the High Representative able to go, often at quite short notice, perhaps to Tehran, or wherever meetings are taking place, has worked well, and so, essentially, the EU three have set out a negotiating framework for him then to deliver.

**Q24 Lord Lea of Crondall:** It is also, is it not, that when China, Russia, the US, etc., are seen as the dialogue partners with the EU three there is no alternative at the time of senior foreign ministers to be the public face, and indeed weight, of the EU in that structure?

*Mr Hoon:* I think that has worked extremely well. If I may say so, inevitably there are some -tensions is perhaps too strong a word—but some sensitivities, when three Member States, in effect, are speaking on behalf of the EU. That is why it is important that there is regular reporting back of the discussions that are taking place, involving Iran and the EU three, to the wider Council.

**Q25 Lord Lea of Crondall:** It could be the hypothetical situation to do with something happening in Latin America, it might be Spain, Italy and sometimes a different troika of countries doing it?

*Mr Hoon:* I went very recently to the EU-Latin America Summit. I had not attended that previously. It takes place only every other year. It was noticeable to me, as I suppose a northern European, that there were lines of communication and political contact from the south of Europe which simply are not available to the UK. I think that is an area where EU activity benefits the UK, gives us an insight and an understanding of an area of the world which perhaps has not been a major political priority for us for some time.

**Q26 Lord Lea of Crondall:** It would be hard to write it down in a Treaty?

*Mr Hoon:* Exactly.

**Q27 Lord Dykes:** The EU three exercise appears to be an empirical success, according to all fair-minded observers, I would have thought. Has there been any good evidence, in the reports from our own Ambassadors in the new Member States of the EU,

the ten, that this has had an impressive effect upon them, that they are feeling they are joining an entity? Christopher Soames's old description of the largest civilian power in the world which is a force for good in these matters, and its notable effect on reigning back some of the more excitable hawks in Washington, and so on, was also observed. Do you feel that this is a good example for the future, where not necessarily those three countries, as you were inferring, but it might be groups and clusters dealing with special matters and getting a peaceful solution rather than an excitable one?

*Mr Hoon:* As I said at the outset, this is a pragmatic response to a particular situation and I would be very reluctant to say that necessarily this is going to lead to some sort of either institutional change or indeed some regular practice. It has worked, and I think it has worked extremely well. As far as new Member States are concerned, I think it demonstrates the way in which a wider European Union carries considerable weight in international negotiations and I think does demonstrate the importance of having this kind of co-ordinated response on behalf of the EU. I suppose it follows as well, referring specifically to the newer Member States, that some of their areas of interest, having visited Poland recently, for example, and having long discussions about Ukraine, it demonstrates that a wider EU benefits not only those newer countries but also helps provide more understanding, more information, in practice, to well-established Member States, because the new Member States bring with them a range of relationships which are not necessarily immediate political priorities for those more established countries.

**Q28 Baroness Symons of Vernham Dean:** If I may pick up on the points which Lord Dykes has been raising, the EU3 initiative though, in Iran, essentially was a pragmatic initiative, was it not? It was not that the European Council sat round and said "We would like Britain, France and Germany to go ahead." As I recall it, it was the former Foreign Secretary who thought that there could be common cause made on a subject of real international importance, and there was common ground found before the EU3, and that is how they proceeded. In a way, the term 'EU3' is a convenient way to refer to three independent countries which wanted to take an initiative together and thought they would strengthen their hand by so doing. What I am suggesting to you, Minister, is that it might have been any three countries.

*Mr Hoon:* Which could turn up on the day.

**Q29 Baroness Symons of Vernham Dean:** It just happens to have been they were European countries and subsequently they decided to report back. What I am concerned about is that the implication of some

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of the answers, to the questions which particularly Lord Dykes raised on Iran, institutionalises something which essentially was a pragmatic mechanism, which has worked very well and which we hope may work very well on future occasions. That is very different from institutionalising the position of any group of countries within the European structure to take ahead foreign policy on behalf of the EU. That strikes me as a very different mechanism?

*Mr Hoon:* I hoped that was what I was saying.

**Baroness Symons of Vernham Dean:** Right; good: then we are agreed. Thank you very much for clarifying that, Minister.

**Q30 Chairman:** Presumably, you would make the same comment with regard to Poland and Lithuania?

*Mr Hoon:* I hope that was what I was saying and, if I may say so, that is perhaps a minimalist description of what has happened. Where I think I would go slightly further perhaps than the question is by saying that Member States have recognised that, in effect, the EU three, although three self-selecting, independent Member States, as was properly described, were negotiating on behalf of the wider European Union. That is why I say it has been important to refer back to the General Affairs Council, why there has been regular discussion there and consultation, and moreover why it has been possible to allow the High Representative there, when dealing with some of the detail of specific occasions, to go and speak on behalf of the Union. That layered approach, I think, reflects the fast-moving nature of this situation, although at the moment we wish it were slightly faster-moving, as well as recognising that in a much enlarged Union it does not always make sense to have all 25 Member States meeting and agreeing precise negotiating briefs, because, frankly, the world moves on too quickly to allow for that.

**Q31 Chairman:** Presumably, you make the same comments with regard to the Ukraine initiative as with Poland and Lithuania, do you?

*Mr Hoon:* I think each one is a pragmatic response. That part I was absolutely agreeing with, that we are trying to find ways in which we can develop processes which reflect the way the world is moving, often quite quickly, but at the same time acknowledge that we have got a large number of Member States. One of the joys of attending Council meetings is, of course, that 25 countries do get to say what they think and sometimes that can take a little time.

**Q32 Lord Dykes:** It would not be sinister institutionalisation, would it, Minister, if, just for reasons of commonsense, this was a pattern for the future, whereby you might get two or three countries

clustered together for particular purposes, of geopolitical exercise, of whatever it might be; all sorts of things? The General Affairs Council would give them a negotiating mandate, having heard their report back, as independent countries, if you like, and then coming again saying, "Well, please carry on acting collectively on behalf of us all." That is not sinister institutionalisation, that is just basic commonsense?

*Mr Hoon:* I would emphasise, on behalf of the United Kingdom, that I think we would be very keen to ensure that there was a negotiating mandate, that we had agreed this process, that whichever countries were operating they were operating in a way which we felt was consistent with our own foreign policy, as well as the wider interests of the European Union. Which was why I was resisting slightly the 'institutional' label, I think. We would have to be confident that, however this evolved, it evolved in a way which we felt comfortable with.

**Q33 Lord Lea of Crondall:** My Lord Chairman, we cannot have it both ways though, can we?

*Mr Hoon:* I am trying to.

**Q34 Lord Lea of Crondall:** Yes, well; certainly it will be a very important point for the future, because this pragmatic architecture may be the way things develop. The sense of wanting it both ways is, if you demand a negotiating mandate you would not actually have had the evolution of the process which happened on Iran, nor without some clarity about where the value added of EU comes in, or does not come in, and Lady Symons perhaps was putting her finger on the point, with Britain, Norway and Switzerland, these three countries would not be the same as three countries which had a negotiating mandate from the EU?

*Mr Hoon:* Two of them are not in the European Union; that is a slight problem.

**Q35 Lord Lea of Crondall:** Exactly; any three countries could do anything, was Lady Symons' point, but it is not the same as getting value added and realise the value added in the negotiating mandate from the EU?

*Mr Hoon:* I think Lady Symons put it very well, in saying that this evolved from a pragmatic decision by three Member States to take action in an area where action was needed urgently, and, moreover, in an area where, because they were reporting back to the Council, in effect, the European Union developed a way of speaking on behalf of this important subject but recognising that it is a subject which has moved on. Necessarily, where there are these kinds of international negotiations, some negotiating flexibility has to be provided for, but the limits of that, I think, need to be quite narrowly defined,

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particularly if then we were going from that example to other examples, which I have conceded the possibility of, but subject, I would say, on behalf of the United Kingdom Government, to quite firm control through the Member States. I think these things will develop in response to circumstances. The one thing that I do think we have got to face up to is the fact that if we are to be represented effectively in these kinds of international negotiations, speaking on behalf of the EU gives an important seat at any table, whilst at the same time acknowledging that there has to be a proper mechanism for determining how other Member States are going to be represented in that process. If we were not engaged ourselves then we would want to be sure that our interests were being taken into account by whatever negotiations were taking place.

**Chairman:** Thank you very much, Minister. Perhaps now we may leave the questions which were in connection with our Report and turn to the regular matters and the questions that we would like to put to you arising from the June European Council.

**Q36 Lord Truscott:** Minister, a couple of questions. Firstly, what result does Her Majesty's Government want to see arising from the negotiations for the forthcoming Northern Dimension Action Plan, particularly in relation to EU-Russia relations?

**Mr Hoon:** Obviously, we think this is an important process; trying to find a framework for dialogue, stability, increasing economic co-operation and competitiveness is something that we believe that these talks allow for. We want to see a new agreement, particularly engaging Russia in a series of what I might describe as cross-border relationships, so having this process is useful, as yet; we want to be more confident that it can reach some conclusions which are binding on both sides and that, I think, is still the area where we need to see some more development.

**Q37 Lord Truscott:** My Lord Chairman, a related question on Russia, because the G8 Summit is starting tomorrow. In the light of that Summit, is the Government expecting any progress on the major issues of security of supply, the energy charter and opening up the Russian energy market, particularly access to pipelines, and the whole energy market to competition? Secondly, is Her Majesty's Government going to raise the issue of what has been described as Russia's backsliding on democracy?

**Mr Hoon:** Of course, there has been very recently an EU-Russia Summit, so I do not need to anticipate necessarily the G8 because there was a very good discussion not least about energy. Put at its most neutral, of course, no-one is suggesting, on either side of those discussions, that there is any difficulty about security of supply; statements from Russia are to the

effect that they will carry through the agreements that they make. I cannot go much beyond that, at the present stage, save to say that I think that is one important area where we want to see those undertakings carried through. Perhaps by analogy, and I hope it is not too extravagant a comparison, similarly in relation to democracy, we want to be confident that Russia continues the progress that it has made in the past, perhaps, if I might say so, at the same pace.

**Q38 Chairman:** When we saw the Finnish Ambassador, Minister, and I hope my recollection is correct, the Finnish Presidency is looking not only to the conclusion of the new replacement Northern Dimension Action Plan but seems to be looking also to a sort of wider framework of partnership with Russia. How successful do you think that is going to be, however commendable it may be to want to treat them more as partners than people with whom we are just sort of doing business under an EU initiative? How successful is that likely to be, bearing in mind the attitude of some of the new Member States, who seem really to want us to take a more robust attitude towards Russia than currently we have done?

**Mr Hoon:** I had a long meeting with the Finnish Foreign Minister on Tuesday and I have seen the Finnish European Minister in the last couple of weeks, so these are important matters for Finland, not least historically. My Lord Chairman, you are right to suggest that in different Member States, I mentioned recently in Poland, there are greater degrees of sensitivity on these issues, particularly in practical areas like security of energy supply. What I think we feel, on behalf of the United Kingdom but part of a wider EU perspective, is that we do need to engage Russia more to ensure that we can all be confident in the supply of energy, both from Russia itself and, if I can put it this way, across Russia. One of the key challenges for the European Union, and one which perhaps was not anticipated even at the time of the framing of the Constitutional Treaty, so it is an area where perhaps EU competence and coherence is of greater significance than until very recently had been anticipated.

**Q39 Chairman:** Thank you. Can I turn to Kosovo, Minister. If and when the final status agreement is reached, what action would the UK Government wish to see the European Union take to help stabilise the region both in economic and political terms?

**Mr Hoon:** Obviously, again, there is a process of discussion and negotiation in relation to the future status of Kosovo, but assuming that was resolved we would anticipate the European Union having a significant role in providing a future civilian presence, obviously concerned with ensuring the functioning of effective institutions there, not least

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those concerned with the rule of law, because there will need to be some very clear guarantees to the minority that they have confidence in the way in which a majority government would operate. I think a continuing presence by the European Union would be part of that and it may well be reflected as well in a military contribution, through some European military presence. The other aspect of it would be financial, ensuring that Kosovo can develop an effective, functioning, market economy, I anticipate the EU wanting to give considerable assistance to that through the stabilisation and association process.

**Q40 Lord Freeman:** I wonder if the Minister would define perhaps just a little more fully what is meant by "European military presence" in Kosovo?

*Mr Hoon:* I think simply this would be an appropriate area for an ESDP-type operation, because there will be real sensitivities as far as a minority Serbian population is concerned. Obviously, we want to anticipate a day where foreign forces will not be required in Kosovo. I am not sure that I can foresee yet when that is going to be, not least because, for the moment, at any rate, that Serbian minority requires the confidence of the presence of forces which, by and large, are protecting their interests.

**Q41 Lord Lea of Crondall:** Kosovo illustrates the problem not only of the Serbian minority, *per se*, there is an Albanian-type majority, but the double blow to the dignity, as seen from Belgrade, of Serbia which is coming in on the back of the independence of Montenegro. I was just wondering if the Minister would like to comment on how on earth, with all the reasons why there has been very, very slow progress with Serbia, some sort of *quid pro quo*, or some sorts of consequences about trying to get round the problem of war crimes, and so on, we can still make some progress with Serbia?

*Mr Hoon:* In recent weeks, I have seen both the Serbian President and the Serbian Prime Minister. The Serbian President, being a former Defence Minister, is someone I know quite well and he was reflecting on the difficulties that Serbia had faced in recent times, the vote in Montenegro, the suspension of the SSA negotiations, as well as concerns about what was likely to happen in Kosovo. Also he pointed out that he had to sit and watch his football team lose six-nil to Argentina, which he thought was also a blow to Serbia. I think, for all those reasons, we do need to recognise a degree of sensitivity there, which I think we will have to acknowledge, as part of the future status discussions about Kosovo. It is one of the reasons why we believe that a strong, decentralised system of administration in Kosovo will be sensible, assuming that there is progress towards independence. What I think is equally

important is that we emphasise the importance to Serbia of full co-operation with ICTY; obviously, something I was at pains to set out very forcefully to both the President and the Prime Minister in the meetings I had with them. Nevertheless, I think that we have got to find a way of engaging Serbia and demonstrating that there is a future for Serbia perhaps ultimately in the European Union, providing there is full co-operation with ICTY. We have seen the changes in Croatia as a result of that full co-operation and I think Croatia is a model for Serbia perhaps to follow.

**Q42 Lord Tomlinson:** Minister, if I can move on to the next question, I think everybody welcomes that the EU has deployed the military operation EUFOR RD Congo in response to the request from the United Nations, but we are coming towards the end of July when we are going to have the elections. Can I ask you what contingency plans have been made, if any, in the hopefully to be avoided circumstances of violence following those elections?

*Mr Hoon:* I think the short answer from this end of the room is that we do not know. I anticipate writing to the Committee.

**Q43 Lord Tomlinson:** With an equally short answer, if you could write to the Committee. I think we do regard it as very important though and we would not like to be seeing our engagement in another area of conflict in Africa, when we have seen the very unhappy circumstances which exist already in Darfur, and the potential for very unhappy circumstances in Congo?

*Mr Hoon:* I am grateful to Lord Tomlinson for padding out his question, because it allowed me to find the answer. The European Union does have contingency planning in place for various scenarios, including an escalation of violence, because there is a strategic reserve force of some 1,500 that will be based in the EU but can be called upon if there is serious violence.

**Q44 Lord Tomlinson:** And deploy them quickly?

*Mr Hoon:* And deploy them quickly.

**Q45 Lord Dykes:** Coming to the Middle East and Palestine, with the dreary, saddening picture of further escalation again there and the action in Lebanon by the Israeli military forces, perhaps you could bring us up to date on the British Government's attitude? I detect myself, for example, that in the references in the paper about the need for both parties to this dispute to do the necessary steps, Hamas, the recognition of Israel, Israel desisting from actions that are contrary to international law and attacks on civilians, and so on, it is hand in hand, but once again these

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statements do tend always to be couched in terms of the Palestinians doing things first and the Israelis doing things afterwards. We know that the Palestinians are the victims of all this business, and if Israel had not occupied the Occupied Territories then the Palestinians would not have had to resist and respond. That is putting it in with a certain gloss, deliberately, to emphasise the urgency of the matter. Can the EU, really, as part of the Quartet, get some response from the Israelis now, this escalation that they are doing in response to the distressing kidnapping of more soldiers and the killing of Israeli soldiers as well, and one understands the great distress and pain that causes in Israel? I detect, Minister, that amongst members of the Jewish Diaspora abroad and also more Israelis proper, reading the Israeli press, there is a growing, pessimistic feeling that the present Israeli Government, with Prime Minister Olmert, does not really want to do other than postpone any negotiations, and they welcome the chance of postponing negotiations because then they can carry on building these super-settlements close to East Jerusalem. I think it is a pity really that the EU has not been able to do more. I know it is frustrating and it is very frustrating for the British Government. In our House, I think we commend particularly the way Foreign Office Ministers have dealt with this matter, on a very even-handed and fair basis, it could not be better, but can we get some positive results; are you feeling as despairing and pessimistic as I am?

*Mr Hoon:* Certainly, the situation overnight is extremely disturbing. My Lord Chairman, I would not want to be seen to agree with that particular analysis of the situation that we are in, but I do think it is important and we have used the word 'restraint' repeatedly. It is important that there should be an urgent release of kidnapped Israeli soldiers and an end to the violence that is occurring on both sides. There is shelling in both directions across the border between Israel and the Lebanon at the present time. Obviously, we have also seen efforts by Israel to secure the release of its citizens in Gaza. We are making these points strongly to all sides, initially to both sides, but with the recent disturbing developments in the Lebanon we are also making clear that it is important to try to resolve this situation quickly before there is a further escalation of the level of violence, but I say that an absolute prerequisite must be the release of those soldiers who have been kidnapped. It is perfectly understandable why any country takes action in order to secure the release of those who wear its uniform. I think, in my time in the Ministry of Defence, it would not have been acceptable for British soldiers to have been kidnapped and imprisoned without an expectation that the British

Government would take action, and when that happened that was precisely what we did.

**Q46 Baroness Symons of Vernham Dean:** My Lord Chairman, of course the recent kidnappings have moved us on from the points made in the Presidency Conclusions of 15/16 June, and, as the Minister said, the overnight developments, including the bombing of Beirut Airport and the shelling, have led to what is probably the most viscerally dangerous situation in the whole of the troubled Middle East region becoming one of great urgency. Whilst I disagree with some of Lord Dykes's analysis, I think that the question I would like to put to you is, is there a realistic EU role in trying to intervene in what now clearly is a situation where neither side is going to back down willingly, because of the feelings of, as much as anything else now, losing face with their own backers? Does the EU really have a role, or do we have to acknowledge that it is the United States which will put whatever pressure may tell upon the State of Israel, and the Arab countries which will be able to exert most pressure on the Palestinians, to try to make both sides find a peaceful resolution? Is there an EU role?

*Mr Hoon:* Six years ago, when I was last in the Foreign Office, at around this time of the year, I went to Gaza and I went to Jerusalem; we were engaged then in final status discussions about borders, about refugees, about capitals. In a sense, what is so depressing about the present situation is that, following a realignment of the political system, the political parties, in Israel, we saw the election of a Government dedicated to securing its settlement, and yet within weeks we have seen, as the noble Lord has indicated, some very disturbing developments and real concern that this can lead to further catastrophic violence. The reason I link those two periods is that I believe very strongly, in 1999 and the period thereafter, that there were militants groups, Palestinians, absolutely determined to frustrate any progress to peace, by deliberately attacking Israel in order to provoke a response. I have to say, I wonder whether that is not underlying what is currently taking place, that, for some groups of Palestinians, the prospect of a settlement and recognising Israel, of a piece, is so abhorrent that they will go out of their way in order to avoid that occurring. I worry that is the wider context of what is taking place, that this is a deliberate attempt to provoke Israel into taking the kind of military action that we have seen.

**Q47 Baroness Symons of Vernham Dean:** Is there more that the EU is able to do, other than the sort of response we saw in the Presidency Conclusions, which is a very good response, in many respects? We are faced at the moment with what is the greatest

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escalation of military action and the problem is, of course, what has happened overnight, that this is the State of Israel taking action—maybe justified, maybe not I do not argue that point—against Beirut's lifelines, blocking Beirut's air transportation system, blocking any way in and out of Beirut from other parts of Lebanon. This is government-to-government action. If I may ask not only what do you see the next step for the European Union, which is, I think, a very important point, within the next few days, but, secondly, are there not issues for European Union policy over the difficulties of talking to governments, when some members of those governments are allied to recognised terrorist organisations? That is to say, the Palestinian Government, it is not an element of it, it is Hamas domination, and Mr Siniora's Government in Beirut. Mr Siniora, in many ways, is an extremely fine man, trying to do everything he can to pull round what is happening in Lebanon, but with obviously a very distinct element of Hezbollah there. Are we in difficulty, as the European Union, because we will not, or cannot, talk to governments which have in them elements of terrorist organisations?

*Mr Hoon:* I think you set out the position very fairly, as far as the EU is concerned. We can send out the messages, and we have done so since the Presidency Conclusions, the High Representative has continued to urge restraint on both sides, to urge the release of the soldiers, to call for an end to the violence. There will be further discussion on 17th and 18th of the General Affairs Council next week; but people have to listen to those messages. I think the noble Lord is making clear that at the moment there is not enough listening and we need to see all sides pull back, show some restraint, but crucially, as far as Hamas is concerned, they must accept the conditions which have been set out, on violence, recognition of Israel and acceptance of previous agreements, and those are fundamentals, as far as the international community is concerned. I believe that the EU does have a role to play, once the parties start listening to the messages that we are sending out, because the EU can provide a significant partner, not least it has always been the case, as far as the Palestinians are concerned, in economic support and assistance. I think we have found a way of continuing to help the Palestinian people without crossing the red lines of the Quartet conditions, as far as Hamas is concerned; but, at the same time, that can only be a temporary solution to a particular problem. We want to see a Government of the Palestinians which acknowledges the right of Israel to exist and then can move on towards some international recognition of a Palestinian State, but the frustration which has always been the case is that we know what the answer is, but at the

moment, and particularly at the moment, we simply cannot see the way of getting there.

**Chairman:** This is a very important matter, which several people want to question you on.

**Lord Dykes:** Can HMG and can the Minister say what the appraisal is of the number of Palestinian civilians in Gaza and the West Bank who have been killed by Israeli military action since the Israeli elections, excluding individuals who were targeted in assassinations, which the EU has condemned?

**Lord Tomlinson:** I understand you have a degree of confidence that the proposed referendum from President Abbas might have had some beneficial impact. Do you see any circumstances in which the referendum might have any utility, bearing in mind the change in the circumstances?

**Q48 Lord Truscott:** I know that the Minister called for restraint on both sides but I am concerned about the issue of proportionality. I am concerned really that the Israeli reaction may well backfire and, the level of escalation, as Baroness Symons said, bombing Beirut and effectively blockading Lebanon, I think perhaps it would be important for the Government and the EU to make representations to the Israeli Government that they should not overreact to the situation?

*Mr Quarrey:* We do not have the figures on the civilian casualties but we can get those to you.

**Q49 Lord Dykes:** There are suggestions of over 200?

*Mr Quarrey:* I do not think our figures indicate that high but I will check.

*Mr Hoon:* We would want to give you the casualties on both sides; the Israeli fatalities as well as some serious injuries.

**Q50 Lord Dykes:** Yes, but on a much smaller scale.

*Mr Quarrey:* I think, on the noble Lord's point about the referendum, we judged that there were not positive outcomes which would arise from that process. In our assessment, I think it is no surprise, no coincidence, that the timing of the attack at Kerem Shalom, which precipitated this crisis, was on the day on which agreement was being reached between Fatah and Hamas and I think it is those most hard-line elements in Hamas who were trying to scupper that possibility of some agreement between the different Palestinian factions. Quite where they go from here just remains very unclear at the moment, but I think one of our worries is that President Abbas has been weakened by this, not least indeed because of the scale of Israeli action. I think one of the discussions that we will be having with the High Representative today in London is about what his role could be on this if he should visit the region. I think one of his key messages

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should be, if he does go to the region, that whatever action Israel takes should not be such as to strengthen the most hard-line elements and weaken those, like Prime Minister Siniora and President Abbas, who are trying actually to move the situation forward at the moment. It is clear that at the moment their action does risk that outcome.

**Q51 Lord Lea of Crondall:** We have just produced, as I am sure you know, Minister, a report on EU-Africa, and one of the things we have drawn attention to specifically is the fact that a very important dialogue between the EU and the African Union on governance is running up against a different philosophy from the growing involvement of China in Africa. I was wondering if I could just flag up the question for the future that the EU-China dialogue does face a difficulty, does it not, in knowing how to handle the footprint of China around the world., EU foreign policy, or EU policies for other parts of the world, Africa is a very important example, runs up against quite different philosophies coming from the economic role of China, which is becoming very significant indeed.

**Mr Hoon:** I will try to answer what is a quite complicated question. I attended on Monday and Tuesday, for example, a meeting organised involving the European Union and the States of Northern Africa, as well as a considerable number of African countries from the sub-Saharan area, to discuss specifically managing the problem of migration. What is significant about that, particularly on behalf of the UK, is that we recognise there is an interrelationship between a range of policies, not least our development policy, but also control of our borders, some domestic issues about asylum and immigration, all of which come together in a rather complicated arrangement where the interests of perhaps a sub-Saharan country are different from the interests of the countries of the Maghreb which very often face quite large flows of people from further south in Africa and perhaps do not always have the interests that you might like them to have in controlling those flows. As far as they are concerned, these people are not coming to Morocco or Algeria or Tunisia or Libya, actually they are interested in going to Tenerife or southern Portugal or Spain; Malta has a huge problem, in terms of its population at the present time. Trying to join those things together is quite a complex, political task, but it is one which I think the challenges of the 21st century require us to do. If a young man from Senegal believes his future lies in the United Kingdom and is prepared

to take sometimes very considerable risks to get here, we have got to try to find a way of looking at our development policy to discourage such ambition, as well as, if necessary, taking rather more effective action, not least with the countries of the Maghreb, for example, to make it harder for that young man to arrive in the European Union. As well as ensuring that the external policy of the European Union is effective, because, as we all know, our external borders now are in Malta and Portugal and Spain as much as they are in Dover or Hull or Liverpool. Managing those processes, I think, is a real challenge for the 21st century, and where then you have a major player like China also using its considerable economic weight in Africa, especially with some very poor countries, I think that is an issue to which we have to pay very considerable attention.

**Q52 Chairman:** I do not know whether you have time to deal with our last question, briefly, Minister, and whether you are able to tell us anything about the outcome of the meeting between Javier Solana and Iran's nuclear negotiator, Ali Larijani?

**Mr Quarrey:** The meeting on the 5th was postponed, at Larijani's request, on what we judged to be a pretext. The meeting then took place on the 11th. It was a difficult meeting, on which we judged the outcome was poor, in that we were not able really to get Iran to move any further forward on its response to the very comprehensive package that the EU3 plus three had put forward in June. On that basis, ministers met yesterday and agreed that there was no alternative now but to move this back to the Security Council and to make the suspension of enrichment activities, which the Council had previously asked of Iran, mandatory and signal that if there was no progress on that then we would be looking at Article 41, which includes mandatory sanctions. I think the message is very clear, from the meeting yesterday, there was great unity at the meeting, that there was disappointment at Iran's lack of reaction to what was the most serious proposal that had been put to Iran since 1979, that we judged this was an inadequate response, given all the effort that had been put into that package and serious movement, including by the United States, therefore there was no alternative but to move the dossier back to the Security Council.

**Chairman:** Thank you very much. Minister, thank you very much indeed for coming and spending time answering our questions; our thanks also to Mr Quarrey and to Mr Schroeder for accompanying you and for their assistance. Thank you very much.

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*13 July 2006*

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**Letter from the Minister for Europe, Foreign and Commonwealth Office****GREATER COHERENCE AND THE FUTURE OF EUROPE**

Thank you for your letter of 6 July to Kim Howells. As you know, the Commission Communication, "Europe in the World", was the product of continuing debate about how the EU's external policies can be made more co-ordinated and coherent, particularly in those areas that fall between pillars. The June European Council asked the incoming Presidency, the Council, the Secretary-General/High Representative, and the Commission with examining measures contained in the paper, as well as further measures, with a view to improving the EU's external coherence. While I do not believe that setting out the Government's detailed views on each of the Commission's recommendations will be helpful until the debate at EU level has developed further, there are some suggestions that appear to be sensible administrative and practical steps that can be implemented without too much difficulty.

These include the proposals in the paper focused on improving the internal coherence of the Commission's contribution to EU external policy. So we would support the proposals to strengthen the role of the External Relations Group of Commissioners; to improve Commission reporting and analytical capacities both in Brussels and its Delegations; and to develop new working methods and procedures within the Commission to allow real time policy decisions in response to evolving events. Such reforms seem sensible and can of course be implemented by the Commission itself without reference to the Member States.

We also support a number of the recommendations in the paper that will require further discussions between the Brussels institutions and the Member States. One example would be the proposal that there should be informal meetings every six months between the incoming President of the European Council and Foreign Minister, the President of the Commission and the External Relations Commissioner and the High Representative to undertake an overview of the Union's external action. Another would be the call for earlier preparation of Summits with key partners to identify key internal policy issues to be raised. Equally the recommendation that there should be an enhanced programme of exchange of personnel with the diplomatic services of the Member States and the staff of the Council Secretariat also seems worthwhile.

However, there are other suggestions within the paper that will require more detailed study, and indeed proposals that will not be taken any further. On double-hatting, the Foreign Secretary stated our position at the Foreign Affairs Committee on 13 June. We would not anticipate an extension of the precise model used in the Former Yugoslavia Republic of Macedonia to other countries. However, as the Committee is aware, the EU will need to take decisions later this year about the organisation of its representation in Bosnia and Herzegovina once the Office of the High Representative closes, probably in June 2007. After this point, the EU will have both a key political role in Bosnia, in the form of an EUSR who will take on some of the OHR's functions, and a substantial amount of leverage in the form of the Stabilisation and Association Process, run by the Commission.

In our view there is a good argument for having the EU speak with one voice on these two closely interlocking issues, so maximising the effectiveness of our presence in BiH. This points to a different form of double hatting, which reflects the greater political content of the job, under which the EUSR (that is to say a politician, or senior national official, appointed by the Council) also heads up the Commission's presence in country. As with the FYROM case, safeguards would be needed to ensure that lines of accountability were not blurred. Discussions on the way forward in BiH are still at an early stage, but I would welcome the opportunity to discuss our thinking with the Committee.

During the term of the incoming Presidency the Government will continue to discuss all of these issues with the other Member States, the Commission and the Council Secretariat. I shall keep you up to date on any important developments.

As requested, I enclose a copy of the letter and annexe by the High Representative, which were considered by the Council with the Commission's paper.

I am writing in similar terms to the Chairman of the Commons European Scrutiny Committee, copying to the Clerks of both Committees and to Les Saunders at the Cabinet Office, Chris Banahan, Departmental Scrutiny Co-ordinator, and Tammy Sandhu, Select Committee Liaison Officer.

*12 July 2006*



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13 July 2006

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**Letter from the Minister for Europe, Foreign and Commonwealth Office**

COMMISSION COMMUNICATION: "EUROPE IN THE WORLD" AND THE CONSTITUTIONAL TREATY

During my appearance before Sub-Committee "C" on 13 July I promised to write concerning which of the proposals in the Commission's Communication "Europe in the World" could be implemented without further consideration of the Constitutional Treaty.

The proposals were intended as a contribution to a debate, and indeed in accordance with the June European Council Conclusions, discussions in Brussels have now moved on from them to the Finnish Presidency's own external relations agenda.

However, to answer Lord Tomlinson's question directly, the proposals in the Commission Communication are distinct from the provisions envisaged in the Constitutional Treaty, and could be introduced without the Constitutional Treaty.

This is because the Constitutional Treaty sought to define a new institutional dispensation, and set the terms by which the EU MS and institutions would interact with each other. The Commission's Communication, on the other hand, is predicated on existing treaties and focuses on:

- (a) improvements to internal Commission working practices in external policy areas; and
- (b) how the EU can make its external policies more coherent through the Member States and the Brussels institutions coordinating and liaising more.

I am writing in similar terms to the Chairman of the Commons European Scrutiny Committee, copying to the Clerks of both Committees and to Les Saunders at the Cabinet Office, Chris Banahan, Departmental Scrutiny Co-ordinator, and Tammy Sandhu, Select Committee Liaison Officer.

26 July 2006

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MONDAY 9 OCTOBER 2006

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Present	Bowness, L (Chairman) Hannay of Chiswick, L	Lea of Crondall, L
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**Examination of Witnesses**

Witnesses: AMBASSADOR CUTILEIRO, Special Adviser to President Barroso, MR PATRICK CHILD, Chef de Cabinet, Commissioner for External Relations, and MR PETER DUN, Adviser, Directorate for Strategy Coordination and Analysis, Directorate General for External Relations, European Commission, examined.

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**Q53 Chairman:** Mr Ambassador, thank you and your colleagues for agreeing to see us. As I was just explaining to you, we are a Sub-Committee of the European Union Committee of the House of Lords and we decided to do a short inquiry looking at the Communication from the Commission, *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility*, and we would be interested to hear from the Commission’s point of view how you see this being taken forward. We are particularly interested to hear your views on what can be done to achieve the improvements that are referred to within the context of the present arrangements, bearing in mind that there is not a constitutional treaty, at least at the present time. Your Communication was produced to bring about some discussion. What has been the level of interest in it? Have you been successful in stimulating that discussion and what sort of outcome do you think will be reached at the December European Council? I understand the Member States will be looking at this.

*Ambassador Cutileiro:* Thank you very much. Yes, the paper is what it is. It is a Communication of the Commission and as such a paper that had to take into account views from different sides. I chaired the task force that did it. On the task force, which was vice-chaired by Patrick Child, we had representatives of all the Relex Commissioners and the services that deal with what the Relex Commissioners do, and I also had conversations with Commissioners responsible for internal policies with external implications and members of their staffs. We also received written contributions from them. Of course, I saw Mr Solana and Mr Brok in the European Parliament and all the Permanent Representatives and some of the Ambassadors to the Political and Security Committee. You mentioned, rightly, that the treaty is not on, and of course we live in a sort of limbo in between. On Friday I was in Paris at the annual meeting of the Security Institute and someone asked Mr Solana, “Are you happy with the arrangements as they are now that there is no treaty?”, and he said, “No”. It is very rare to hear Mr Solana answer with one single word and a monosyllable, and he was absolutely right. What was done by us and all the people that entered into this

debate before the paper was finished was to try to see what we could do to make the external role of the Union more efficient and more coherent, which goes without saying, but the point is basically to be able to use better the resources of the European Union, many of them in the Commission, for the benefit of the European Union through its external action. You ask where we are. We did not cherry-pick because of the delicate balance which you know exists between some things. Even if we took things that would make a lot of sense, people would say that there were other things elsewhere in the treaty. That made a lot of sense as well. So far there has already been some use of what we have done. For me perhaps the most important small thing is the fact that the Finnish Presidency has decided to take a point from the paper, which is to have at the beginning of each Presidency a meeting of the President of the Council, the Foreign Minister of the country of the Presidency, the High Representative, the President of the Commission and the Commissioner for External Relations. That meeting was indeed held in Finland and Solana unfortunately had to cancel his presence at the last minute because there was some Iranian business, I believe, but the Finns want to have it again in preparation for bilaterals of one kind or another and I think this is probably a good idea. It is not an attempt to interfere with whatever direction the European Council or the Presidency of the day has given to what they are doing. It is to make sure as much as possible that we know more or less how they are going to tackle things. There has been work done in-house as well, I think, in the different departments that cover External Relations, and there has been some work done with people from the Council Secretariat. On the specifics of these areas I will ask Patrick to talk more because it falls within his area, but I would just like to add one thing. This paper is written at a time when things are as they are. In terms of the political will to do a European foreign policy I think that the European Union will only have a foreign policy (not necessarily single like the currency, but common), if the Member States want to do so. The Member States are, quite rightly the masters of this and if they want to have a foreign policy we will have a foreign policy. In a lot of the

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things that we deal with here it might be that some difficulties would become very easy if there was the political will of the 25 (as they are now) to proceed with it. There is only a limited amount that the institutions and even one Presidency or another can do, without an overall agreement by the 25 for this or that aspect of foreign policy.

**Q54 Chairman:** Before Mr Child comes in I should, of course, have said that this evidence is on the record and we will let you have a transcript to see if there are any misunderstandings.

*Ambassador Cutileiro:* We have got some papers from your side. I was warned of my rights beforehand.

*Mr Child:* I agree with everything the Ambassador has said and I think it is important to avoid the perception that somehow everything that is wrong with EU foreign policy is because of some of lack of understanding or co-operation between the Commission and the Council Secretariat. I think the reality is a lot more positive than some of the discussion that we hear about would imply, but there are, of course, things that we can do to improve first of all the way the Commission organises itself on external relations issues and second on how we relate with both the Member States and the other institutions. More specifically, although it is to some extent early days following our Communication, which was only a few months ago, in addition to the important meeting that the Ambassador has mentioned, we are pushing ahead with a scheme of staff exchanges between the Commission officials and diplomats from national diplomatic services. A pilot scheme is up and running already this year and a larger scale scheme will be opened in 2007. We are doing rather more joint papers, Commission and Council, for presentation to the Member States for discussion in the PSC and in the Council, and recent good examples have been on external aspects of energy policy, on external energy policy, on Iraq and a number of other issues, including most recently some of the issues in the Balkans. We have also been working for some time now, but it has only just been referred to in the paper, on improving the European Union's collective efforts on consular co-operation, particularly in providing support to European citizens who find themselves in a difficult environment sometimes in third countries. Most recently there were the events in Lebanon over the summer where I think the European co-ordination was more effective than perhaps on previous occasions, such as the Tsunami, where there were difficulties. More generally we are working to intensify the way that we co-operate with our colleagues in Member States and in the Council Secretariat on exchange of analysis and information to ensure that we are all on the same wavelength. I have been very encouraged by the way that the Finnish Presidency in particular has picked up many

of the ideas in the *Europe in the World* Communication in their own checklist of points which are now being discussed with the Council and with experts in Member States in preparation for a report which we are expecting for the December European Council.

**Q55 Lord Hannay of Chiswick:** Thank you very much. That is very interesting. I personally was very sympathetic to the ideas in this paper. Could you just tell me whether—and this is rather a general philosophical question—it could have operational implications? Do you consider that this paper exhausts what I would call the headroom between treaty change and present practice or are there other areas of foreign policy, coherence and co-operation which could be achieved without treaty change? Clearly this would be of limited importance if there were to be a treaty on institutional change within the next two years, but in the probability that that is a little optimistic it could become of increasing importance, of course. So could you tell me, not as a colleague because this is the view of the college but in your personal view, whether there is any headroom still there? Secondly, if I could ask a question about co-operation with the Council Secretariat, could you explain what the rationale is of having a crisis centre in one and a situation centre in the other since presumably every crisis that occurs in the world impacts on both the Council Secretariat and the Commission? Why is there not a single service which is at the disposal of both institutions on what is presumably a service operation, not a policy operation?

*Ambassador Cutileiro:* Can I just say one thing at the beginning? You ask if there is more room beyond what is in the paper. The first thing is that one hopes that even what is in the paper will be done. If what is recommended in the paper is done, I am sure there will be more room for other things, and that would be an immense step forward. I am afraid, as you know much better than I do because you have a longer and closer experience of European affairs, that between this and that, as T.S. Eliot would say, falls the shadow. If the shadow does not fall then to have what is recommended in the paper flowing and with enthusiasm from all concerned would be an enormous advance.

*Mr Child:* I absolutely agree with that. I also personally fear that there may be even some things in this paper which are more than the market can bear in some Member States, particularly against the background of the discussion on the constitutional treaty and the political ramifications of that. If the paper is couched in quite careful, measured language, it is precisely to avoid creating misunderstandings about an intention to do things which would have happened more naturally once the treaty was in place

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than is perhaps straightforward in the present political environment. Turning to your second question about the crisis response machinery in the Council Secretariat and the Commission, I think it is a very good illustration of why the treaty, which would have brought the two institutions' external relations machinery together, is such an important improvement. The reality is that the Commission has the responsibility under the treaty for managing certain instruments such as humanitarian assistance and financial assistance more generally when it comes to the reconstruction phase in a crisis, whereas, of course, the political response of the European Union to any given situation is something which naturally the Council has to lead on and has to co-ordinate. We do our best to make sure that there is proper articulation between those instruments in both institutions, but, of course, it would be more straightforward if we had the proposal in the treaty of a single figure—High Representative, Foreign Minister, Vice President of the Commission—who was leading institutionally the two branches at the same time.

**Q56 Lord Hannay of Chiswick:** But there is nothing in the treaty or the present treaties which says that the Commission and the Council Secretariat could not share a joint service.

*Mr Child:* The treaties would make it difficult, for example, for the Council to take direct responsibility for management of the Community budget.

**Q57 Lord Hannay of Chiswick:** Yes, but surely nobody in their right mind thinks a situation or crisis centre does either of those things, does it?

*Mr Child:* To the extent that the crisis centre in the Commission, which is co-ordinating the Commission's response, is suggesting that in relation to humanitarian disaster in a certain place the right response should be to mobilise humanitarian assistance, clearly that is something which has to be decided institutionally by the Commission through the Commission's institutional machinery and decision-making processes. It would not be appropriate or correct or possible under the treaties for that instruction or decision to be coming out of another institution. As I said, if we had a more unified set-up some time in the future with the treaty those sorts of co-ordination issues would be easier. The Commission needs to have its control on the policies for which it is responsible under the treaty. It makes sense for us to have, therefore, within the Commission a machinery to co-ordinate that work, particularly in a crisis.

**Q58 Lord Lea of Crondall:** We produced a little report in the summer of our earlier discussions which followed the initial publication in June of this report.

One of the points which struck a number of us was that you are developing every day new, pragmatic ways forward without any of this requiring heavy political or legislative action, and I was wondering if one of you would like to comment on how far that can go. I think this is in the same territory as Lord Hannay's question: how far do you go before you exhaust what you can do without new treaties and so on? We were all struck by how far you have been able to go on the relations with Iran, for example, where, as I understand it, you started a pragmatic approach with the EU three, Britain, France and Germany, with Mr Solana and, of course, then you inched towards some reporting back to the Council of Ministers and the Commission, and I see now that the European Parliament thinks they are not consulted enough, but that is an example of the huge space within which world requirements presented you with a challenge which you responded to. I was wondering if you could take a little bit further the question of how far the architectural arrangements *per se* are needed and how many areas there are you can go. I will just give another example. I have spent some of the summer in different parts of Africa, from Algeria through to Madagascar, and it is obvious that it is absolutely true that you need a single voice on the ground in many of these capitals simply because of the technical competence of people to deal with this single voice with the African Union and so on. Again, on diplomatic service, et cetera, how far can you go? Where do you hit the road block, in other words, when you go in these pragmatic directions?

*Ambassador Cutileiro:* I think it is like high jumping. You only know what you can jump when you try to jump the next step, so there is a bit of that. Take your first example. That has very little to do with the Commission, if I am right. I think Iran is a huge problem but it started being dealt with by the three and then, because Mr Solana exists, we have appointed the High Representative and that allows for the Union to be brought in, if you wish. At the moment I have not heard from any Member State that they do not feel that they are properly considered or consulted. Maybe the Parliament wants a bit more now, but there, you see, it is more of a political problem than an institutional one.

**Q59 Lord Lea of Crondall:** In other words, the road block really is not there in the sense that there is something—

*Ambassador Cutileiro:* The road block would be there if Ruritania, being a Member State, said to Mr Solana, "Look: you cannot go on speaking on behalf of us. You represent whoever you wish but you do not represent us". That has not happened. On Iran I do not see an institutional problem as such. On Africa, again, I do not know specifically the points. It is a complicated business but, as you know, the

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Union is the biggest provider of development aid in the world. The Commission has a huge chunk of that but Member States individually, some more than others, also have big blocks. To co-ordinate and organise all that is not necessarily easy. On the other hand, if I understood rightly what you said, the African Union may be a proper interlocutor for many African things, but may not be, even for reasons of absence in places and technical incapacity, the proper interlocutor for other things. I think we could go further than we have gone in the way I talked before about the paper and what the paper recommends. That is, what is recommended in the paper could go very far in obtaining a coherent and efficient European approach and results for Europe in this or that without touching on the prohibitions or the limitations established by the treaties. Let us take the presence of the High Representative at the Relex Group of Commissioners. It has happened a few times, not many. It could happen more often. It will have to depend to a certain extent on the subjects dealt with but also on the will from everybody concerned to get this thing moving. Also, as you know, the Commission and the Council have huge legal services. They are separate legal services even more separate than the situation centres. I suppose that they will be very aware if you start coming to the borderline and they will let you know immediately, I think. They may differ in their interpretation of where you can go, but I suppose great care is taken.

**Q60 Chairman:** Can I go to a specific question? You made some proposals in the paper about double-hatting heads of delegations and Special Representatives and that has been done in Macedonia as an exceptional case. Do you see scope for doing that elsewhere? Do you no longer think that Macedonia was a special case? Has it worked well for it no longer to be looked at as an exception, or, if it has not, what went wrong? Could we hear a bit about that?

*Ambassador Cutileiro:* I think it is going well in Macedonia because we have no problems with Macedonia. The idea in itself makes sense. The Union is one thing. There is the Commission, there are delegations of the Commission, and it happens that there are Special Representatives of the EU but as you know those representatives are often not representatives to a country but to a regional group of countries. Also, they usually are associated with a specific problem that has become very important and requires the full-time presence of a major actor at these things. To go back to the previous question and to the institutional aspect of this, the idea of double-hatting is a good one if we assume something like what the constitution foresaw, so that in the end you get an instruction from the same source. If you have not got that same source of instruction you have to

rely on circumstances that impose some kind of co-habitation, a bit of luck or whatever. For a variety of reasons it may well be done in some places and it may make a lot of sense, but it does not seem to me that it would necessarily make sense all the time. There are more than 120 delegations of the Commission. There are much fewer Special Representatives. For instance, there is a Special Representative for central Asia. I suppose the Commission must have delegations in six or seven places in that region.

*Mr Child:* Sadly not.

*Ambassador Cutileiro:* No?

*Mr Child:* We have one delegation in central Asia.

*Ambassador Cutileiro:* Then you may have a double-hatting. I thought you would have. Where are the other 120?

*Mr Child:* I will give you a list. It is true that in the countries of the former Soviet Union, for reasons essentially of budgetary constraint, we have been able to open fewer delegations in the recent past than in some other parts of the world.

**Q61 Lord Hannay of Chiswick:** Can I continue on double-hatting because I think your response slightly leads into this question? There seems to be a slight confusion between double-hatting delegations abroad when what one means is having a single person in charge of both the Council and the Commission input and that double hat being worn by a Special Representative. You have just illustrated why there might be some difficulty in the second of those if the Special Representative was a sort of peripatetic figure who was trying to solve a problem like the Caucasus, or whatever it might be, but that does not actually answer the question as to whether it would be a good thing to double-hat the Commission and the Council responsibilities in a particular place, which it might well be whether or not you give that to a Special Representative. I do not know if you saw that this Committee, in a report we did on the strategy for Africa, explicitly recommended that the delegation in Addis Ababa needed to be a single, more coherent delegation which brought together in a fully coherent way the input on things like peacekeeping in the African Union and all the developmental work that goes on too. I do not know what your response would be because I notice that your paper only referred to the Balkans and not to Addis Ababa or, for example, to New York where I have never fully understood why there had to be a Council office and a Commission office, frankly. It does not seem to me a frightfully useful allocation of resources. Perhaps you could comment a little bit more on those thoughts.

*Ambassador Cutileiro:* It would make a lot of sense for the European Union to be represented in a unified way, both Commission and Council, but as things are now what I was saying was that the Special

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Representatives usually are appointed not so much to represent the Council in that place but to deal with a specific problem of the area or of the country. On New York, for instance, I agree entirely with you: it does not make sense to duplicate. The difficulty, I suppose, then becomes a practical difficulty with the treaties as they are. Who is going to be the person? Is it going to be someone sent by the Commission or someone sent by the Council? In the end the problem I mentioned remains. There may be a difficulty. As far as I know, but you might correct me, there has not been that problem in Macedonia. Everything has gone smoothly with no problems here and no problems there. If that is repeatable everywhere perhaps it is worth trying bit by bit to see if it works, where it makes sense.

**Q62 Lord Lea of Crondall:** Could I extend this duality of Commission/Council to the third leg of the triangle, which is the Member States? There is a question we have to ask you about whether the Member States are willing to give further consideration to the sharing of premises and support services. Of course, in one sense the premises are immaterial but we all know that it does make a difference if you are in the same building. Perhaps you could characterise what Member States' motivations actually are in this debate because presumably the feedback you get about the views of the Council of Ministers is from the same people who have views about their own bilateral relations in Africa or Latin America or central Asia or wherever it is, and sharing of premises is symbolic, of course, there being one place called Europe and so on. Could you comment on that third leg of the triangle, namely, the attitudes of Member States towards their own services in a third country vis-à-vis this duality of the Council of Ministers and the Commission?

*Ambassador Cutileiro:* What is the position? What do we know about sharing premises? Are there countries that share premises with the Commission? How does it work? I suppose some countries like it because they can benefit from the Commission installations and in some cases the other way round. I do not know.

*Mr Child:* It is not a very common practice at the moment, but there is no institutional or legal reason to be opposed to it. There are one or two successful examples. There is certainly one case of a building in an African country where there are at least four Member States, I think including the UK and the Commission's delegation, and that seems to work in a satisfactory way. We have recently opened a delegation in Baghdad and have been pleased that it has been possible to have our staff working out of premises at the British Embassy and also benefiting from the security that goes with that. Similarly, the people who are working from the Council Secretariat on the EU JUSTLEX mission are also based in those

same buildings in Baghdad and that helps with the co-operation between the two and is also successful, although I guess that if we were systematically placing our representatives in the buildings of a small number of perhaps larger Member States that could over time lead to sensitivities among other Member States. In terms of sharing premises, we are open to that on a short term basis, as we did recently when the Spanish Government approached the Commission and said that they had a need to have some migration experts working in a number of African countries where Spain did not have an embassy and we were able to accommodate those people, who of course remained under the authority of the Spanish Diplomatic Service but for practical reasons were able to take advantage of the infrastructure that we have. In terms of an openness to go further on that sort of rather pragmatic thing, there is no difficulty at all with that. Coming back to the more political question that Lord Hannay was asking about how we see the whole question of double-hatting at the level of delegations, the Commission's view which was reflected in this paper was that it is something which can offer advantages in specific cases, and the Macedonia case is the one exceptional case that we have at the moment. It is working well in practice, as the Ambassador says, but it has also raised some questions in the minds of some about how this fits with the broader treaty environment. What I would say is that we have a preference to see double-hatting rather than a proliferation of Special Representatives and associated support staff which could over time lead to almost a total duplication of the Commission's delegations. So even though double-hatting is not without its legal, budgetary and political complications we are open to examining it on a case-by-case basis where it makes sense. The point about the African Union that you made is one which we are thinking about. Following the Commission's visit to the African Union last week we have started work on upgrading our own Commission representation specifically to the African Union but, of course, you are absolutely right: there is a whole political agenda, which is more the business of the Council, which also needs to be brought into that. If the choice comes down to having two EU representatives, one Commission and one Council, a bit on the New York model, or a double-hatted representation, I can see at least some advantages in the second model. As for New York, as I think you will know better than I, the sensitivities about the way that the European institutions relate to the UN system perhaps make it not the ideal test case to be improvising or innovating in this respect, and so while the logic would suggest that having one single EU representative to the UN would have strong advantages in terms of our influence in the UN system, we also have to reconcile our internal sensitivities on that.

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**Lord Hannay of Chiswick:** I thought the sensitivities were rather greater between the two institutions than with the Member States.

**Lord Lea of Crondall:** When I open my passport it says “European Union”, da-di-da-di-da, and then “United Kingdom”, da-di-da-di-da. Obviously, there are many parts of the world where you do not have an arrangement from your own country, even though you are a member of the European Union, and it does reflect in my experience that it is rather obvious that in many parts of the world, take a hypothetical case, Latin America, it may be the Spanish Embassy that for historical reasons is taking a leading role or is a main representation or the only representation from a single European country; in Africa it may be France, it may be Britain, et cetera. This also relates to the pressure on the foreign offices and development ministries of the nation state, that they cannot be in 200 countries in the United Nations (or however many there are) and so they are cutting down. We cut down ten posts this last year, I think, and I think we have the same number of embassies as France around the world and we are the biggest in the European Union, I think. There is going to be more rationalisation given the pressures of major investments of resource, and Baghdad is a very good example of that. Does this not mean that, again pragmatically (or is there more to it than pragmatism), the consular question and being able to have some sort of common consular facility if you are a member of the European Union is increasingly on the agenda and are there any difficulties about developing that?

**Q63 Chairman:** Can I just add to that question, because I think the Ambassador said there were some things in this paper that might be a step too far?

*Ambassador Cutileiro:* For some, yes.

**Q64 Chairman:** Would having the Commission effectively giving consular assistance and perhaps in some instances effectively acting as the Consul be one of the things that you think would be perhaps too far for the national sensitivities of some Member States?

*Ambassador Cutileiro:* I am sure it would be because during the preparation of the paper talking to the Permanent Representatives here one at least told me, “I cannot see consular assistance being done to my compatriots except by my compatriots. I cannot see it otherwise”. Of course, if you have a tsunami, I suppose then whoever is there, if he or she can help, had better be prepared to be able to do so, but as a rule, as I am telling you, I felt some *hésitation* from Member States, but it was not you, it was not the French. It was another country that put that problem.

**Q65 Chairman:** What sorts of changes do you envisage in this proposal, because I think I am right in saying that citizens could look to diplomats of other Member States for consular assistance under the treaties as they stand at the moment? In practical terms what are we talking about in terms of this proposal?

*Mr Child:* The starting point, you will recall, was the particular concerns of a number of Member States, including Sweden and Austria (who had the Presidency at the beginning of this year) during the Tsunami. For these countries, the absence of a consular presence and weaknesses in the way some of their nationals were treated gave rise to a strong push for a more active policy at a European level specifically in the area of disaster response, dealing with the sorts of crises that the Ambassador has mentioned which are beyond the means of any national service, and particularly in situations where there is no presence of quite a lot of Member States. If the only response in the present situation is by those Member States that are there, are available and will help, the financial burden on the small number of well represented Member States around the place can get really quite high, and there are Member States who are sensitive to that. This is again a sort of pragmatic, demand-driven proposal, if you like, to the extent that the EU delegation in a crisis situation can provide some help in co-ordinating the response of different services and Member States that might be involved. The recent experience in Lebanon was a very good example of that when we were involved in the evacuation of even nationals and other countries’ people who were caught up in the violence, and the various other nuts and bolts strategies of getting people together and saying, “We have got a ship going here”, or, “We have got a convoy that is leaving then; organise your people to be ready for that”. Those are the sorts of areas where this proposal is a starting point. It is also important in the public debate on this topic to draw a clear distinction between the sort of consular relief for European citizens who are caught up in third countries in difficult situations and the business of issuing visas and looking after the flow of people in the other direction, which is something which is clearly a national responsibility and will remain so.

**Lord Hannay of Chiswick:** I just make the comment that I thought this was the least promising of the areas that you had identified, probably because of the sensitivities, and certainly, judging from the way in which people are caught up in these disasters and then blame whoever it is who has been asked to help them, which has been very noticeable in our country, I am not sure if you might not be taking on another task which would get the EU into some disrepute.

**Q66 Lord Lea of Crondall:** Can I just say that I think it is a very promising area. I have just been in Algeria and we have no arrangement to issue visas apart from

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through Tunisia, and in the medium term even on the visa question it is a very heavy bureaucratic burden around the world doing the thing as at the present time. It causes great stress between Britain and Algeria. It means they are resisting students, I think it is fair to say, coming to Britain because we find it difficult to process these things speedily and so on. You can take all the countries in the world. I do not think that is a bridge too far and I think this is a very promising area.

*Mr Child:* It is certainly one where the perceptions between Member States do differ quite a lot.

*Ambassador Cutileiro:* Indeed, even within the same Member States.

*Mr Child:* No, but, particularly in those Member States which have less well developed consular networks and resources in third countries and for whom the cost of managing the networks that they have weigh very heavily on their public finances, the enthusiasm for a greater degree of co-ordination between EU Member States is fairly strong.

**Q67 Chairman:** You talked about the Finnish Presidency picking up the suggestion about the meetings with the Presidency, the Foreign Minister and the High Representative and all the other people. Apart from that how do you see the High Representative becoming more involved with the work of the External Relations Commission on a day-to-day basis? Six-monthly meetings are fine and in a sense, informal though they are and inevitably slightly stage-managed, it is what happens on a day-to-day basis that can make a real difference.

*Ambassador Cutileiro:* That is important because that is a way of somehow calling attention to these meetings, to who is involved and whether we are talking about foreign presence, if you wish, of the European Union. I think a lot will happen. First there are the Relex Commissioners' meetings. The High Representative has come to these meetings before this paper. In fact, since this paper he has not, but he will. I think that is a very important thing, but it is also accompanied by quite a lot of exchanges between the Directorates and the Cabinets in Relex itself and in the other foreign-vocated Commissioners, and the Council Secretariat and the top brass of the Council Secretariat. Then there are papers that have been done by the two sides. There is very good co-operation going on in the PSC. That started some time ago. The representative of the Commission has been changed recently because the one that was there went back to his country to do something else. It is a good example of very good collaboration or, if you wish, co-ordination within CFSP and the Commission, so there are many areas where it works. Obviously, again, those involved in it have to be very keen on making it work. If they are not then it does not work that well.

*Mr Child:* In terms of the day-to-day co-operation, it is the case that the Commissioner and the High Representative find themselves together in the same meetings and co-ordinating the EU position in advance of those meetings more often than perhaps is widely recognised. For example, at all the Troika meetings and the meetings, that just took place in the context of the UN General Assembly in New York, both were present and participated in many meetings also alongside the Presidency, and of course there was careful co-ordination of positions on the EU side before those meetings took place. Also, the Presidency has a tradition of holding a dinner or some other form of preparatory meeting for the Minister of the Presidency, the High Representative and the Commissioner before every meeting of the External Relations Council, which gives them an opportunity to go through together the various issues and to compare notes on the positions that they will be taking and what their expectations are for those discussions. The reality is that there is already very close working day-to-day at the level of the Commissioner and the High Representative which, as the Ambassador said, is mirrored throughout the system.

**Q68 Lord Hannay of Chiswick:** Do you not think that one of the best things that the European Council in December could do would be to state categorically that the 25 or 27 Member States want the Commission and the High Representative to do as much as they possibly can together and to make it clear that the political will of the Member States was that the institutions should work as closely as possible together wherever possible? That would send quite a strong signal, would it not?

*Mr Child:* As long as by sending that signal it did not call into question the present reality of very close co-ordination. Feeling a need to make such a solemn declaration appears to question whether the situation at present is satisfactory.

**Q69 Lord Hannay of Chiswick:** You might say that this paper does that too.

*Mr Child:* In which case we welcome the way in which the European Council in June was able to give a favourable response to the proposals in it.

**Q70 Chairman:** I do think we have to look at what is going to happen on the ground, how you are going to improve the exchange of information, the analysis, the policy and all the things that were mentioned. Some of us spent a day here last week listening to improving coherence and co-operation on development.



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**Q71 Chairman:** A great deal was said about it but as to how much of it actually happens on the ground as opposed to generating a lot of heat amongst people who are sitting through a meeting is perhaps questionable. I do not think any of us would question the motives behind this paper but there is some truth, I think, in what Lord Hannay said, that clearly the Commission sees scope for improvement, so how are we going to get these things actually going on the ground?

*Ambassador Cutileiro:* The difference between this and what happens in development is that in this case the ground so to speak is here. This is the ground, so in principle you should be able to control and co-ordinate and make it work much better if you have the political will to do so from the side of the Commission and the side of the Presidency.

**Q72 Chairman:** I suppose that is the other question, is it not? You keep referring to political will, which I think nobody would disagree with. How do you read it? There will be warm words in December, no doubt, but do you think that Member States really do have the political will to make it work?

*Ambassador Cutileiro:* If they are put into a corner. It is very simple. Europe will have as much foreign policy, determined by its Member States, as it will need, with luck, in the tight spots in which Europe will find itself. At the beginning of our paper it says that we do not live in the same world where Europe blossomed, if you wish, or in the illusions that followed the Second World War. We are in very tight competition with other powers. We have dangers very different from those we had before and little by little, I think, countries are in some areas beginning to understand that they get away better with it if they stick together than if they go their separate ways. That is it. If a government in a country does not realise that it is better for that country to get together with the others and prefers to go it alone, it will go it alone.

*Mr Child:* I am sure we would all share that view.

**Q73 Lord Lea of Crondall:** This is very much a theme we picked up in our Africa report, which I commend to you, vis-à-vis the role of China, because it is rather obvious that they play by a different set of rules. They can twist and turn in Khartoum in a way that we cannot but Darfur is there and we have to help, as we probably can, build up the role of the African Union. I would just like to put on the table the fact that we are searching our own navels all the time but surely it is the rest of the world that will judge whether we are doing a competent job, it is not searching our own navels in Brussels or London, and so can I put the question this way? Perhaps this is a question to Patrick Child, but I am very interested to hear you say a bit more about how the Commission read the

situation with the African Union in Addis Ababa because we are rather schizophrenic about it, quite honestly. It would absolutely be a fine thing if we could build up the competence of the African Union but as soon as you pose the question in that form it is not we that can build up the competence of the African Union or that we can have a strategic partnership with Africa but whether the interlocutor at the other end wants to have a partnership and wants to make a 50 per cent equal input into that partnership. There is some evidence that the African Union not only is not all that enthusiastic about somebody else's strategic partnership ideas, but also—and, Ambassador, you have been in Johannesburg and in Mozambique and so on; you know it backwards—how can we help build up the competence of the African Union in that case? Is that not a vital purpose of foreign policy so far as Brussels is concerned? Did the meeting in Addis Ababa give any more focus and, as it were, push the rock further up the hill for those reasons?

*Mr Child:* You are completely right that we are not in a position to impose our vision on our partners in third countries. What we can do if we all agree that our strategic priority in Africa is to build up the African Union is to devote our political attention and our financial resources in the direction of the African Union rather than other regional organisations or by working bilaterally with countries of the region. The Commission's meetings last week were a contribution to that, and a welcome one, I hope. I do not know more of the detail about how we will now take that forward but I think the political message that the Commission is taking the African Union seriously as its primary partner in Africa was very strong and we will now, with the President and with Commissioner Michel who is responsible for the relationship with those countries, take that policy forward. If I could just come back to the question about political will more generally, the interesting thing is that in an abstract way, if you ask the question to Member States, "Do you want this to happen?", the answer is yes, but the difficulty always comes when you are looking at specific cases where the challenge of making it happen is compromise or nuance in strongly held national positions. My answer to the question of how do we make progress, and, Chairman, your question on a shared analysis and getting people to work together, is to pick on those concrete examples where the system is working well and has potential to work better. This is more productive than having a sort of theological, institutional, legalistic debate about hypothetical situations and legal constraints and how might they apply in such-and-such a situation. Instead we should actually roll our sleeves up and look at concrete situations like the work we have done recently on the Temporary International Mechanism

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to support the Palestinians under the mandate from the Quartet, where there are very good examples of the EU working together making a significant and positive contribution to big external relations challenges that we collectively face. Thus we can demonstrate to ourselves, to our Member States, to public opinion and to actors in third countries that it is through those sorts of concrete examples we can make progress. Then, as the Ambassador says, we may have the courage to put the high jump just a little bit higher next time.

**Q74 Lord Hannay of Chiswick:** We have been talking quite a lot about political will in terms of a top-down political will, that is to say, the Council, the European Council, whatever it is, as it were willing that certain things are done that have not been done hitherto in a more coherent way, but do you not think that there is a serious bottom-up cultural problem out there as well, not only in terms of the Member States vis-à-vis the institutions of the Union but also between the institutions of the Union on the ground which has to be addressed, partly no doubt by the policy which you referred to in your opening remarks about your exchanges and so on, because it is quite evident if you travel around the world, or, as I did previously, work in it, that for all the top-down impulses you can have it can all come to nothing on the ground if there is not a cultural shift in the way in which people work together?

*Ambassador Cutileiro:* Which people work together?

**Q75 Lord Hannay of Chiswick:** The Member States' representatives and the representatives of the Council and the representatives of the Commission.

*Mr Child:* I think there is a lot of work to be done on building a shared culture of European external relations between Member States and the EU institutions. I would say that that is probably the first challenge, and then perhaps also between representatives of the different institutions. You are right: that is one of the things that we have in mind as we launch this exchange programme and I hope that this paper will lead to improvements on that. Of course, there is a link with what happens at the top. The messages are going out from the national capitals and from the headquarters of the different institutions here in Brussels, but certain institutional sensitivities have to be managed in a particular way. That will obviously have repercussions on the ground and the reverse is also true. I absolutely agree that fostering a more shared culture of EU external relations in a joined-up operation throughout all our institutions and the Member States is one of the biggest challenges we have got.

**Q76 Lord Lea of Crondall:** Can I just endorse very strongly what Lord Hannay has said about the bottom-up in terms of public opinion because I think one can, correctly handled, see some hopeful signs of a new paradigm emerging out of the globalisation debate in European public opinion, including in Britain. If people do not shout about abstract nouns like "constitution" and so on, I think that, looking at China and looking at India, without specifying wars of religion or clashes of civilisation, the paradigm which is emerging is that we do need to be able to deal in the world as a very experienced area where we cannot let the single-mindedness of China, for example,—“We will help you in terms of you giving us your raw materials and we will give you some new roads and schools, no questions asked about human rights”, or whatever, take precedence. I think that there is a question as to whether the new paradigm of where Europe fits in is something that you should make more speeches about or, as one of our politicians famously said on one occasion, “Let's go round stirring up apathy”. The jury is out at the moment as to whether to shut up about everything or whether to say some of these things. I would be interested, Ambassador,—and I do not know whether I am making myself clear; probably I am making myself very obscure because I tend to go off at a tangent—if you felt that a moment was arising with all these debates swirling around in the world—and certainly religion and globalisation are the two words that keep coming into all this—when the European role is the one that people are searching for but in a totally different way from what they think they are being sold or have been sold in the past.

*Ambassador Cutileiro:* If you look at the opinion polls and the Euro-barometers and so on, everybody will tell you that the European ones say very often that Europeans want a stronger European foreign policy. That is all very well. I suppose they all want to be able to have Europe perhaps say no to the Americans in some moments, if I read the mood of the public in some ways. This is all very well. Europe should have a voice, fine, but then you go into other things and ask, for instance, if people want to spend money on defence. Then people do not want to spend more money on defence and if you do not spend more money on defence you are not going to have—

**Q77 Lord Lea of Crondall:** Who says that?

*Ambassador Cutileiro:* Everybody. There are polls on that: how should a national government spend the public's money, and defence comes very low down usually.

**Q78 Lord Lea of Crondall:** It depends on the question.

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*Ambassador Cutileiro:* There is no point in going through the whole thing from 1957 onwards, from the end of the Second World War. This project will go on and succeed if it is good and useful for the people that are Europeans. It has done very well in some areas. If you look at trade, for instance, I think it was a Belgian Prime Minister who said once that Europe was a dwarf in political terms and a giant economically. Well, it is a giant economically. When Peter Mandelson, and before him Pascal Lamy, went to Washington they were treated not like when Javier Solana goes for security matters. It is different. We are very strong in some areas and these are areas that have been simplified a long time ago. There are two areas now where you can see that all the time there is a debate going on. One is energy and the other is all this business of freedom, justice, home affairs and so on. They are national, they are very different, but these are two areas where it may emerge in the end that we will do better if we put more things together than we have up to now. It is in this way that this project will go on. It is a very strong project and it will go on, I believe, because it is better to go on with it than to go separately in different areas.

**Q79 Chairman:** Ambassador, we are coming to the end of our time. You were talking about the public and at the end of your paper you talk about improved accountability and visibility and that the European Parliament and national parliaments have an essential role to play. I know things are different in each country, but the European Parliament does not have a big role in foreign affairs as we understand it in the UK. You could say that our Parliament does not have a big role since foreign affairs is in the hands of Government rather than in the Parliament. You also talk about developing awareness of the EU through the visitors programme and the involvement of citizens in public debates. I pose this as a question. I hope that we would have where possible a common policy but is it not in fact going to come from the leadership of the Member States, not from some notion that there is going to be some groundswell of public opinion, or indeed even through debates in

Parliament? Are we not totally dependent on the political leadership of the Member States saying that this is what they want to happen and persuading their electorates that that is the case? The rest of this really is not going to help, is it?

*Ambassador Cutileiro:* I fully agree with that and, besides that, on the national parliaments, I think the national parliaments were put in there (this is how I saw it) because there are some problems, I think, with the European Parliament when it comes to foreign policy; we know that, and even if you say that in your country foreign policy is the Government it is the Government because the Government has convinced the Parliament to do it that way; otherwise the Parliament could, I suppose,—

**Q80 Chairman:** I am not sure that is wholly true in the UK, so we probably need another hour.

*Ambassador Cutileiro:* The political will is certainly fundamental and, of course, David was saying the bottom-up thing. Of course, it is also important, but there are at the moment difficulties if you look at enlargement, where there are in all Member States many people going against it, and I find that enlargement is a fundamental ingredient of European power. It is not only for European do-goodness; it is different. That is happening now and it is used by populist politicians—let us call them that—to prove that. Of course, what the public says and what comes from the grass roots, if you wish, is important. But the way politicians will address that is fundamental. If politicians deal with that properly I suppose we have a chance of getting some things done still.

**Q81 Chairman:** Ambassador, Mr Child, everyone, thank you very much indeed again for giving us so much of your time. It has been very interesting. As I say, we will let you have a copy of the transcript in case you wish to clarify anything. We will be producing the report hopefully before Parliament rises, so we have a lot to do in a very short time. It has been a very helpful and interesting afternoon. Thank you very much indeed.

*Ambassador Cutileiro:* Thank you very much for coming here.

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### Examination of Witnesses

Witnesses: MR ROBERT COOPER, Director General, External Economic Relations and Politico-Military Affairs, and MS ELENA PERESSO, Assistant to Mr Cooper, General Secretariat of the Council of the European Union, examined.

**Q82 Chairman:** Good afternoon. Thank you very much for seeing us. I know you are very busy today. As I am sure our Clerk has told you, we are the Foreign Affairs Sub-Committee of the European Union Committee of the House of Lords and we are doing a short inquiry into the Commission Communication *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility*. There are a number of things that are of interest to us, both in the detail of the proposals and how those are going to work, given that there is not a constitutional treaty to achieve some of that improvement. The Commission have put this paper forward; it is clearly their paper, but I think we are probably forming the view that for all this to happen it will need the enthusiastic endorsement of the Member States, so from this side of the road what has been the Council Secretariat's response to the paper and how, if you do see it going forward, do you see it being taken forward?

*Mr Cooper:* [I think] the European Council welcomed the paper. I am not sure that it discussed it very much. We found it slightly paradoxical that the Commission wrote a paper recommending lots of co-operation with the Council. We would have been very happy to have written the paper with them. If that was what they wanted to talk about why not do it rather than write about it? Maybe they had their own reasons for that, and perhaps Mr Cutileiro has explained. As for the rest, broadly speaking what is in the paper did not seem to us to be very revolutionary. Most of it seems to be common sense. Much of it is already happening in different ways. It talks about joint papers, for example. We have always been ready to do that; we do it whenever we can because it does absolutely no good to the working of the Council to have two papers on the same subject. It is much more sensible to produce a joint paper, and as I say, we do that whenever we can. Many of the things which are in the paper already exist either regularly or in embryo. For example, I am not sure whether the paper talks about double-hatting—

**Q83 Chairman:** It does.

*Mr Cooper:*— but that exists already and so far as the Balkans was concerned had already been put forward in a joint paper by Javier Solana and Olli Rehn, in fact, I think on more than one occasion. When I say “on more than one occasion”, first, I think they have specifically talked about this in the context of Bosnia, and, secondly, in a general look at the Balkans following the Hampton Court Summit, because we think that the Balkans is a mess; there are far too

many different new institutions there, having a single policy and a single voice and as far as you possibly can a single representative makes sense. Much of the document seemed to us to be rather obvious, already existing, so it did not create enormous excitement, not because we disagreed with it but because most of it we are already doing.

**Q84 Chairman:** I am not sure how well I am entitled to draw this distinction, but are you speaking from the point of view of the Secretariat or from the point of view of the Council itself?

*Mr Cooper:* I was speaking rather from the point of view of the Secretariat because quite a lot of the recommendations refer to the Secretariat.

**Q85 Chairman:** Do you think the same kind of attitude would be expressed by the Council? I think some people think that whilst they may seem common sense some of the things in here might give rise to some resistance by the Member States.

*Mr Cooper:* Which ones were you thinking of?

**Q86 Chairman:** Consular representation for one.

*Mr Cooper:* Yes indeed, I can remember that was one of the things I had to think hard about.

**Q87 Chairman:** I am sure my colleagues would like to come back to this point but, sticking with the double-hatting issue which you raised, the double-hatting arrangement in Macedonia I think is a temporary and special arrangement. Are you now thinking that it worked so well that there is no reason why it cannot be done elsewhere?

*Mr Cooper:* Broadly speaking it has worked quite well in Macedonia, and no doubt the individual concerned has played an important part in that. I know that he has made a particular effort to ensure that he knows the ambassadors in the Political and Security Committee and that he is familiar with the people in the Cabinet and so on, and he works very closely with the others in the Secretariat here. Also, it came at a particular moment in the development of Macedonia and of our relations with Macedonia, which again was the second reason why it worked well. Macedonia did not want to have another EU Special Representative, and it made a positive contribution in that it was actually useful to have somebody responsible for the Police Mission who then later became responsible for the European Commission programmes in the area of the rule of law, so there were practical and political reasons why I think it has worked. Each of these countries is

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different and needs to be handled in a different way. The proposal for double-hatting in Bosnia is something very different from Macedonia. Macedonia was a situation where we were very clearly winding down and where Macedonia had passed the crisis phase and was becoming a candidate for membership of the European Union. Bosnia is in quite a different state and the reasons, I think, for wanting double-hatting in Bosnia are slightly different from those in Macedonia, and we probably want a different sort of person in Bosnia.

**Q88 Lord Hannay of Chiswick:** I would like to raise two points on double-hatting and a more general one which we can come back to. First, is it right to think that the double-hatting of the Commission Head of Delegation and the Council's Special Representative is only one aspect of this problem? The other aspect is making sure that in a place where there is substantial input by both the Council and the Commission into the relationship with a third country double-hatting can be useful whether or not there is a Special Representative. I do not know if you saw the case that this Sub-Committee took up but it followed some discussions we had with Javier Solana, who gave evidence focused on the strategy for Africa, where it seemed to us that the representation in Addis Ababa would do that with a great deal more coherence than it currently had, given that there was now a dialogue going on both on developmental issues and on peace and security, the African Security Council, all that sort of stuff, and that this was just the sort of area where in a pragmatic way one should think about that. Could you comment on that question of whether the double-hatting is not rather more far-reaching in its potential than just the Balkans which you have already covered?

*Mr Cooper:* The important thing for double-hatting to work is that the Council and the Commission should have the same policy. That is what they ought to have anyway. I have not thought about the question of the African Union in detail. I think that having a good representation with the African Union is potentially very important. What we do with the African Union at the moment does cover the whole range. It covers peace and security and finance, and indeed finance of peace and security. Personally, I can see great attraction in double-hatting there but my immediate feeling is, well, you need somebody rather political to deal with what are some very sensitive issues sometimes. This is not just an aid function; you also need somebody who is trusted and works with the Commission well back here. It might be quite difficult to find the right person but there are 450 million people in Europe so perhaps it is possible.

**Q89 Lord Lea of Crondall:** And there are 800 million people in Africa and I would like to pick up that point

if I may. I am very struck, Mr Cooper, by your opening remark, "All this stuff about co-ordination. Why the devil did we not write the paper together?" I am afraid that now you have triggered that point I have to say that it seems to me rather extraordinary. If we are looking at the world and China and Africa and so on, actually it is a paper about searching our own navel and it is arguably not quite so strong on how we get a better interface with China or Africa and so on. Just on that point about double-hatting with the African Union, for example, is it not a problem if we do not, as it were, see all these architectural structures as functions of what is an appropriate architectural relationship with the interlocutor, because unless the African Union can have double-hatting, which is *de facto* what they do, there are some Commissioners on the European model to some extent—I was very struck two weeks ago in Algeria—I am Secretary of the All Party Group on Algeria—saying that in the case of Darfur, of course the Algerians are very active. It so happens that they said that the African Union Commissioner for Peace and Security is an Algerian and that is why we will stand behind putting more AU pressure on Khartoum and so on. I thought it was a very interesting illustration, that a lot of these questions relate to the competence and architecture of the interlocutor. Would you comment on that a bit further?

*Mr Cooper:* You lost me in Darfur because I remember thinking that it is an extraordinarily difficult problem for all of us. We have been heavily involved in Darfur. Essentially the EU and the US are the two main donors supporting the African Union in Darfur but it is extremely difficult to work with the African Union as well.

**Q90 Lord Lea of Crondall:** Can I remind you of the essence of my question, which is this: they have a Commission there, do they not?

*Mr Cooper:* Yes.

**Q91 Lord Lea of Crondall:** I suppose, come to think of it, that the difficulty about having a relevant, credible discussion with the African Union Commission, if you put your finger on it, is that unless South Africa is there, unless Nigeria is there, unless Egypt is there, unless Algeria is there, who the devil are you talking to? Is this need for them to appear in front of us double-hatted, which is very difficult to get them to do, not going to be enhanced if at least we can appear double-hatted? We need a much better relationship. We produced a so-called strategy—it is called the Strategic Partnership for Africa. I would have preferred to call it, frankly, for the African Union, because this is precisely the question: unless they can have some transfer of responsibility or some committing of political will

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and resource on their side—is there not actually a degree of reciprocation needed between different parts of the world, how far we can commit a resource from the Member States, which is partly what double-hatting is all about? After all, it is not an abstract debate about the Council of Ministers and the Commission; it is really a debate about the Member States' commitment.

*Mr Cooper:* Yes. Perhaps I can answer that from a slightly different point of view. One of my reactions on reading the Commission paper, against which I have nothing because I have no problem with this, was to say to myself, "This is fine but the real problems in making the European Union work are not very much about the Council Secretariat and the Commission and the Council of Europe. The real problems in making the European Union work are about creating a consensus in the Council for action". It is about getting the big players in the Council to see that they have a common interest in doing things together and that is a political task, and that is what Javier Solana does, actually. I think it is probably even more difficult in the African Union to do that, but first of all demonstrating that we can do it is an encouragement to them and, secondly, demonstrating that we take the African Union seriously is an incentive for the big players in the African Union to work through it, but I think this will still be a long task, as it is a long task in Europe as well.

**Q92 Lord Hannay of Chiswick:** You were not over-enthusiastic about the paper in your first comment. Do you think that the Commission paper has used up what I would call all the headroom between daily practice now and treaty change, and, if not, what more could be done?

*Mr Cooper:* I know that Charles Grant has some extra ideas about ways in which the Presidency has quite a lot of flexibility. There are ways in which the Presidency could, if they chose, enhance the role of the High Representative but, to be absolutely honest, we are busy enough as it is. I am not sure that being given more to do would really help us. I see it not so much in terms of headroom. I think that Europe develops by people doing things and that is what we are occupied with on a day-to-day basis. Successes are pretty hard to come by, but it is actually doing things which demonstrate that there is real value added in functioning at the EU level in spite of all the difficulties, the Gaza crossing point at Rafah, for example, which would not function without the European Union. Although we did not get the result we wanted on Iran I thought it was a powerful demonstration that it was the European Union High Representative who was working with Larijani to try and get the negotiations started. That is not institutional change or headroom but that seems to

me, in the absence of the constitution, to be the best way forward.

**Q93 Lord Hannay of Chiswick:** But presumably your response to that might be slightly different if you knew how long it was going to be before there was any form of treaty based institutional change?

*Mr Cooper:* Well, yes, perhaps. I assume it is going to be some time at any rate. I assume that it is going to be beyond my working life. I think it partly represents a feeling on my part that the proposals in the constitution on foreign policy were extremely good and extremely sensible but I do not see how you can do most of them without treaty change because the key to it is fusing at the top the Council and the Commission. Short of that, the other things you can do are either common sense or, if you cannot grow in an inorganic fashion via a new treaty, then you grow in organic fashion by doing things.

**Q94 Lord Lea of Crondall:** Can I illustrate this by reference to how you developed the Iran exercise? As I understand it, Britain, France and Germany kicked it off and it clearly became a very important negotiation dialogue indeed. It may not have reached a very happy conclusion but eventually, as I understand it, you started to report back to the Council of Ministers and now there is a question in the European Parliament about what they themselves do about what goes on and so on. It is another illustration about why it is a bit unfortunate that we are discussing a Commission paper because clearly that was the Council, not the Commission. However, let us assume we are discussing a joint paper because otherwise we keep having to nitpick about who has written this paper, which is just irritating. Would you think that is more generally the case: just get on and do things, whether it is energy policy or policing or whatever it is, until you hit a road block of a constitutional nature? From what you are saying, Mr Cooper, it seems to me that you think—and I am not disagreeing; I am just asking a question—that you can do an awful lot without hitting any road blocks. Is that what you think?

*Mr Cooper:* Yes. I still think that what was proposed in the constitution was easily the best way that I have heard suggested of combining the strengths. What we have at the moment, if you take North Korea, is that we have probably got half a desk officer in half a dozen Member States on North Korea. If we could find a way of combining that we would have some serious expertise on Korea instead of mediocre expertise spread laterally through the European Union, and I thought that the constitution provided us with a way of doing that which at the same time would give the Member States real involvement in the day-to-day running of things. Meanwhile, without

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any constitutional change we are doing an awful lot more than we were doing four years ago.

**Q95 Lord Lea of Crondall:** Are you surprised that you are able to do a lot more than what you thought you would be able to do, having come up this high, of, “It is all in the constitutional document”?

*Mr Cooper:* No. Before the constitution, during the constitution and after the constitution we have been incredibly busy and we remain incredibly busy. Somebody once came and said to me, “Are you very depressed about the constitution?”, and I said, “We are too busy to be depressed”. A lot has changed but I agree with Jean Monnet, who is quoted, at any rate, as saying, “Nothing is achieved without men. Nothing lasts without institutions”, and at some point it makes good sense to fix these things.

**Q96 Lord Lea of Crondall:** You sound like a TUC General Secretary.

*Mr Cooper:* Really? Okay. Well, then, it cannot be wrong.

**Lord Lea of Crondall:** That is a compliment.

**Q97 Chairman:** How important do you think the proposal is—and I gather it has been taken up by the Finns—of bringing the principal players together every six months? Do you see that as having a real role?

*Mr Cooper:* It is difficult to say because it has only happened once so far and it happened without my boss being there because he and I were with Larijani in Vienna. To be honest, these things can be useful but I think what really matters is your day-to-day co-operation. Decisions do not conveniently organise themselves to happen once every six months. What matters is that, for example, on Bosnia at the last Council Javier and Olli Rehn produced a joint report setting out the next steps, the way forward in Bosnia. That is the kind of thing which makes it work together.

**Q98 Chairman:** Taking your point, that you cannot achieve everything without a constitutional change, how far on a day-to-day basis do you think you can actually go to have Relex Commissioners and Javier Solana working together and their staffs? How far could we go?

*Mr Cooper:* Very far, actually. We can go a long way. I will come back in a second and tell you what we really miss with the constitution, which is something different. Javier and Olli Rehn work extremely closely on Bosnia and Kosovo and then in Macedonia we have double-hatting. The whole of the Balkan thing they do pretty much together. He and Louis Michel have a very good relationship indeed. The thing I remember is them both being there

together in Kinshasa and persuading Kabala to rewrite the constitution. There again, their paths cross a little bit less often because Louis Michel is involved across the whole of Africa but we have worked extremely closely on Sudan as well, and with Mrs Ferrero-Waldner in the Middle East the Commission has done an extremely good job in getting the temporary international mechanism going in the Middle East, and Javier is there all the time. Again, it works on a practical, day-to-day level extremely well. There in the Middle East perhaps, if you looked at the EU Special Representative, Mark Otte, he works very well indeed with the people on the ground in the Commission because they have a common interest. He brings something that they do not bring, which is political access and the knowledge of what is going on politically. They are involved in the day-to-day business of aid projects and they provide a lot of infrastructure and support for that. All of that seems to me to work very well. What I regret from the constitution, what I saw the constitution as doing, was that first of all it would have provided clarity that we do not have. The EU’s ambition is to speak with one voice and it is a very laudable one, but then we send three people to do it—the Presidency, the High Representative and the Commissioner. The constitution fused those three. That is the first gain. The second gain is that it would have mobilised the Member States in a way that had never been done before. It would have integrated the Member States into a single foreign policy-making machinery. It does not mean to say that they do not have their own foreign ministries, although some of the smaller ones are delighted at the idea that they could buy into a big system. The bigger ones would retain their worldwide diplomatic capacity, but they would also have had a big share and a big involvement in a European system and eventually people would ask themselves whether in Yerevan it would make sense to keep an embassy open or whether it would be better to have somebody in a European mission. I think it would have integrated the Member States in a way on this and given the Member States much more say, much more control over what was happening day to day in the European Union, including in the Commission, and that is what is missing.

**Q99 Chairman:** Could we pursue the question that you are in effect saying that some Member States would want to use the European Commission delegation or an enhanced delegation as their representation in particular countries? You will know that that is probably one of the most sensitive things as far as the UK is concerned, the notion that anybody else represents us anywhere else. It usually gives rise to a great deal of argument.

*Mr Cooper:* Nobody would be forcing anybody.

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**Q100 Chairman:** No, I appreciate that. On the other hand, unless there is a will on the part of some of the larger players to do that, the thing does not really get off the ground, does it?

*Mr Cooper:* No, but on the other hand, if I were given the choice of being the British Ambassador in Rabat or being the head of the European Union office in Rabat, I know which I would take. Guess which is the more important job? If you were an ambitious British diplomat then that would be a job worth having. The European Union is fantastically important to Morocco.

**Q101 Chairman:** I would not want by my question to suggest that any of us are necessarily disagreeing with you, but it is an issue which is undoubtedly raised and it is clearly one that is very sensitive, and the whole notion of the External Action Service brings about a considerable rise in blood pressure in certain quarters. How far do you think you can go down that road without the treaty?

*Mr Cooper:* Oh, hardly at all. I am sure that you need the treaty for that. On the other hand, I am sure that if I were working for the UK I would argue very strongly that this would give much more transparency to what the European Union is doing and much more potential influence to a well-organised, well-staffed country like the UK than the present arrangement does. I think it gains without greater losses in quite a big way.

**Q102 Lord Hannay of Chiswick:** I have to say, Robert, that in your choice of Rabat you might have done better if you had said that you would rather be the French Ambassador in Rabat, or the representative, which might have led to a different conclusion.

*Mr Cooper:* That would be 50-50, I would say.

**Q103 Lord Hannay of Chiswick:** Well, okay. You chose the capital in which the British Ambassador has probably less influence than practically any other in the world and the French Ambassador has more. Can I ask you another question which is quite small? On this question of what can be done is there any serious rationale for having a situation room and a crisis room in the two institutions in Brussels operating completely separately?

*Mr Cooper:* I have to admit that I do not know and that probably you could say speaks for itself. I do not know exactly what the Commission crisis room does. I know what our situation centre does, which is that it brings together intelligence resources from, not all, but from those Member States who have serious intelligence resources, including now on internal security issues as well now. This has been a very delicate operation, building this up, because sharing of intelligence is something that requires a very high

degree of confidence in the organisation that is running it. To be honest, the Commission is a very open organisation without a strong security culture and I do not think that anybody would put intelligence resources into the Commission crisis room.

**Q104 Lord Hannay of Chiswick:** Okay—up to a point okay. Presumably your situation room does not only do that. It presumably does a great deal more when there is a crisis than just listen to what the intelligence reporting is. What I simply do not understand still is that presumably the Commission confronts the same crises as you confront basically, although the balance between what is done by the Council and what is done by the Commission may be different from country to country, but when there is a serious problem in a country, let us say in Thailand there is a military coup, you basically presumably need the same information, do you not, in very short order? What is the justification for having two lots of resources devoted to it? Presumably there are people in the Commission who are cleared for intelligence, or is there nobody from the top to the bottom of the Commission who is cleared to receive intelligence?

*Mr Cooper:* I do not know what the position is today. A little while ago somebody told me, and maybe it has improved since then, that they had looked at the people doing internal and justice affairs in the Commission and discovered that nobody had a security clearance. Perhaps it is not the case now.

**Q105 Chairman:** Forgive my interrupting: is that because they have not passed it or it just has not been done?

*Mr Cooper:* It has not been done. There is also a question of culture here and the culture of the Commission is not a culture of secrecy; probably that is a good thing but it is not. I am not in a good position to answer the question because I do not really know what the Commission crisis room does. I know what the situation centre does and I am sure that it is something that could not, as things are at the moment, be located in the Commission. I think it does a very good job.

**Q106 Lord Hannay of Chiswick:** Continuing with the Thailand case, if there is a coup in Thailand you presumably have a piece of paper produced by your situation room on what is going on which enables the High Representative of the Member States to share their analysis and information. Is this not passed to the Commission? Is the Commission, which has also got interests in Thailand, simply flying blind or what?

*Mr Cooper:* The coup in Thailand—

**Q107 Lord Hannay of Chiswick:** It is probably a bad example.



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*Mr Cooper:* It is easier for me to think of examples that I know about. The situation centre does sometimes produce some quick information on what is going on and that may or may not be different from what is done in the Commission, but the large part of its work is producing integrated intelligence assessments from the European Union. That tends to take place in slower time. For example, they may produce a paper on Hezbollah, something like that. The Commission representative in the Political and Security Committee, who has security clearance, will see that but it will not be passed to the Commission as a whole.

**Q108 Lord Hannay of Chiswick:** So in a sense I reacted incorrectly because the name of your organisation is slightly misleading because it is not what we in a national context would call a situation room? It is not what the Foreign Office sets up when there is a crisis, is it?

*Mr Cooper:* No.

**Q109 Lord Hannay of Chiswick:** I thought it was. I see, but you do need that too, do you not?

*Mr Cooper:* Yes, we do, and they do do that quickly but that is not their main function.

**Q110 Lord Hannay of Chiswick:** And that could be shared?

*Mr Cooper:* Yes, I am sure. They will do a quick summary of dramatic events. Maybe there is a function there that could be shared but it is not the central function. Also, I do not feel well equipped to answer the question anyway because I am not sure exactly what the crisis centre does. You probably know because you have probably asked somebody.

**Q111 Chairman:** Would you think the Commissioner is as unaware of what happens over here as you are of what happens over there, and that is why they made the proposal in the paper of sharing the functions? Do they perhaps not realise the functions are different?

*Mr Cooper:* I do not know. They ought to do.

**Q112 Lord Hannay of Chiswick:** No, they do. Peter Dun said to me on the way across that they understand that perfectly well, but the answer they gave on the record was a quite different one, which was that it would be very difficult to have a shared situation/crisis room because of the different responsibilities of the Commission, which is in my view complete eyewash.

**Mr Cooper:** The other thing that our situation centre does at the moment is that it provides a sort of 24-hour watchkeeping system because we have missions abroad which are operating 24 hours a day and we need to be able to keep up with them.

**Ms Peresso:** And we are the only ones. The Commission systems do not have a 24-hour capacity.

**Q113 Lord Hannay of Chiswick:** But they need one?

*Ms Peresso:* There is a system being set up for Justice, Liberty and Security, and that will be on a 24-hour basis, but on an on-call basis.

*Mr Cooper:* And I guess that ECHO has a 24-hour facility as well.

**Q114 Lord Lea of Crondall:** Can I take you back, to illustrate my question, to your original remark about, "A pity this paper was not written jointly"? It would have been possible to have written this paper jointly, would it? The Council of Ministers does write papers of this nature, does it?

*Mr Cooper:* Yes.

**Q115 Lord Lea of Crondall:** And there is a tradition of writing joint papers?

*Mr Cooper:* Yes. As I mentioned, Olli Rehn and Javier have produced a series of joint papers.

**Q116 Lord Lea of Crondall:** And you do not know at what stage there was discussion about this being a joint paper?

*Mr Cooper:* It was not discussed. Barroso appointed Cutileiro to write the paper. Cutileiro came to talk to us.

**Q117 Lord Lea of Crondall:** It is rather paradoxical, and it strikes me the more we talk the more paradoxical it is. Here we are talking about many things which quintessentially raise questions about the relationship between the Commission and the Council of Ministers. We talked to our own Europe Minister about this paper soon after it was issued, and it has presented governments with a bit of a dilemma, of course, in one respect about how they can be transparent in their own response if they do not quite know what is on the table, what sort of exercise it is. Of course, this would have come out in the wash, presumably, if it had been a Commission/Council paper. Would it have made a difference if it had been a Commission/Council of Ministers paper because the British Government, the French Government, the Finnish Government, everybody else would *ipso facto* have been locked into preparing the paper, would they, in a different way?

*Mr Cooper:* If it had been a paper I guess that it would have been, I do not know, a Solana/Barroso paper or something like that. All I can say is that, knowing my boss, he would have made sure that the Member States were happy with what he was—

**Q118 Lord Lea of Crondall:** It would not have made it impossible to write?

*Mr Cooper:* No, no. That is our metier here.

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**Q119 Lord Lea of Crondall:** Okay, as long as that is clear. There was not some political reason why it was—

*Mr Cooper:* No.

**Q120 Lord Lea of Crondall:** One reason it comes up all the time is that as soon as one thinks about the operational question, how you get an improvement in representation and rationalisation and whatever in Africa and so on, it is very odd that it is not a Council of Ministers/Commission proposition that we are looking at precisely because these questions only really come up in reality. I just want to add if I may a footnote to this comment about Rabat and Lord Hannay's mention of the fact that it would have been a different equation if it was a question of being the French Ambassador. The take on some of this territory in many parts of Africa, and we will be doing a report, as you know, and I will just add my example of Antananarivo in Madagascar, there is no doubt at all that there are traditions in every part of Africa, the ex-colonial power, or the debatable point in Madagascar about who was the major ex-colonial power, is to give the ex-colonial power some cover or some role, some hat,—double-hatted in a different sense—that France could wear two hats, that if France or Spain or whoever it is, is in the lead in a particular area, for all sorts of reasons, it may be far more sensible to have that integration, even in the same building if we can see that that integrates some of what Europe is trying to do, especially where the ex-colonial power cannot do it on their own. It is true of Belgium in the Congo, no doubt, et cetera.

*Mr Cooper:* No. I think now of a couple of years back, Operation Artemis in the Bunya region, which was essentially a French organised military operation which may well have saved very large numbers of lives, but the French had a preference for it being an EU operation because they did not want it to go under a French flag, and actually they had a very strong preference for there being a British participation in it because there was a Ugandan connection to this as well, so there are many times when doing things the European way is good for both sides.

**Q121 Lord Lea of Crondall:** Does this illustrate a different point, which is that we know in almost every area of European policy, as debated in Britain and I think as debated everywhere, that there is a phrase which comes up all the time and which is always hard to tackle, which is, "Why should one size fit all?", and one sometimes is in difficulty about handling this because it is like dealing with an octopus: you do not quite know to answer the question. Is there not a difficulty that if you go in a constitutional direction it looks as if one size fits all, whereas there is no doubt at all that in a typical African country, for example,

it would be pragmatically very sensible to say, "Why do you not get on with it?", but you did say that you quickly hit the buffers when it comes to having a joint embassy. I can see that, but if you are in the territory of having a more aligned policy on development in Bujumbura or in Abuja and so on, you can do an awful lot without running into your constitutional point, can you not, because does the constitutional point, leaving aside referendums and so on, not raise this problem of one size fits all, which is a terrible red herring but it is nevertheless a very popular red herring?

*Mr Cooper:* Yes. There are lots of things that you can do together without the constitution. I will give you an example in a second of one that I find a very good example indeed. To come back to my earlier point about Rabat and the constitution and all of that, part of what I was saying is that there are some fantastically good people in national diplomatic services who really ought to be leading some of the European delegations in different places. Some of the European delegations are actually very powerful in terms of the resources that they have available and it is a pity that there is a kind of mismatch between national diplomatic services with declining resources—

**Q122 Lord Lea of Crondall:** Absolutely. There are some very vivid examples we can all give.

*Mr Cooper:*— and European organisations which have some very powerful resources indeed but the people are often not of the same calibre. That was why I liked the constitution. To come to the example that I wanted to quote of how it is not one size fits all, this was actually a British Government initiative, and I thought for a time an extremely successful one. This was an initiative to improve the security capacity of the Palestinian Authority. This was before the election, before Hamas got the majority. Since then it has been dormant at least. If you want a two-state solution then one of the important things is that you need Palestinian police who really function and who really do stop terrorism. That is a long term project but it requires a serious input from outside. The UK, through DfID, put up quite a large sum of money to start a project on this but they did it in a way which enabled other European countries to join on as well. They found an extremely good police officer to run this and he gradually acquired a staff which was multinational. This was not a European project to begin with; it became one a bit later on (EUPOL COPPS), but the effect of this, because you had a core project being launched by the UK was that when somebody thought that they would like to do something in the area of the Palestinians, in the area of security, they went to Superintendent McIver and said, "What do you think would be the best thing to do? Should we provide them with more vehicles?",

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and he would say, “No, no, they have got enough vehicles. What they need is a new communication system”. You got a kind of informal co-ordination around this UK project which did not stop individual countries from doing their own thing but made sure that they did it in the most productive, sensible and transparent fashion with each other in a way that produced results which were much better than if everybody had gone off on their own.

**Q123 Lord Lea of Crodall:** Would it be too far to interpret you as saying that if you take a country like Bolivia, not only is it a pity that the best of the British Diplomatic Service is not really punching its weight, to coin a phrase, because it is not dealing with the totality of the situation; some of our best people are under-used, I am sure that is true, but also in terms of the job that we can sensibly do diplomatically in a place like Bolivia, which is going through a very difficult time at the moment because America raises all sorts of Pavlov’s dog reactions in the minds of many Latin American countries? It is a great pity, would you not say, that this European diplomatic effort is so fragmented in many parts of the world? Would you go that far?

*Mr Cooper:* Yes, sure, of course. When you see a unified European diplomatic effort, as we have seen with Iran, for example, it has not solved the problem but it has certainly brought the rest of the world together and has brought about in a way a remarkable change in US policy, a remarkable offer from the United States and brought Russia and China in as well, so if you can produce a united European effort it really can make a big difference.

**Q124 Lord Hannay of Chiswick:** Do you think that the Member States which have not been included in that Iranian effort are reconciled to that sort of approach being taken on a pragmatic basis, as it was in a way over Ukraine, of course, and also at the time of the Orange Revolution, but that was only a temporary fix, as it were, whereas the Iranian negotiation is a full negotiation? Are they reconciled to that, particularly now that Solana is fully involved, and indeed could be said to be in charge?

*Mr Cooper:* “In charge” is too much. There is a law of clubs which says that everybody wishes to be the last member to join and therefore the one who would be the next member to join always dislikes the club that does not include him.

**Q125 Lord Hannay of Chiswick:** The Italians in this case.

*Mr Cooper:* That is for you to guess. Then you find that there is somebody behind the Italians who cares passionately that the three should not be expanded because they do not want to be in the position of being the next one. You can never satisfy everybody

in any grouping like this but you can satisfy quite a large number of people. I think that the addition of the High Representative to the thing was important.

**Q126 Chairman:** I think it is probably a given for all of us that if European foreign policy is going to succeed and a common policy develop then it requires the Member States to be working together. The paper also talks about the Member States and the EU institutions working together. Am I wrong if I get the sense of some of what you are saying to be that perhaps the Council does not really see, in terms of hard foreign policy, like negotiations with Iran, much of a role for the Commission, that the treaty was fine, brought them together at the top, but actually these guys are for handing out aid and doing some administrative stuff? Is that too brutal or is that the feeling in the Council?

*Mr Cooper:* The first half of my answer is to say that there are some things in foreign policy that require initiative, leadership, from the Member States, there is no doubt about it. This is still a world which is ruled by states—Britain, France, Germany, Italy, Spain, Poland and so on. Unless you have got them behind it you are wasting your time. The second thing is that the Commission may not do that sort of stuff but it has done a fantastic job in central and eastern Europe, and what the Commission does in the Balkans is still absolutely vital. I personally think the big success of anybody’s foreign policy anywhere in the world in the last 20 years has been enlargement. The fact that we have a stable central and eastern Europe is not given at all. That happened because of the rather unflashy, unspectacular but very serious approach which the Commission took over a long period with these states, but that is a slightly different kind of role.

**Q127 Chairman:** It seems to me that what you are saying—and tell me if it is an over-simplification—is that the Council has the FCO role and the Commission really should be satisfied with the DfID role.

*Mr Cooper:* If I were reorganising Whitehall then I think I would bring these two together in a much clearer way, and the MoD, as a matter of fact too, because at the centre of this you need to have a political strategy which is reinforced by money and sometimes by force.

**Q128 Chairman:** The development NGOs would be very cross about that.

*Mr Cooper:* If you want development in the Congo then first of all you have got to settle the security issues. Actually, I think some development NGOs are looking again at this. For example, people from Oxfam come regularly to talk to me about the responsibility to protect and battlegroups.

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**Q129 Lord Lea of Crondall:** It is notorious, is it not, that any single issue pressure group will view the world through one prism alone, and in our Africa report it undoubtedly was not something new but it is plain as a pikestaff that the three legs of the triangle in Africa policy in your own document adopted by the European Council in December on security, development and foreign policy,—

*Mr Cooper:* They call it politics.

**Q130 Lord Lea of Crondall:** I suppose it is like teaching your grandmother to suck eggs, but please comment. If you ask a question about foreign policy in a Gallup poll people may say, “Hands off”, but if you ask a question about energy policy, if you ask a question about environment policy, if you ask a question about immigration policy, if you ask a question about a list as long as your arm, they will say, “Yes”.

*Mr Cooper:* Actually, if you ask a question about foreign policy they say yes too.

**Q131 Lord Lea of Crondall:** Your colleague in the Commission interchanged at slightly cross purposes about defence, “Do you want to spend more money on defence?” “No”. “Do you think we really ought to be helping in place X, Y, Z?”, “Yes”. We all know that is the case, but it comes back to our last question in a sense, which is, do you think that this understanding about the role of the European Union in Birmingham and Manchester and Edinburgh should be enhanced by, as it were, trying to paint a different picture? My thought for what it is worth is that the new paradigm in this world, globalisation I call it, is that the pragmatism of developers on migration and energy and so on is very powerful indeed and we are just getting blocked by some of the language categories that we have used for the last 100 years somehow. They are not all different policies.

*Mr Cooper:* Yes, I agree with you entirely, but at the heart of that is that there is still something called politics and it is no good pouring money in, or indeed pouring troops in, unless you have some kind of political settlement to support. I wanted to come back and answer the question, “Does the Commission just do development?”. The answer to that is definitely not. It does much more than that.

**Q132 Chairman:** No, I did not suggest that it did. I was not seeking to put words in your mouth but I was trying in my own mind to get a picture of how the Council saw the Commission’s role. It was something of an over-simplification. I felt you were in a sense saying, “Leave the politics and the serious foreign affairs to us and you go and do the development”.

*Mr Cooper:* You go and pay the bills.

**Q133 Chairman:** Yes, that is right, and build the roads and all that kind of thing and pick up the tab.

*Mr Cooper:* There are enough things wrong with the world. I do not think that we want to try and deal with them all. The area where it is most obvious that the Council and the Commission could not exist without each other is the Balkans. That is the area that we have been most involved in all along and we continue in together, and that in a way is an extension of enlargement, but there are still a lot of things that still have not been fixed politically in the Balkans and we are heading towards a rather tricky area.

**Q134 Chairman:** When you say that the Council could not do that without the Commission, just for the record, is that because you have not got the money or you have not got the people or what?

*Mr Cooper:* Yes.

**Q135 Chairman:** If tomorrow morning the Commission did not exist could the Council, subject to resources, pick that up?

*Mr Cooper:* The phrase I have going through my mind is Max Weber’s definition of bureaucracy as “that which comes after charisma”: after you have done the kind of charismatic foreign policy stuff somebody has to make it happen.

**Q136 Lord Hannay of Chiswick:** Anyway, the Commission has the biggest carrot of all, which is called accession and which has to drive the whole Balkans policy.

*Mr Cooper:* Exactly.

**Q137 Lord Hannay of Chiswick:** That is under the treaty quite clearly something where the Commission has major responsibilities. Can I just revert back to something at the beginning? I rather got the impression, and correct me if I am wrong, that what you were saying about this paper that we are writing a report on is, “Let us do all these things. We are already doing some of them anyway. Let us do them all and more but do not let us have a great discussion about it because that is terribly difficult to manage and then you get people saying it is cherry-picking and the other people saying that you are trying to get round at the back door, so let us just get on and do it”. That is a very British and pragmatic way of approaching things, for which I have some sympathy, but it does not address one aspect, which is the public perception aspect of European foreign policy, the fact that even though a lot of things have been done in a much more integrated way in the last few years than have ever been done before nobody seems to know that. Nobody even in the British Parliament seems to know that. It strikes me that we are heading into exactly the same trap that we headed into over the European Union itself when we first

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joined of, “Don’t frighten the horses. Don’t let’s talk too much about it. Let’s just get on and do it”, and then, nasty surprise when everybody discovers that actually it has gone a very long way and it is not quite what people thought it was, and moreover there has been a total failure to relate to public opinion, who are apparently out there saying they want a European foreign policy but who never seem to see anything which looks like one.

*Mr Cooper:* I think you are right. There is much less public awareness of what Europe already does and maybe that is a risky policy.

**Q138 Lord Hannay of Chiswick:** But that is a case for doing things, even rather routine things like this paper, in a slightly more demonstrable and transparent way.

*Mr Cooper:* Yes, perhaps. It was not out of a kind of wish to do things in secret that I took the approach I did to the paper. It was rather that I had read the paper and noted that this was either stuff we were doing or should be doing or were trying to do and then put it away and said, “Right. Now let us get on with it”. We at the same time are here looking at some changes that in some ways seem to me to be more far-reaching to see if we can better integrate the civilian and the military parts of the Council. Maybe we ought to be doing that a little bit more in public because that is the attempt to create what seems to me the kind of modern organisation that we need. Our trouble is that we operate on a rather miniature scale here.

**Q139 Chairman:** Before we close, I think you said in response to an earlier question that you had forgotten about the consular point that you really were very unhappy about.

*Mr Cooper:* When I read this I seem to remember even writing an email to somebody saying, “This all looks perfectly reasonable. There is only one thing in it I cannot understand which is the bit about consular assistance”.

**Q140 Lord Lea of Crondall:** Why is that so?

*Mr Cooper:* It is on page 9 just above 5.4, “Develop co-operation between Member States in the area of consular assistance, particularly in crisis situations”. That exists up to a point. Normally the degree to which it exists depends on the situation you are in and the people on the ground. At the time of the Tsunami there was very good co-operation among the people on the ground because in crises people normally behave sensibly. There were one or two things afterwards, because we did a “lessons learned” on the consular co-operation in the Tsunami where we identified some areas where co-operation could be improved, some rather strange things about

identifying dead people. On a practical level that co-operation worked quite well. It was the sentence where it said, “Explore scope for Commission Delegations to play a complementary supporting role in this area”. That seemed to me to be written by somebody who did not know very much about consular work. Consular work is really very difficult and fraught with dangers, and the idea that anybody would voluntarily take that on struck me as being—

**Q141 Lord Lea of Crondall:** The reason I was very puzzled by the reaction is that when I pick up my passport, and I know as much about this whole thing as the average person in Northampton, and I am not saying very much more than that, before it says “Britain” it says “European Union”. If I am in some difficulty in the middle of Latin America and there is no UK set-up there and there is a huge EU office, I would go and knock on their door, would I not?

*Mr Cooper:* Right, and they would probably say, “We understand that the Spanish Consulate is looking after British citizens”.

**Q142 Lord Lea of Crondall:** They may or they may not but that might be another town and it does seem to me that if we are moving in the direction, pragmatically again, not of “one-size-fits-all”, but if in this particular place, Bujumbura or wherever it is, there is a place where there is a European set-up and no British set-up or no Irish set-up, you have still got your passport and it says “Europe” at the top of it, does it not? We are talking about public opinion. I would have thought that might be a quite popular bit for Europe.

*Mr Cooper:* But quite difficult and complicated stuff as well.

**Q143 Lord Lea of Crondall:** I am not necessarily disagreeing with that.

*Mr Cooper:* My reaction was that if I were the Commission I would not have volunteered to do this without knowing a whole lot more about it.

**Lord Hannay of Chiswick:** That is what I said to the Commission earlier.

**Q144 Lord Lea of Crondall:** That is a different point.

*Mr Cooper:* Consular emergencies are emergencies where you tend to know what you are doing.

**Q145 Lord Hannay of Chiswick:** I said, “I do not know why on earth you volunteered to do this because I do not think you have any idea of what the capacity of them to get up and bite you is”.

*Mr Cooper:* On the one hand that is one part of consular work. The other part of consular work involves a whole lot of legal powers which are

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different for every Member State. At any rate, I would approach that very cautiously if I were them. That was the only reason why I thought that was the only bit of the paper that was misinformed.

**Q146 Chairman:** If we do not have any further questions can I for the record thank you very much for your time? We are most grateful.

*Mr Cooper:* Not at all.

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THURSDAY 12 OCTOBER 2006

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Present:	Bowness, L (Chairman)	Hannay of Chiswick, L
	Boyce, L	Lea of Crondall, L
	Dykes, L	Truscott, L

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**Examination of Witness**

Witness: MR ERWAN FOUÉRÉ, EU Special Representative and Head of Commission Delegation, Former Yugoslav Republic of Macedonia, examined.

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**Q147 Chairman:** Mr Fouéré, good morning. Thank you very much indeed for coming to see us. As you know, this session is on the record. We will let you have a transcript before it is published in its final form if there are any matters which you wish to correct. You will know, I am sure it has been explained to you, that we are looking into this Communication, Europe in The World, and how matters can be taken forward in the absence of the constitutional treaty. We are looking forward to hearing from you since there are particular references in that paper to Special Representatives and double-hatting. May I ask you, first of all, before we put any questions, whether there is anything you would like to say in opening to the Sub-Committee or would you like to go directly into questions?

*Mr Fouéré:* Thank you very much, my Lord Chairman. First of all, thank you very much for this opportunity to be with you this morning and I hope that I can explain and show you how this model works in practice out in the field to give a better understanding of the notion of double-hatting or personal union between the European Union Special Representative and the Head of Delegation.

**Q148 Chairman:** You will be familiar with the Commission paper. Some people, I know, take the view that it is perhaps unexceptional; other people think that it clearly maps out a way of taking matters forward and improving co-operation and co-ordination in the absence of the provisions of the Constitutional Treaty. What is your view of the paper and its proposals?

*Mr Fouéré:* I think, whatever its faults may be, certainly it has the merit of having generated an important debate between all the Member States and all the institutions in how to give greater coherence to the European Union's policies out in the field and also to present solutions, propose models in how to enable the European Union to obtain maximum leverage of all the panoply of instruments that it has at its disposal, whether it is under the foreign security policy mechanism, the European security defence mechanism, or the traditional institution-building post-conflict mechanisms, all of these, giving greater coherence to actions out in the field. I think my example is a very concrete application of one of the

models being proposed. I should say that on some of the proposals we are already doing things, but the document has the merit of bringing everything together, generating this debate and coming forward with some practical, pragmatic solutions in how to give the European Union more weight out in the field.

**Q149 Lord Lea of Crondall:** Could I ask a couple of questions about double-hatting which I think flow from the general to the particular or vice versa. Clearly, the contention is that double-hatting, in your case in Skopje, can lead to improved coherence, effectiveness and visibility. The first question is: is there evidence that can indeed be the case, adding value and so on, and what has it revealed, I suppose, about the philosophy which we discussed with both the Commission and the Council last week against a background, if I may say so, *en passant* that this famous report on Europe in the world is a Commission document and was not even written with the Council? Can you go from the particular perhaps to make, as you wish, some more general comments on the model?

*Mr Fouéré:* Certainly I think I can safely say that the model has been a success in Skopje. If one recalls the past years, following the conflict of 2001 in the Former Yugoslav Republic of Macedonia, the country was a recipient of many of the instruments that the European Union has at its disposal, whether under the CFSP or the ESDP; there was also the European Agency for Reconstruction, so there were many actors. I would equate it to a broad church with many bell towers and also many minarets since there is a Muslim community present. They were not always ringing in quite so co-ordinated a fashion. When I arrived, my key role was precisely to ensure maximum coherence between all actors out in the field that I could use all of the instruments to achieve that coherence. This gave, I think, a much greater impact to the message of the European Union out in the field, greater visibility and also greater leverage vis-à-vis our interlocutors. In all those factors I believe that the model has been a success and has demonstrated that it works and, for me, it is eminently sensible. I have been there now for 11 months and I think the general feeling also of all the Member States is that it has worked extremely well

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and it has enabled precisely the European Union to function consistently, coherently and with considerable impact. As regards the document, I do not think there is any reason why it was only the Commission which initiated this. President Barroso took a commitment at Hampton Court with the EU Heads of State to produce such a document, so it was the Commission's role to generate a document. I think it has resulted in a lot of interaction at different levels and my experience also has enabled greater interaction on specific issues in headquarters, I think this is also important. There is greater co-ordination, so the instructions I get are united ones, ones that bring together both the Commission and the Council, bearing in mind that the lines of accountability and the chain of command remain separate, of course. This is very clearly set out in the decision of the Council which appointed me as Special Representative.

**Q150 Lord Lea of Crondall:** Do you think that some people might perceive in other parts of the Western Balkans, all of which have different bits of history, that the success of double-hatting in Macedonia/Skopje could be seen as pretty much a good idea for much of the Western Balkans and might somehow beef up the credibility and standing of the whole EU set-up? Is that a reasonable line of thought?

*Mr Fouéré:* I agree. Of course there is no one model which fits all, and each country has a particular circumstance or specific issues that would require the Council decision to be adapted accordingly, but the broad principle, in my view, is an eminently sensible one and precisely ensures much greater consistency and coherence.

**Q151 Lord Lea of Crondall:** My final point: it is not just to do with the fact that there has been military involvement, police involvement, special problems and history and Kosovo and Albania and so on, it is not a special case in that sense. It could be generalised with a footprint in other places—I will not specify but we all know there are six or seven bits of the Western Balkans—it is not just to do with the special history that you think it is a good idea?

*Mr Fouéré:* No, I think it is a good idea per se and of course it would have to be adapted according to the particular circumstances of each country but if this was possible in Skopje, there is no reason why it would not be possible in other parts of the Balkans.

**Q152 Chairman:** Can you give us any particular examples of changes that you made to the way the Delegation operated to achieve what you have been talking about?

*Mr Fouéré:* Yes. Very simply, our interlocutors, before I came, were not quite sure who they should speak to if they wanted to convey a message or they

could perhaps misuse the fact that there were different actors. Now that there is only one actor, they know exactly who to call, who to talk to and they know that person has a direct link with both the Council and the Commission and vice versa. I can convey messages which have much greater impact than if there were several different actors out in the field. Also, of course, I respond very much to all the Member States. We have constant co-ordination meetings with all the Member States and we promote a common purpose out in the field and in areas that are quite difficult, such as police reform where there is the post-conflict element, which is very much of course the Council, the European Union security defence policy dimension and then on the Commission side the institution-building reconstruction aspect, strengthening the law enforcement agencies and so on. Bringing all of those elements together is something that I worked very closely on and because it was just me I was able to bring all the different actors together rather than if I had to negotiate or deal with other principal actors. I think all of these examples emphasised the value of this model in Skopje.

**Q153 Lord Hannay of Chiswick:** You just touched momentarily on the issue of both reporting and the reception of instructions but could you perhaps, just because we are not probably very well-informed about all of this, take us through each of those two things? Your reporting, do you report to both institutions, the Commission and the Council, on everything or do you report discretely on some things to the Council and some to the Commission? Who determines your reporting priorities, that is to say the areas you cover in your analysis, economic and political reporting? That is one part of the question; the second part is the reception of instructions. Do you get invariably joint instructions or do you get generally joint instructions but sometimes specific ones from the Commission, where they are responsible and you are dealing with a matter on which they are responsible, and sometimes from the Council Secretariat where the same is true? If you could enlighten us a bit on this, I think we would understand the subject a little bit better.

*Mr Fouéré:* Our reporting is quite extensive. I have always, in my career, attached a lot of importance to reporting because it is all very well to do a lot of work on the ground but if it is not reflected in headquarters it cannot be fed into the policy development at headquarter level between the different institutions. We have reporting that goes specifically to the Council, this is under my instructions from the joint action, which is the Council decision basically. This includes political reporting which I must make to the Political and Security Committee. I go there on a regular basis to report to the Member States. The



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written reports go to the Council and then are circulated to the Member States by the COREU system, and that includes the Commission then of course. I do, also, specific reports on specific economic issues, for example problems with telecommunications law, which are linked of course to the reforms which the country must undertake in order to move forward towards the European Union. There the dialogue is with the Commission which has the expertise and the responsibility, so I report to them on that and they give me instructions in those areas. In those areas where both Council and Commission have a joint interest, which is many of them of course, related to the development of the country, there I always get joint instructions. I think it is interesting to note that in fact the model of personal union or double-hatting has generated this much stronger co-ordination at the headquarter level so that the desks and the geographical units in the Commission dealing with my country and the region are in daily contact with their counterparts in the Council, together with the police unit of the Council and so on. I think this is a very good example of how this model has enabled a much stronger interaction and co-ordination at the central level in headquarters and has ensured that I have never received any conflicting instructions. The idea is to try and ensure that the instructions I receive are joint ones, ensuring a common message is conveyed. Then, of course, there are messages which are particular to the Commission, like telecommunications which I mentioned, which I receive, but I always inform the Council anyway so they know they have a watching brief over it and they can provide some input. This is the way it works and it works very well.

**Q154 Lord Hannay of Chiswick:** Could I ask one follow-up question. It is very good to hear you have never had conflicting instructions but are you ever aware of having an absence of instructions because there was disagreement between people in Brussels as to what those should be and the most likely outcome of that, of course, is not conflicting instructions but no instructions?

*Mr Fouéré:* I guess in most diplomatic or external services there are often moments when there is perhaps a lack of a specific instruction but there is a general instruction so it is then my responsibility to take an initiative, which I believe is the best one to meet this general instruction. If I was not sure I would, of course, consult with both sides but I have not yet reached such an occasion up to now. Of course, it is a very important responsibility I have and I think the person who assumes such a personal union must have the necessary sensitivity to understand the differences, the lines of accountability, chain of command, et cetera.

**Q155 Lord Truscott:** Some people have argued that if this model of double-hatting was extended to other cases, then the official in question should answer to the Council because of its competency in common foreign and security policy. What is your personal view on that?

*Mr Fouéré:* My Lord Chairman, as I already mentioned earlier the decision of the Council clearly specifies that whichever person is appointed reports directly to the Political and Security Committee, to the High Representative, Dr Solana, and so there are clear instructions about that. I think there is no problem there because it is clearly marked out. As I mentioned earlier, the model for Skopje is particular to Skopje, but with adaptations it can be also used in other centres.

**Q156 Lord Truscott:** Sorry, my Lord Chairman, could I just clarify then, in your view, does the Council already have primacy in this relationship?

*Mr Fouéré:* Yes, I think in the sense that for the European security foreign policy and defence it is, of course, the Council which has primacy, that is quite clear and it is very much marked out in the decision that for all of those areas I refer directly to the Council, I refer and report directly to the Political and Security Committee, and I receive instructions and guidance directly from them so that is very clear. Then, in relation to the traditional Community areas, the line of accountability goes to the Commission so there is no blurring of the lines. Again, I think it is very important that the person who is chosen understands all of this. The decision of the Council is very clear, but this is a unique model so I know that I am an experiment and if I succeed, if I am still vertical at the end, then it can be useful. So far it has worked, but there are of course those areas, perhaps grey areas, which require a particular sensitivity and this is what I have sought to display in my work out there together with the Member States; but the Council decision is broadly very clear in how I should operate.

**Chairman:** You mentioned that you are working with the Member States. Perhaps you could just tell us a little bit more about that? I know Lord Hannay wants to come to that but you may want to add to the questions I posed since Mr Fouéré has already referred to it.

**Q157 Lord Hannay of Chiswick:** It would be helpful to know whether your double-hatted appointment has in any way altered the way in which Member States co-operated as a unit. Do they more readily accept that you are the sole representative? How does it affect, for example, the role of the Presidency in Skopje? Has that, to some extent, diminished with the double-hatting or has it fused with your own role there because I think we need to try to understand

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this. All this, to some extent, leads me to the feeling that the model that you represent can only work with a Special Representative who is appointed to one country, it could not very easily be applied to a peripatetic Special Representative who, say, was appointed to a region like the Caucasus or something like that. I cannot quite see the advantages and the functioning of it other than if your remit from your two institutions is co-terminus geographically. I would like to know more about the Member States and how they are reacting to this. Is it bringing them together more? Is it making them more unified in their action?

*Mr Fouéré:* Yes, I think definitely my arrival in November was welcomed because it ensured that there would be a far greater coherence in the messages conveyed by the European Union in the country in question. Contrary to other countries, we have weekly meetings rather than monthly meetings. Weekly meetings of the Member States have been the regular practice in Skopje since the conflict in 2001. They are chaired by the Presidency but I am the one who does most of the talking because I report on all that I am doing, I suggest ways of moving forward on particular issues, post-elections for example, and ensure their full acceptance of those lines of communication. My other task, which I have also, is to closely co-ordinate with the other members of the international community: the United States, NATO and the OSCE. I chair weekly meetings of what we call “the principals” of these people. This results in a very intensive, co-ordinated approach and the Member States—because I have invested a lot of my own time and energy into this in regular meetings with the Member States and so on—have full confidence in me in my work; because of all that, therefore, they are very happy with my operations, so to speak. If there is any problem they would immediately call me but up to now there has not been. On the contrary, they see that for the country concerned there is one interlocutor on behalf of the European Union who has the full authority of the European Union. Does it affect the role of the Presidency? I do not think so because the views of the Presidency are reflected in what I present to the country concerned on specific issues. As regards any EUSRs with a regional brief of the nine EUSRs just three of them are resident outside of Brussels. I think the one for the Caucasus is roving as well as that for Central Asia. The type of work of the EUSR that is based in Brussels is very different, of course, because it is for specific issues, like there is one for the Great Lakes, in order to help peace processes forward. I would say the EU Special Representative in the Former Yugoslav Republic of Macedonia is a very specific case for a specific environment and has had that positive impact out in the field and has enabled the European Union to act much more coherently.

There are 14 Member States represented in the country so when the Prime Minister or members of the government speak to me, they know that they are speaking to the European Union as a whole. We do a lot of things together. We go out to visit projects together with the Member States and we demonstrate the sense of collegiality towards the country and the government concerned. All of these factors emphasise the value of this method but it does need very constant co-ordination and particularly after the elections on 5 July there was a lot of tension, a lot of difficulties and a new government. I spent the whole summer there encouraging dialogue to bring the different political parties together and I did this with the full backing of the Member States, the Council and the Commission. This gave me much greater strength and ensured that vis-à-vis the interlocutors they knew that what I was saying had much stronger weight than if I was representing just one institution.

**Q158 Lord Hannay of Chiswick:** This generally rather rosy picture extends also to the very fraught relationship in the past between Greece and Macedonia, does it, and will continue to do so after Bulgaria, another country which has had a fairly fraught relationship with Macedonia over the years, becomes a Member State?

*Mr Fouéré:* Yes, certainly the country is in a lot of difficulty because of the name with regard to Greece because of the fact that the Macedonian Orthodox Church is not recognised by the Serbian Orthodox Church and many other issues that fortunately have no bearing on the boundaries but do focus on issues related to identity and things like that. I think the more the country comes closer to the European Union, the more it is anchored in the dynamic of the European integration process I think this will help to overcome these continuing, recurrent difficulties. It is interesting that the largest investors in the country are Greek investors so this should help for greater confidence. Yes, of course, these are issues that one cannot ignore and I do not want you to get the impression that everything is working fine. Let me say that the way that the model has worked there, I believe, has emphasised the value and the good sense that this model has for this particular case and this particular environment.

**Q159 Chairman:** Forgive me, you may have already answered this, but how many Member States are on the ground in Macedonia?

*Mr Fouéré:* Fourteen Member States and just a new one now; Spain has arrived. As I say, we meet once a week and a lot in between. We have formal meetings once a week.

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**Q160 Chairman:** Would they have a full embassy?

*Mr Fouéré:* Yes, some are larger than others, of course, but they have a lot of trade interests and political interests as well. Some of them have regional responsibilities also so what we do there has an important impact for the region of course. Just next door there is Kosovo and that is why, with the current status of the Kosovo talks, the difficulties that are appearing and looming over the horizon, it will be very important to maintain a strong political stability in the Former Yugoslav Republic of Macedonia because if there was to be any spill-over or anything like that, it could be very serious for the entire region. That is why my role there is important at this moment, precisely to avoid such a thing happening.

**Q161 Lord Lea of Crondall:** One of the central themes I suppose of our consideration of double-hatting and so on is, as Lord Hannay has just implied in his last question, if it is all so beautifully effective why do we even have to debate what was in the Constitutional Treaty and so on? We found in our line of questioning in Brussels, both to the Commission and to the Council Secretariat, that yes, pragmatically, you can go a long way before you hit a roadblock but there are some areas where you do hit a roadblock. Have you got anywhere near hitting a roadblock which would not be there if the Constitutional Treaty had been there? Presumably it does not matter whether you are called an ambassador or anything else, arguably you are in just as strong a position whatever you are called. What are the roadblocks that make this in any sense a suboptimal arrangement? You seem to be quite happy with it almost as a model forever, but a lot of people in Brussels think that there are roadblocks that you admit would be there.

*Mr Fouéré:* Yes, of course, as I said earlier, my Lord Chairman, the important thing is that we are in a specific case there and so my appointment was made taking into account the specific environment of the country. I have not come across any roadblocks or any difficulties in the implementation of my responsibilities. I think this is because there has been enhanced co-ordination at the headquarter level and because the co-ordination at the local level works extremely well and there is full confidence and trust established there, but for other countries this model would have to be adapted to suit the particular circumstances. For example, Bosnia-Herzegovina, there is an enormous police and military mission there so this would require to be taken into account if one was to discuss the possibility of replicating such a model in Sarajevo. I think that, for me, the principle makes good common sense, it gives added value to the work and the effectiveness of the European Union out in the field, it gives it greater weight and greater

consistency and one should be able to do the same in other countries.

**Q162 Lord Lea of Crondall:** To summarise your answer to my question: you do not see any roadblocks that frustrate you in doing what you really think should be done?

*Mr Fouéré:* No.

**Q163 Lord Lea of Crondall:** Not from a constitutional point of view?

*Mr Fouéré:* I do not see anything because the lines of accountability remain very clear. The chain of command remains very clear and the reporting lines remain very clearly set out in this Council decision.

**Q164 Lord Lea of Crondall:** And you are *de facto* an EU foreign service in some sense?

*Mr Fouéré:* I am the EU Special Representative, Head of Delegation, whatever description one uses. There, of course, the visibility that it has given me, I am referred to as “Mr Europe”, I guess, yes, because they see me as effectively epitomising the role of the European Union out in the field. I travel around the country a lot because I think it is very important we should show at the local level the impact of the European Union’s activities outside of the European Union confines and demonstrate the positive benefits, and also this is important for the EU taxpayers so that they see value for their money basically.

**Q165 Lord Lea of Crondall:** One of the arguments around the world is that we really cannot have 25 EU Member States all giving people a different steer of how the auditing operation should work. You have just got to recognise the limited administrative and bureaucratic capability of a small country like Macedonia and, therefore, there ought to be a single voice and all the rest of it. Now you say there are 14 countries there with ambassadors; although they are ambassadors, you are not an ambassador, you chair their meetings, you chair them so far as the EU co-ordination is concerned. You think that when it comes to making sure there are no contradictory steers in development policy, industrial policy, migration policy or any other policy, that you have sufficient authority there to make sure there are not any stupid contradictions between what ourselves, the Germans, the French and everybody else are saying are the economic, social or any other models that they ought to be working on?

*Mr Fouéré:* I think a lot of the areas you mentioned are ones which are carefully discussed in headquarters so we have quite clear lines on what we need to promote. Then there is a certain dynamic for this country because it was given candidate status to join the European Union. There is a whole series of

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conditions and reforms that the country must adopt and accept before it can be considered for opening negotiations and so on. That is clearly laid out already. I do not chair the EU co-ordination meeting; that is chaired by the Presidency. I chair the meetings with the Americans, NATO and OSCE heads of mission, so the international community.

**Q166 Lord Lea of Crondall:** The weekly meetings? Finland?

*Mr Fouéré:* No, unfortunately there is no Finnish ambassador so it is the German ambassador who represents Finland there and he chairs the weekly meetings. I present my reports and so on and this is the way it works.

**Q167 Lord Lea of Crondall:** That might be different if you were an ambassador?

*Mr Fouéré:* No, because I am there as EU Special Representative and Head of Delegation and then I give all my reporting directly to the Member States so that they can give me suggestions, I give them suggestions and, of course, I report back.

**Q168 Lord Lea of Crondall:** Who talks to whom about the EU economic criteria? It is almost like joining the euro; you have to go down a road map to meeting economic tests of deficits and so on and so forth. Who speaks to whom? The Central Bank or somebody?

*Mr Fouéré:* Again, this is my responsibility because these are all the areas where the country is expected to promote reforms before it can be considered for EU accession negotiations, and then the Member States, of course, also in their own bilateral context, promote such programmes. Everybody agrees the country must eliminate corruption, organised crime, et cetera, so our message is a collective one all together. There again this is my main responsibility, also, on behalf of the European Union. On 8 November, for example, the European Commission will be adopting its next progress report on the reforms up to now and on behalf of the Commission this time, I will be presenting this to the government. Then there are other reports which come from the Council and I will do the same there.

**Q169 Chairman:** Could we look at Delegations generally for a moment. The paper talks about improving reporting and analytical capacity for Commission Delegations, whatever that means. From your experience, what are the shortcomings of the Commission Delegations? Do the Commission proposals in these papers go far enough towards improving, I would say, the status or indeed even the capacity generally of the Delegations?

*Mr Fouéré:* I have been 15 years out in the field and I have seen an evolution of the reporting from initially when there were very little instructions up to now where there are clear instructions on the reporting which is required and the reporting that will give also maximum input both for all the institutions together. Already the Delegations share reporting with the Council but certainly this paper offers solutions to improve, to enhance and to allow greater administrative flexibility for the Delegation to respond to this reporting requirement. For me, as I said at the very beginning, reporting is an essential element of the task of working out in the field because if you want to influence policy at the central level you have to explain what is the situation locally and give the flavour of the country. I think this paper has the merit to propose strengthened reporting procedures and also to enhance the interaction of these reporting procedures between the Commission and the Council. There are some practical issues that arise; for example secure communication—the Commission uses a different system to that of the Council. They should use a common system, it would make much more sense. This is the sort of thing that evolves and in fact it was my role which identified this difference and since then there have been efforts precisely to create a unified system. I think at the beginning I also said this paper has generated a discussion on all of these issues and I believe this is excellent.

**Q170 Lord Truscott:** You mentioned earlier that 14 Member States have got representation in FYROM. What about the other 11? Can your mission in any way act as a diplomatic channel for the Member States that are not represented? This is also linked to the idea that maybe there should be one European Union mission in some countries rather than 25 separate ones. What are your views on that and can your office have a role in that? I think also in terms of diplomatic activity, there is this idea of perhaps providing consular support, especially in times of crisis, and how can your Delegation help with that?

*Mr Fouéré:* As regards the Member countries that are not represented in Skopje, they contact me often and there are some reports that we send to them automatically so that the whole EU family is informed, if you like. It is not easy for some. For example, the Finnish Ambassador is based in Helsinki, which is not next door, but you have the Belgian Ambassador in Sofia, so there is a close interaction and they come maybe once or twice a year and their first port of call is my office if they have a particular issue which they are concerned about and which has a European context and I can do something for them. As regards the consular matters, I think there the Commission is not *demandeur*, but certainly is very willing to provide logistic support,

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like was the case in Lebanon. There are again pragmatic and practical solutions for co-operation between the Member States and the Commission Delegations to ensure maximum support for crisis situations, but again it is on a pragmatic, practical level.

**Q171 Lord Hannay of Chiswick:** Could you comment a bit, having gone over this ground about there being 14 countries represented here, presumably each of them doing a certain amount of political reporting and analysis and yourself doing the same? With regard to the existing efforts to make joint reports and so on, which in my experience in the past were never very successful really and were never given a very high priority by any of the Member State representatives or, for that matter, by the representative of the Commission, do you think there is any more that could be done to avoid duplication and possible contradictions between the views expressed about developments in Macedonia? Secondly, I wonder if you could comment on something that has always seemed to me a great weakness for the Commission in particular, which is that, alone in the whole of Europe now, it has a completely different balance between those work at headquarters and those who work in the field. In no other European country would somebody with a CV like yours exist. You in fact have done a spell in the Commission but you have been out in the field, as you say, for a very large amount of time. That would not happen in any other country in the European Union. Similarly, there is a very high proportion of Commission officials who have never served in the field, or ever would do, or would be prepared to do. To what extent is this a limiting factor on European action in the external field?

*Mr Fouéré:* First of all, as regards the joint reports, I think this is again an area which is improving. For the next Council meeting, where there will be specific discussion on Bosnia-Herzegovina, there is a joint paper prepared by Commissioner Rehn and Dr Solana. As for joint reports at the local level, each country has its own reporting methods and if there are areas where a joint assessment is required then usually I propose to prepare the paper which they review and then I submit it to Brussels, but it is not often that we do that. The amount of reporting that I do to the Political and Security Committee in Brussels already covers a wide ground and therefore obviates the need for joint reports at the local level, but there is nothing against it. As regards the profile of an official working out in the field or in a delegation, yes, I have spent a lot of time outside but I have always come back to headquarters. I have always touched base. I have never become native, so to speak. I pride myself on having been able to open up delegations—Mexico and also South Africa—at

crucial moments in their respective histories but always on the basis of experience that I gained also in headquarters. There is a rule, like in Member countries, that after two postings outside you must come back to headquarters. There is now a practice in Brussels, in the Commission, that all those working in the External Relations departments, such as development, enlargement, et cetera, should serve out in the field. My personal feeling is that it would be far better to focus on creating a strong nucleus of officials who have gained experience outside, who come back to headquarters and then go out again, so that you really have people who are experienced, who have a culture of reporting and who understand the importance of representing the interests of the European Union and of giving it greater coherence and consistency. Now there are proposals which are being developed to exchange diplomatic representatives from Member States to work in the Commission and Commission officials to work in foreign offices, et cetera. I suggested this about 15 years ago, actually, at one of our meetings and it was decided that this was perhaps a bit too ahead of its time, but I think this makes sense because then those who are working in those institutions, after having spent some time in capitals, understand the sensitivities there and those who are working in national foreign services to work in the institutions also understand the unique nature of the European Union institutional system and the importance of promoting a coherent European Union policy out in the field.

**Q172 Chairman:** Mention was made of the co-ordination of consular assistance in the paper. I think some of the comments we have heard may suggest that that is not wholly popular, although I am not quite clear why, personally. Do you think the Commission Delegations have a role in co-ordinating consular assistance in crisis situations, or indeed in any other way?

*Mr Fouéré:* I do not think this is really something that we would want to get into. As I say, I think our role would rather be of a pragmatic, logistical nature, helping in post-crisis situations, natural disasters and things like this. In each of the external capitals like Skopje the consular officials would meet and the Commission would sit in. There might be exchange about administrative issues dealing with immunity and things like that but personally I feel that this is something where the Member States have the primary role and our contribution is more at the practical level.

**Q173 Lord Hannay of Chiswick:** Presumably the Member States who are not represented in a country normally have their own consular arrangements, for instance, the Scandinavians all pick up things for

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each other, the Benelux countries ditto, and other countries have particular arrangements for particular third countries, so in a way the idea that the Commission is somehow able to stand in for the countries that are not represented there is a bit of a misunderstanding in the context of a consular issue. *Mr Fouéré*: Yes, absolutely. I think each country has a system whereby another country can step in for it.

**Q174 Chairman:** If there are no other questions particularly on your role as a Special Representative and Head of the Commission Delegation, I wonder if we could perhaps trespass on your time further to ask you about Macedonia itself, which is obviously of interest to this Sub-Committee? Perhaps you might like to share with us your thoughts on where Macedonia is and how it is progressing towards achieving a state where it would be possible to obtain its accession to the Union and what the current problems are.

*Mr Fouéré*: Certainly I can tell you that the decision of the Council of the European Union to grant candidate status last December was an extremely important development, first of all because it was the first official recognition of the progress that had been achieved by the leaders following the conflict of 2001 which nearly tore the country apart and where over 200 people were killed and it created a lot of tensions and resulted in this framework agreement which was brokered mainly by the European Union, actually. We were very active and this is when the European Union Special Representative post started. This decision last December was also an encouragement to the country to continue the reforms which will enable it to come closer to the European Union. For the Balkan region the weight of history remains very heavy indeed and so any encouragement that can be given is very important. Confidence-building is very important in order not to allow the nationalist sentiment to come back, which is always there present. Since the decision there has been important progress, although a bit slow. Then the elections took place in July. The country has had a history of not very well organised elections but these ones were generally organised according to free and fair standards established by the OSCE and the European Union. The result of the elections, of course, meant a change of government, and a lot of the issues that we thought resolved arose again and old wounds that we had thought healed were reopened. I stayed the whole summer to try and promote a climate of dialogue between the different parties. The majority Albanian party had won 60 per cent of the vote of the Albanian community but was not included in the government. Whoever is in the government is the decision of the Prime Minister designate, but the party he represented had a traditional difficult relationship with the Albanian

party because of the conflict. Now there is a new government in place and their reform programme is very encouraging: fighting against corruption, organised crime, promoting an independent judiciary, all of the reforms that we have been asking for and that are necessary for the country to move ahead on the journey towards the EU. As we have said to the Prime Minister on a number of occasions, economic reforms are indeed essential but they cannot be successful without political stability, and this has been the focus of my work in the last months. It has been precisely to strengthen the sense of consensus in order to achieve this political stability and reduce the tensions between the different leaders. Up to last week the Prime Minister and the leader of the main Albanian party had never met, so this is, I think, a reflection of the tensions that existed between them, but now this is gradually evolving in a positive way. The Commission's report on 8 November will set out some positive elements, that they have adopted good legislation and judicial reform, but also will set out those areas which remain weak. Because for the European Union the conditions are very clear. It is all very well to have legislation in place but if it is not effectively implemented it does not make much sense, so the focus is very much on effective implementation. Also, of course, it is in the interests of the country in order to attract more foreign investment, to create jobs. It has a 36 per cent unemployment rate, which remains unacceptable, but it has great potential and there is a great spirit, a very strong European spirit. The one element that unifies the entire country, Albanian, Macedonian, all alike, is the EU perspective. This is the driving force for the reform process. Were that to disappear then it would be extremely serious, not just for that country but also for the region, because it would give arguments to the more nationalist, populist sentiment. This is the work that we are involved in there, to try and continue the reform process so that they respond to all the conditions for membership of the European Union. The quicker they can implement and effectively achieve all of those reforms the quicker one can envisage a date for opening negotiations; but the momentum must remain for an EU perspective. This is the only thing that keeps them together. Despite the difficulties that occurred after the elections and the tensions, I am very optimistic that they will gradually overcome this. The Ohrid Framework Agreement, which was signed at the end of the conflict in 2001, offers an important mechanism for keeping the different parties together and working towards a common objective of integration into the European Union and NATO, of course.

**Q175 Chairman:** How worried are they that there may be difficulties about future enlargement as expressed?

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*Mr Fouéré:* Of course they are worried.

**Q176 Chairman:** How are we countering that? It is difficult to know at this stage how you counter that.

*Mr Fouéré:* The message that we always give them is that the perspective of joining remains. All the decisions of the European Union have always reconfirmed that. The timing, of course, may vary but

the best response that these countries can give to those Euro-sceptical elements in some of the Member countries on enlargement or “enlargement fatigue” is to continue with the reform process, to demonstrate their ability to achieve those reforms.

**Chairman:** That is very interesting. Thank you for taking the time to do that and thank you for answering all our questions. It has been very helpful.

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THURSDAY 12 OCTOBER 2006

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Present:	Bowness, L (Chairman) Freeman, L	Hannay of Chiswick, L Lea of Crondall, L
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### Examination of Witness

Witness: PROFESSOR ALAN DASHWOOD CBE, Professor of European Law, University of Cambridge, examined.

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**Q177 Chairman:** Professor Dashwood, good afternoon. Thank you very much indeed for coming to give evidence to this Sub-Committee on Foreign Affairs, Defence and Development of the main European Select Committee which you, of course, are familiar with, having been with us quite a short time ago. We decided to look at this Communication from the Commission, *Europe in the World—Some Practical Proposals for Greater Coherence, Effectiveness and Visibility*. We are interested in your views as to how far you think it suggests making progress in the absence of the Constitutional Treaty, whether in fact it could go further, whether indeed it will be effective, and your views on it generally. I do not know whether you want to make any opening statement or go straight to the question I have just put to you.

*Professor Dashwood:* I am very happy to move straight to the question. I think it is clear that the Commission's paper is designed to address certain issues that the Constitutional Treaty would have dealt with, more particularly by the establishment of the post of Union Minister for Foreign Affairs. There is a wide perception that the separation between the different aspects of external policy, between the EC Treaty relating more particularly to the economic, social and environmental aspects of external policy and Title V of the TEU, the Treaty on the European Union, relating more particularly to what you might call the political aspect of foreign policy—diplomatic activity, peacekeeping, peace-making, ultimately defence—is causing serious problems of co-ordination and impeding the ability of the European Union to operate effectively on the international scene. I think the Commission's paper is a genuine attempt to address that problem. I would say—and I hope this is not turning into an opening statement—that it is important to bear in mind the rationale of that separation. Underlying the particularity of the CFSP is a brutal political fact, which is that the assets of foreign policy, such as diplomatic influence, intelligence and ultimately military hardware and military personnel, belong to the Member States the assets that have to be deployed in pursuance of foreign policy objectives—and even more brutally, to a rather small number of Member States. That makes the political dynamics of that area of foreign policy quite different from those of the social, economic and environmental aspects which are governed by the EC

Treaty, and any steps that are taken to establish greater coherence between those two aspects of foreign policy need to take that fact into account. There is, I think, a choice to be made, and the existence of this choice does not come out of the Commission's paper very clearly because the Commission knows which way it wants the choice to go. In addressing the problem of coherence, which is the consequence of this separation, there are two possible approaches. One approach is to build up the Commission's resources, to strengthen its strategic planning capacity and increase its involvement in the implementation of foreign policy, in the jargon to "communitarise" external relations policy to a greater extent than at the moment. That is very much the thrust of the paper. The Commission is assuming, quite naturally, that the right way to go is by enhancing its role and its capacity to operate across the whole field of foreign policy. The other possible approach—which, in my view, is more in keeping with the spirit of the Treaties and more consistent with the underlying facts that I referred to—is to build up the Council's infrastructure. A great deal has already been done in that direction by the establishment of the Political and Security Committee, the PSC, the Military Committee, the military staff and so on, and of course the Planning Unit within the Council. The second approach would involve building up that planning and implementing capacity within the Council, involving the Commission in that process, but the *locus* of co-operation would be the Council rather than the Commission. I do think there is a choice to be made between those approaches and governments that are considering the way forward need to be aware that the Commission's paper is assuming that the first approach is the right one to take.

**Q178 Lord Hannay of Chiswick:** I am interested by your reply but I have to say to you that it is exactly the opposite of what I picked up in our visit to Brussels, which characterises this paper as an attempt by the President of the Commission to overcome the dichotomy you have described and which you have suggested has to be applied to the death by an attempt to bring some fairly reluctant Commission officials along to a realisation that they have to work together, which is after all roughly the approach that would have occurred if the Constitutional Treaty had



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been enacted. I am sorry to make that point to you, which is not a question at all, because I am not sure that your characterisation fits exactly with what we heard when we were there. Is there, in legal terms, any proposal that the Commission has made which goes outside the Treaty of Nice, which is the current law of the European Union, because I think that is rather an important consideration in all this?

*Professor Dashwood:* Can I just say that I really do not see this in terms of a fight to the death but I do think it is necessary to be clear about the framework of co-operation which is being established. I believe that the Commission's paper is helpful in this regard and well-intentioned but I think there is a choice to be made so far as concerns the framework of co-operation. I do not think that there is any legal impediment in the Treaties to the broad lines of what the Commission is proposing. There are a few things in the paper that definitely jar from a legal point of view. For example, when the Commission is talking about development co-operation under section 2 of its paper, on page 3, it lists different activities—governance, human rights, election observation missions, peacekeeping and the investment climate. I think it is pretty clear that peacekeeping is not an aspect of development co-operation but, of course, there is, as I am sure you know, a turf war going on at the moment about competence, between the Commission on the one hand and the Council and the Member States on the other, as regards the relative scope of development co-operation and the CFSP. The Commission takes a very broad view of development co-operation, but I think that is incompatible with the division of competences under the treaties. I do not think there is anything in the Commission's paper which is inconsistent with the letter of Title V of the TEU, though it may to some extent be inconsistent with the spirit of Title V. For instance, the basis for joint papers, I think, would be the shared right of initiative for both the Commission and the Member States, the Presidency of course being a Member State. It would be perfectly possible and certainly desirable for joint papers to be developed by the Commission and by Council officials acting on behalf of the Presidency, or indeed of a Member State, and these could be presented to the Council. There is nothing in the Treaty to say that the right of initiative has to be taken individually by the Commission or by a Member State: there is no reason why it should not be done jointly. I am less certain about the proposals on strategic planning. It would be more incompatible with the spirit of Title V if the Commission were involved more directly in the work of the Council's own Planning Unit or if the Planning Unit and the Commission's planning capacity were developed together as a preparatory stage for the development of joint papers. As for the involvement of the High Representative in the

meetings of the RELEX Group of Commissioners, again I do not think there is anything in the Treaties that would stand in the way of that; but if the RELEX Group were to become the main engine of strategic planning that would be against at least the spirit of Title V, because it would effectively put the planning capacity inside the Commission rather than inside the Council where I think Title V expects that it should be.

**Q179 Lord Freeman:** Lord Hannay's question related, of course, to the constitutional competence. Can I just press you a bit further on the practical competence of both the Commission and the Council in terms of numbers, resources and reporting responsibilities? You touched quite helpfully on where you think strategic planning responsibilities might lie and how they might be co-ordinated and partnered between the Commission and the Council. Could you develop your thoughts a little further for the record on practical competence?

*Professor Dashwood:* The Commission, of course, has much greater resources at its disposal than the Council. It is a much bigger institution and, in the areas in which it has traditionally operated, like development co-operation and trade, it has immense experience and resources on the ground in third countries as well as in Brussels. If the turf war could be settled then I think it would be easier to conduct operations like the Aceh operation, for example, combining the resources of the Member States acting through the Political and Security Committee and the Council, of course, together with the development co-operation resources of the Commission. The Council's resources, derived from Member States, in the foreign policy area are in terms of diplomatic influence and, military capacity—any kind of operation that involves deploying Member States' personnel rather than Commission personnel, for example, as peace monitors. As you know, they are nearly always military personnel out of uniform. For those sorts of resources, that the European Union has to look to the Member States and to that extent the operation needs to be a Council operation. If co-operation can be achieved I think there is tremendous scope for developing a more effective external relations policy. You probably know—and perhaps I ought to declare an interest here—that there is litigation going on about the respective scope of development co-operation and security policy. It has to do with a Council action that was adopted for the purpose of facilitating the ECOWAS (Economic Community of West African States) moratorium on the dissemination of small arms and light weapons. There was a dispute between the Commission on the one hand and the Council and some of the Member States within the Council on the other about whether it was appropriate to provide financial and technical

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assistance to ECOWAS at a certain moment. The Commission was not in favour of doing this and thought that anything that was done ought to be done within the framework of the Cotonou Agreement. The Council went ahead because the French Government, in particular, and to some extent the British Government and others, were keen on doing something immediately, and the Commission has now brought proceedings challenging the validity not only of that particular action but also of the joint action on which it was based, which relates to operations in general designed to discourage dissemination of small arms and light weapons. I am acting for the United Kingdom in those proceedings. They will help to clarify the scope of these two areas of competence and whether there is any overlap; and once that has been clarified, mutual co-operation may become a bit easier.

**Q180 Chairman:** Can I go back to the example which you particularly gave because I do not want there to be any misunderstanding. You picked peacekeeping out of the paragraph on development, and maybe I have misunderstood you but I thought in a sense you were suggesting that this was almost a bid on the part of the Commission to have an involvement in this when in fact it was for the Council. Can we just clarify that because there are lots of things in this paper that are probably outwith the competence of the Commission but are mentioned nevertheless and it does all start somewhere along the line with the proposals for the Member States and the institutions working together on the following issues? I am not taking issue with your overall view, but ought we to read the paper on that latter basis, in other words that some things may be for the Commission and some things may be for the Council but there is scope for co-operation rather than it being a bid by the Commission to take over something that it has currently not got a legal basis for?

*Professor Dashwood:* I did not mean to be as crude as that. I do not believe it is a bid by the Commission.

**Q181 Chairman:** The expression is not yours, it is mine, but I thought it was quicker.

*Professor Dashwood:* I was responding to Lord Hannay's question about whether there is anything in the paper which is outside the competence of the Community. We need to talk about the competence of the Community rather than the Commission. The dichotomy is between Community competence in the socio-economic area and Union competence in the area of the CFSP, because, of course, and you are absolutely right, the Council is involved as well as the Commission in running the aspect of external relations policy which is governed by the EC Treaty. It is just that the relationship between the institutions is different in the two policy areas.

**Q182 Lord Hannay of Chiswick:** Can I continue in this because there are two things I was slightly puzzled about in what you said and I am sure you will show me where I was wrong. You talked about strategy but am I not right in thinking that neither the Commission nor the Council Secretariat have either the capacity or the legal right to define European foreign policy strategy? That is a matter reserved to the Member States and the European Council. They can talk about it or they can propose it, and I strongly agree with your view that when they are proposing it would be far better in most cases if it were a joint proposal, but they cannot decide it, I think I am right in saying.

*Professor Dashwood:* Certainly, yes.

**Q183 Lord Hannay of Chiswick:** There cannot be in Solana going to the RELEX Group an usurpation by the Commission of a decision-making power because that group cannot take decisions?

*Professor Dashwood:* Indeed.

**Q184 Lord Hannay of Chiswick:** I hope I am right in saying that. The second point is this one of peacekeeping because it is one I have been much involved in myself in UN politics. I think perhaps the word was badly used. If they had used "peace operations" it would have been a little bit more evident, but the modern peace operation contains so many facets, some of which are the old classical ones of the deployment of troops or the demobilisation or things like that, which are very straight ESDP or CFSP competences, but then masses of what we now call peace operations are about the rule of law, the provision of food aid, the training of civil servants or whatever it is, which are all things, I imagine, that are at any rate capable of falling within European Community responsibility, so that the argument that in order for the EU to co-operate effectively in a big multi-faceted peace operation it needs both sides, as it were, to get together seems to me, coming at it from a UN angle as it were, totally obvious. It just is something that now has to happen because peacekeeping is not what it was when the word was originally used, but I agree, they should not have used that word here. They should have used something like "multi-faceted peace operations". Could you just comment on those two points?

*Professor Dashwood:* I entirely agree that decisions on external relations policy can only be taken either in the Community area or in the Union area (the CFSP area) by the Council and I certainly did not mean to imply anything else. The European Council will lay down broad strategic guidelines and any decisions that have to be taken will be taken by the Council under either its Community competence or its CFSP competence. Of course, the formal preparatory steps will be different. If it is a Community matter there will

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probably have to be a proposal by the Commission. If it is a CFSP matter the initiative could come from the Presidency. I agree as well that in order to run an effective foreign policy it is necessary for the Union to be able to act in a coherent way both in respect of matters that fall under the EC Treaty and in respect of matters that fall under Title V of the TEU. Some of the things you mentioned are matters which are in dispute at the moment; and it would be very helpful, I think, once this has been resolved, if things like rule of law missions could be seen as an aspect of technical co-operation within the competence of the European Community, and at the same time as an aspect of security policy if they help to create stability, especially in the neighbourhood of the European Union in countries like Georgia. It is one of the problems of the present situation, when lawyers become involved in these disputes, that the same kind of action—such as a rule of law programme which is, say, designed to improve the performance of the criminal courts in a particular country (and there was such a programme in Georgia)—that kind of action could be undertaken either on the basis of Community powers or on the basis of CFSP powers. If that possibility were recognised, it would be helpful because the institutions could then get down together and plan the best way of doing things in a concrete situation. There is nervousness among Member States at the moment because the Commission is taking a very tough line on the interface between EC competences and CFSP competences, relying on Article 47 of the Treaty on European Union, which says that nothing in this Treaty shall affect the EC Treaty. The Commission is arguing that anything which can be done on the basis of a Community competence may not be done on the basis of a CFSP competence. When I say that causes nervousness it means that perfectly sensible things give rise to immense debates within the institutions because it is feared, by some Member States at least, that if they accept that action can be taken under a Community competence on that particular occasion, the Commission will say, “Snap: you can never do that as a CFSP action in the future”. That was why there was such an enormously long debate over the South African contribution to the African peace facility. Would you like me to talk about that instance?

**Chairman:** We are very interested, but perhaps we had better move on for the moment.

**Q185 Lord Lea of Crondall:** You stated in evidence to the EU Select Committee on 27 June that you believed it would be possible to establish an “external action service” bringing together Commission and Council officials as well as officials from Member States. How could such a service be formed in the absence of the Constitutional Treaty? Perhaps I can add a gloss to that to see to what extent we are talking

about nomenclature here. Presumably we are not talking about ambassadors and all that; we are talking about a practical matter, are we, of how far you can do a lot in this territory, building on the twin-hatting in Skopje and so on, without hitting a road block? Have I understood the theme that you were putting forward?

**Professor Dashwood:** Yes. I have been racking my brains to think if there is any legal impediment to establishing an external action service. Of course, it is not entirely clear what that would involve in practice but I think it would be bringing together officials from the Council, the Commission and the Member States to do the preparatory work on foreign policy matters and implement the decisions that were taken. As far as the EU officials were concerned, they would get their pay and rations from their respective institutions. I suppose the national officials would be paid by their Member States and one would have to think about the financial arrangements. But if a co-operative spirit were reigning, then I cannot see any reason why a group of officials like this could not be used to discuss collectively what should be done for the purposes of something like the mission to Aceh, which was partly about providing peace monitors who would arrange matters between the Indonesian forces and the former rebels, but it certainly spilled over into redevelopment in the post-Tsunami period. That I think is a very good example of what Lord Hannay was saying about the need to be able to cover different aspects of foreign policy. I cannot see any legal reason why that kind of operation could not be planned and implemented by an external action service.

**Q186 Lord Lea of Crondall:** So there is a high degree of pragmatism, no road block in those areas, side by side with those other areas you were talking about earlier where lawyers would have to be very much, as it were, consulted minute by minute about what one was doing. It is a bit of a paradox which no doubt we will have to think about in preparing our report.

**Professor Dashwood:** I do not think there are any legal impediments. There may be practical impediments, certainly at first. My own reactions are probably somewhat those of a former Council official. There is a different ideology between the officials of the Council and of the Commission and there are issues about which probably at the moment you could expect them to give different sorts of advice.

**Q187 Lord Lea of Crondall:** That is a new one on me, different ideologies. We were talking this morning to the man doing the double-hatting in Skopje and obviously there is a question about getting more people in the field to get part of their career experience working in Brussels, whether it is in the Commission or indeed in the Secretariat of the

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Council of Ministers. Do you mean different ideologies in the sense that in the Council Secretariat clearly they are very sensitised to the changing of the politics of the Council of Ministers whereas the Commission is playing on a different wicket somehow?

*Professor Dashwood:* I think it is. Council officials typically are involved in facilitating decision-making between delegations whereas the Commission has a clear corporate sense of wanting to advance an ideal of European co-operation. Perhaps I am seeing this too much as a lawyer but I know that certainly on legal basis questions you can expect Commission lawyers to look for an answer that will recognise a Community competence, and if possible an exclusive Community competence, whereas you might not get the same answer from a Council lawyer. I think there would be practical difficulties at first but I am sure that in practice they would be overcome.

**Q188 Lord Lea of Crondall:** It struck us earlier in the week in Brussels, where we went to talk to both the Commission and the Council, that there is not so much a difference of ideology as here we have a paper which is centrally concerned with relations in some respects within the Commission and the Council and yet it is only written by the Commission. Why was it not written between the Commission and the Council? The irreverent thought passed through our minds, I suppose, that it would have been rather difficult to write such a paper between the Commission and the Council. Would you comment on this paper that we are talking about? Would it have been easy to write it as a joint paper between the Commission and the Council?

*Professor Dashwood:* It might have had a different emphasis if the Council had written it.

**Q189 Lord Lea of Crondall:** Such as what?

*Professor Dashwood:* That was the point I was making at the beginning. It would have been more about developing the Council's infrastructure and bringing the Commission into the preparatory processes of the Council. As I say, I do not think there is any legal impediment to establishing an external action service. I think those involved would have to get used to working together and it would not work if people were feeling the need to rush off to lawyers all the time. That is why we do need to resolve some of these issues about competences.

**Q190 Lord Lea of Crondall:** I do not think, incidentally, we were thinking about the phrase of somehow embracing national missions within the states in question. I seem to remember we were talking about double-hatting between the Council and the Commission.

*Professor Dashwood:* The idea the Constitutional Treaty was that in the external action service some of the personnel would come from the Commission, some from the Council and some from the Member States.

**Q191 Lord Lea of Crondall:** How free would the Commission President be to adopt a more strategic role compared with other external relations commissioners?

*Professor Dashwood:* I do not know the answer to that, I am afraid. My understanding of the paper was that the RELEX Group would be the strategic planning group within the Commission but, of course, bringing in the Commission President as appropriate, particularly because he provides the link with the European Council.

**Q192 Lord Lea of Crondall:** He would be uniquely attending the European Council?

*Professor Dashwood:* Yes.

**Q193 Lord Freeman:** Would you agree that there is some merit in the United Kingdom Government arguing with Member States that no initiative should be taken in the foreign policy area unless there is agreement between the different European Union institutions, and I mean the Commission, the Council Secretariat and Member States? In the absence of constitutional agreement on that subject, the creation of a minister or a representative dealing with foreign affairs and having that right to do so for all practical purposes, unless there is unanimous agreement there should be no competence?

*Professor Dashwood:* To act in any way on the international scene?

**Q194 Lord Freeman:** Correct.

*Professor Dashwood:* It would depend to some extent on the subject matter.

**Q195 Lord Freeman:** I am talking about major issues. How you define that perhaps we can leave for another discussion.

*Professor Dashwood:* On any issue that involves security, for example, which, I suppose, is where the greatest political sensitivity would be, the Council can only act by unanimity. I do not think it is quite right, if I may say so, to talk about unanimity between the Member States and the institutions because it is not necessary in order to undertake an action like Aceh—I keep coming back to Aceh because it is a recent one. It would not have been legally necessary to obtain the agreement of the Commission to that because it was a CFSP action, although it would have been foolish to undertake it, I think, without the Commission's co-operation. It is legally possible, of course, for action to be taken

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under Title V of the TEU in the absence of unanimity under the so-called constructive abstention procedure. It would clearly be very unwise for a major initiative to be undertaken, certainly if one of the larger Member States was abstaining, but I think it is going too far to say that there has to be unanimity between the institutions and the Member States before an action can be undertaken. There are some areas which fall within Community competence, like trade, where the Council acts by qualified majority on a proposal by the Commission and where the Commission does all the negotiating and so on, and similarly in the field of development co-operation. It is really only in the kind of matter which is typically dealt with on the basis of Title V that you need unanimity or at least constructive abstention to be able to act. I am not sure that I have answered your question very satisfactorily.

**Q196 Lord Freeman:** I was harking back to the comments you made about small arms in the West African states and the difference of opinion between the Commission and the Council of Ministers, I think it was, in that particular instance. There I think your evidence was that this is a fact of life and it went ahead: action was taken.

*Professor Dashwood:* It went ahead but the Commission has now brought legal proceedings against the Council for having done something under a CFSP competence which the Commission says ought to have been done under a Community development co-operation competence.

**Q197 Lord Hannay of Chiswick:** But I think I am right in saying that does not erase Lord Freeman's unanimity point because it went ahead because there was agreement.

*Professor Dashwood:* There was agreement in the Council, yes.

**Q198 Lord Hannay of Chiswick:** So it is exactly the opposite: there was unanimity but the Commission chose to contest it in the court?

*Professor Dashwood:* Yes. There was unanimity within the Council. There had to be in order to be able to adopt the decision—actually not, in fact, because it was an implementing decision. It was based on a joint action but there was in fact unanimity, although, the Commission did not agree.

**Q199 Lord Freeman:** That is very helpful, but I think the answer to my question is no.

*Professor Dashwood:* I think it is no.

**Q200 Lord Freeman:** If I may turn to the position that the High Representative has been placed in in relation to negotiations with Iran, you have a very small number of European states who have taken the

lead. One can understand why, but if this situation is replicated, perhaps in North Korea, perhaps in the Middle East, a decision is taken by one of the leading Members of the European Union, a Member State, perhaps with the support of one or two others, to take a quick diplomatic initiative, are we likely to find ourselves in a similar, potentially muddling situation in the sense of asking what is the competence of the High Representative in joining in any negotiations? Is it as an equal? Is it as an adviser? Indeed, what is the implication for the Council of Ministers, and indeed the other European institutions and the Commission itself?

*Professor Dashwood:* I have to agree with you. Although one understands why it was done in that way, if it were done very often that would undermine the ability of the Union to act as itself on the world stage. It also underlines the point I made at the beginning, which is that for the European Union to act effectively it has to draw on the political influence of its main Members and there is no equality between the Member States in that respect. To take an absurd example, if on the basis of using the constructive abstention mechanism the UK, France and Germany abstained on some joint action in relation to some aspect of the Middle East problem, it would be worthless. This situation underlines how much the European Union depends for its collective effectiveness on the influence and the resources of its major Member States. If the biggest and the most influential of the Member States repeatedly act as a small group, taking the High Representative along with them in order to maintain some sort of contract with Brussels, it is incompatible with the procedures of the CFSP and I think in time it undermines the authority of the Union, or at least it makes it impossible for the Union to build up its international profile.

**Q201 Lord Lea of Crondall:** Could I check that those two last points do not point in opposite directions? Clearly, one view about the relationship between the large Member States and the European Union is that you can imagine for example, Spain and Italy and France co-operating on something to do with somewhere in Latin America. Is it not a fact that if you are going to be able to have some reasonably quick reaction to a position like Iran then this might happen more and more? You cannot have 27 countries somehow involved as Member States up front. Margaret Beckett chaired this meeting the other day in London and although it is not easy to solve the problem of Iran that does seem to me to be, would you not agree, a relatively efficient piece of international diplomacy and Russia and China and the United States come to the party along with Britain, France and Germany? That, some people would argue, squares a lot of circles which have

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needed to be squared over many years in the development of a common foreign and security policy, so rather than worrying too much about it ruining the Union and making things impossible, maybe it is a condition of making it possible. That is putting it a bit strongly but that could be a line of thought, could it not?

*Professor Dashwood:* The Presidency should be involved, I think. The mechanisms are quite flexible. It is quite possible for the Presidency to involve other Member States in whatever is being done but I think it is terribly important that the Member States should get used to operating within the framework of the Union, within the framework of the CFSP.

**Q202 Lord Lea of Crondall:** In what sense were they not doing that on Iran? They started it on a pragmatic basis, three Member States. They happened to be three states, they happened to be Member States. It was not Norway, which might have been different, but there were three states. They happened to be Member States. I say “happened to be” because it was almost like that, and lo and behold they start reporting back to the Council of Ministers and now the European Parliament says, “Why are we not being consulted?”. They are making it up as they go along, obviously, but what is wrong with that?

*Professor Dashwood:* I think they are gradually moving back towards a more orthodox way of doing it, and if they moved a little bit further I would be happier.

**Q203 Lord Hannay of Chiswick:** You mean having 27 foreign ministers meeting the Iranian?

*Professor Dashwood:* No, I do not mean that. I certainly would mean having the Presidency in the lead.

**Q204 Lord Hannay of Chiswick:** Although, of course, under the Constitutional Treaty he would have been abolished in this field.

*Professor Dashwood:* Yes. They could have a Union minister who would be able to do it.

**Q205 Lord Hannay of Chiswick:** It would be the High Representative.

*Professor Dashwood:* Yes, but very much in the lead in a way that I do not think the High Representative was.

**Q206 Lord Hannay of Chiswick:** Well, on the Iranian negotiations it seemed very much that way. After all, Solana has been conducting most of the meetings in recent times and everyone seems entirely content that this should be so.

*Professor Dashwood:* The important point is the one that Lord Lea made, that they are moving towards a more orthodox way of proceeding.

**Q207 Chairman:** As we come to a close, listening to what you say, people must get used to working in a proper framework. Do you think that if the proposals in this paper are implemented any progress is going to be made towards improving co-operation et cetera for a common foreign and security policy or, because it is ad hoc and has not got a Treaty base, it is going to fall to bits?

*Professor Dashwood:* I think it will work, but I think in order for it to work some of the legal issues need to be resolved. Some of them will be resolved by the litigation I mentioned, probably not all of them because cases and judgements are never as clear-cut as one would hope in advance that they will be. There are legal issues which need to be clarified. I think the paper is a very important basis for collaboration between the different institutions.

**Q208 Chairman:** Around this table we tend to say that it is common sense that people produce a joint paper because that seems to be common sense, but what would be the legal base for joint papers produced by the Council and the Commission? Would they have a particular status?

*Professor Dashwood:* I think it would be Article 22, paragraph 1 of the TEU which is the provision on the shared right of initiative. I think that must mean, if you have a right of initiative, that you have a right to undertake preparatory steps. I do not think it is implied in that provision that the right of initiative must be independently exercised either by the Commission or by a Member State. On that basis, you could have a joint paper produced for the Commission using its right of initiative, and by Council officials acting for the Presidency using its right of initiative as a Member State.

**Q209 Lord Hannay of Chiswick:** While agreeing with those, that it would have been desirable if this paper had come forward as a joint paper from the Council and the Commission, I think that is far better, is it not the case that since this paper does not purport to seek any legal decisions under the new European treaties—there is not a single one, as far as I can see, that is proposed there—and since it responds, apparently, to a remit from the Hampton Court European Council, the fact that it does not cite as its basis a treaty text is probably an act of wisdom because if it had done and it had made itself look as if it was exercising the right initiative it would have moved the whole debate into a much more constrained framework. I do not know whether you would agree with that?

*Professor Dashwood:* Certainly, I do agree. This is more in the nature of a White Paper. If they had cited a legal basis that would immediately have set alarm bells ringing. There is one point I would like to add. One of the earlier questions, at least the written ones,

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asked me whether the Commission might have gone a bit farther than this. Something I feel might be useful would be for the High Representative to attend meetings of the Commission as an observer, an observer with the right to speak but obviously not to vote, when the Commission is discussing external relations' questions.

**Q210 Chairman:** Can you tell us whether you think the Commission has got the confidence to participate in the work of other multilateral organisations and to represent the Union and its Member States within those bodies? Has it got a competence which it currently does not use?

*Professor Dashwood:* I think there one has to be rather legalistic. It would depend on what the remit of the bodies was. It is not a question of Commission competence but, again, is there Community competence; I think that is the issue. If it is a matter on which there is Community competence, the Treaty does not say that the Commission must always represent the Community and international bodies but what it does say in Article 300 is that the Commission conducts international negotiations on behalf of the Community. You can extrapolate from that the Commission ought to be the body that represents the Community on matters for which the Community is competent. I would have thought that in financial bodies, in bodies that are concerned with currency, there is an exclusive Community competence for monetary policy for the Member States in the euro. I think it could be perfectly proper for the Commission to represent those Member States in the euro in international bodies that were concerned with monetary questions. Certainly it is perfectly proper for the Commission to represent the Community in international environmental organisations because the Community has competence there. In international bodies with the remit that falls within the scope of the CFSP then the Treaty makes it clear that it is the Presidency that should represent the Union, although in close association with the Commission. I think it all depends on whether there is Community competence.

**Q211 Lord Hannay of Chiswick:** Surely in the monetary case it would be the European Central Bank that would represent them?

*Professor Dashwood:* It would be the European Central Bank if it was—

**Q212 Lord Hannay of Chiswick:** It would consult the Commission. There is no competence for setting monetary policies.

*Professor Dashwood:* I am sorry, of course it would be the European Central Bank. It would be a Community body.<sup>1</sup>

**Lord Hannay of Chiswick:** The AETR judgment is fairly precise on that.

**Q213 Chairman:** Has anybody got any other questions? Is there any difference between the delegation in Washington and delegations elsewhere? They all commission delegations, are they?

*Professor Dashwood:* They are all Commission delegations, yes.

**Lord Hannay of Chiswick:** There are places where there is more than one delegation, where there is a Commission and a Council, like New York. Washington is not one of them.

**Chairman:** No, but a delegation is a delegation. Are there any other questions? Good. Professor Dashwood, thank you very much indeed for baring your thoughts to us. We are most grateful.

<sup>1</sup> My exchange with Lord Hannay about the representation of the European Community in the field of economic and monetary union (EMU) failed to bring out the complexity of the legal position. The governing provision is Article 111 of the EC Treaty, which operates by way of derogation from the general procedures laid down by Article 300.

Paragraph (3) of Article 111 is about negotiating monetary agreements with third countries. The Council is empowered, acting by a qualified majority on a recommendation from the Commission and after consulting the ECB, to decide on the arrangements for the negotiation and conclusion of such agreements.

Paragraph (4) of the Article is about deciding on the position to be taken by the Community at international level, and on its representation, as regards issues of particular relevance to EMU. These are, again, matters for the Council to determine, acting on a proposal from the Commission and after consulting the ECB, in compliance with the allocation of powers under Article 99 (economic policy) and Article 105 (monetary policy).

The Council is thus empowered to adopt *ad hoc* arrangements for the representation of the Community in international negotiations within the sphere of EMU, tailored so as to respect the allocation of competences under the Treaty, in the different policy areas with which a given international body may be concerned.

THURSDAY 12 OCTOBER 2006

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Present:	Bowness, L (Chairman) Freeman, L Hannay of Chiswick, L	Lea of Crondall, L Truscott, L
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### Examination of Witness

Witness: LORD BRITTAN OF SPENNITHORNE, a Member of the House, Former Commissioner for External Affairs and Vice-President of the Commission, examined.

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**Q214 *Chairman:*** Lord Brittan, thank you very much indeed for coming to this meeting of the Sub-Committee. I know it has been explained to you that we are doing a short report on this Communication from the Commission entitled Europe in the World—Some Practical Proposals for Greater Coherency, Effectiveness and Visibility. We would very much like to hear from you on how effective you think that is going to be, what scope there is going to be for going further and whether it is all possible without the Treaty and matters of that kind. I do not know whether there is anything you would like to say before going to the questions which I know we have set?

*Lord Brittan of Spennithorne:* I could summarise my views in a moment or so by saying that I think it is difficult to go very far in the direction which the Commission is seeking to go without the Treaty changes which have been proposed. With that very severe limitation—without wishing to sound patronising to the Commission—it is a valiant effort, but it savours quite a lot of aspirations rather than various specific ways of achieving those aspirations. The proposals, such as they are, very often are in terms of increased co-ordination which is easy to state and hard to achieve. Having said all that, I do not want to be too critical because I am not sure that it would have been realistic or feasible for them to do very much more than that. I do not think one should hold one's breath and expect enormous things to come from this, even if it were all positively received and implemented in good faith.

**Q215 *Lord Freeman:*** We have heard evidence already that there is a turf war between the Commission and the Council Secretariat in the area of foreign policy. You have already indicated the difficulties of perhaps making progress without some form of constitutional agreement, which there has not been so far. Can you tell the Committee, if you agree with this diagnosis even in part, and what are the root causes for this lack of coherence and co-operation within European institutions?

*Lord Brittan of Spennithorne:* I personally would not overdo the turf war side of things. I think it is quite inevitable when you have institutions that cover similar ground that there should be rivalry between

them and there should be a so-called “turf war”. It is not exactly unknown in Whitehall either for that to happen. I do not think it is more than is inherently inevitable in the nature of things where you have got, on one hand, the Member States, which themselves differ enormously in the views they may take from time to time, which are embodied in the Council of Ministers and its secretariat with a bureaucracy of its own, and the Commission which has been set up to have a particular role in this area. There is an overlap, and I think that is inevitable and is human. All you can do is try and make the best of it, which very often depends on personal relations. My impression has been—and I am not saying this on the basis of profound discussions—for example, that when Chris Patten was the Commissioner he was absolutely determined that he was not going to embark on a turf war with Mr Solana and that they just had to work together. I suspect there were ayatollahs, if you want to call them that, or institutional enthusiasts working for each of them who were egging them on to not allow this and demand the other and so on, but actually they realised that would be damaging to both and to the cause of Europe generally and they avoided that, at least they certainly avoided any public display of it, although what there may have been behind the scenes anyone can guess. Most of it depends on personalities. I think the key to it all, as has been the key to such success that the European Union has had in the area of foreign policy—which is not inconsiderable and there are those present in this room who will not only be familiar with that success but will have contributed to it in large measure—has been getting people to work from the bottom up. If you start by saying, “Right, this is your position and that is my position” or “Change that” or “Do something different”, that it is very difficult, but if you start from the position of which people do not have a fixed view on things and talk it through and meet at a low level, then the people meeting at a low level and talking at a low level will present recommendations and submissions to the people at the higher level which will be remarkably similar because they will have talked it through and worked it through together. I think anything that is too mechanistic is not likely to achieve anything, so that makes for recommendations of rather low key.



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Personally, I do not think it is very likely if you are saying, "Twist this notch here and that ratchet there and there you are" then things are going to improve no end, it is a slow and painstaking business. As we have seen in areas such as policy in the Balkans and the Middle East, it would be a mistake to think that because of these competing interests, if you like, competing institutions, nothing can ever be done. It is absolutely not the case, huge progress has been made and it has been a remarkable success in that sense.

**Q216 Lord Freeman:** To the extent that any differences, any lack of coherence, is due to human factors, perhaps inevitably with large institutions or organisation this arises and can only be resolved due to personalities, can you think of any examples where there has been genuine and consistent policy disagreement between the Commission and the Council Secretariat running through, perhaps, a number of external commissioners and a number of senior officials within the secretariat, so it is a deep-rooted policy difference?

*Lord Brittan of Spennithorne:* I am sure I must be overlooking many, many things. It is difficult to have a view on the whole thing looking backwards, especially as I have not been there for a few years. I do not think there have been many cases in which on the actual issues you can say, "Institutionally the Commission favours this and the Council of Ministers favour that". Individually there is much more likely to be differences between the Members States than between the two institutions, although, inevitably, the Commission is likely to favour institutional arrangements in which it has a greater role. You can see that even in this paper. One of the things that struck me when you got to the specifics was the proposal of the "... joint presentation of the EU line to partner countries by the Commissioner and the Presidency in key, third country capitals and a reinforced presence of Commission experts to facilitate co-ordination by the Presidency ...". In FYROM, where at the moment that does not happen, in a sense both the Presidency, the Council of Ministers and the Commission will have an interest in doing that because it gives them an enhanced role, but it probably gives the Commission a greater enhanced role, so there may be a greater tendency on behalf of the Commission to advocate that. I cannot say that I have seen that, but then I have not been in day-to-day touch with that for a little while and would not necessarily have seen that. That is the kind of thing I would expect, but not as a fundamental difference of policy in the Balkans or the Commission wanting X and the Council of Ministers wanting Y going on year after year after year. I remember when I was in government here there was a Home Office view, which was a view that survived successive

Home Secretaries with different personalities, different viewpoints and different parties.

**Q217 Lord Hannay of Chiswick:** Can I follow up on that question because I would agree 100 per cent with your analysis that there has not been any very clearly documented or validated history of differences between the two institutions on issues of fundamental policy, but there has been plenty of friction, in the way you described, sometimes kept under tight control by the top people, sometimes not, but surely if that is the story—which I think it is, I would agree with you on this—is it not highly desirable that some of these rather modest looking ways in which you compel people from the top to the bottom to work together are highly desirable? This morning we were given evidence by the double-hatted, special representative of Macedonia who is also head of the Commission there. He said he thought one of the knock-on effects of his appointment since he got there and started to work was it forced the Commission and Council Secretariat to work together in putting together the instructions that were sent to him on various issues and they were now much better at working together than they had been before this device had occurred for quite different reasons. I wonder whether you might not be slightly warmer in that view on some of these ideas in this paper simply because they do seem likely to bring a bit more organic co-operation than already exists?

*Lord Brittan of Spennithorne:* I do not disagree with that at all, and I am quite prepared to be warmed up in my enthusiasm to the ideas. I am not against them at all, I am just slightly sceptical of them and think they are highly dependent on the personalities. Of course you see, there underlies the point that if you had what is proposed in the Treaty, for example somebody who was both an emanation of the Council of Ministers and in the Commission, albeit with a special position in the Commission, then inevitably those working together as one person can only say one thing, you cannot say two things, and they have got to somehow or other come together. That is an example of double-hattedness at the highest level. I do agree with that.

**Q218 Lord Lea of Crondall:** Chairman, with the absence of a constitution, and this is the central question we are going to report on I guess, some people will go to one end of the spectrum and say an awful lot without bumping into the roadblocks which would have been removed by the constitution. You are, perhaps, as I understand it, Lord Brittan, at the other end of the spectrum saying you really would to fairly soon hit some of the roadblocks if you do not have a constitution. Can you give us an example of something that really is very desirable to do but we cannot now do it?

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*Lord Brittan of Spennithorne:* No, I do not think I can. It is surprising that I cannot because it is not a question of not being able to do a particular thing—that would be the case if there was a fundamental disagreement on a policy issue between the Commission and the Council of Ministers which you could not resolve in the absence of superior machinery—it is much more a question of working through what should be done and getting it agreed or getting it done rather than being able to say here and now, “There is X which is being prevented from being done”. The problem is not that you cannot do X but that you cannot necessarily decide what X is so quickly or so readily. Again, it is so much a question of tone and the balance. I do not want to underestimate, not just out of politeness at all but out of accuracy, the degree of co-operation which has been achieved and the degree of common policy which has been achieved. When you look back a decade ago there really were profound differences in the handling of the Balkans with one country having its own patronage of a particular country in the Balkans or party in the Balkans and another a different one, and we moved an enormous way beyond that. It has been through the operation of this kind of thing. I am all in favour of doing more of it rather than less. What I am saying is basically what this paper says is, “Let us do more of the same”. I am not trying to underplay it but rather saying, “Do not see it as being tremendously radical”, which it is not. It is either aspirational or saying more of the same but none the worse for that. I cannot see that you can do any more.

**Q219 Lord Lea of Crondall:** That rather puts up a dichotomy between quality and quantity. I suppose when people say, “Do a lot more” these people are what I call the “benign end of the spectrum”, where you can go by the patently opposite end of the spectrum, do a lot more twin-hatting in the Balkans, do a lot more *de facto* common external service but do not call it that, do not frighten the horses, do not go anywhere near calling anything a constitution, get on with it and you can do an awful lot. This is pretty much, I think, the message of the last three witnesses, one from the Commission, one from the Council last week, and our first witness this afternoon. I think it is in a sense a *prima facie* responsibility or those who now, given all the difficulties, say there are really difficult things that we can only do with the constitution. Clearly, you could not have a foreign external service sending emissaries all over the world, all singing and dancing without that, but is that now a priority? We will come back to Iran later, but people have been able to invent procedures all over the place.

*Lord Brittan of Spennithorne:* Yes, and maybe they will do so, and in the course of ten years progress is made. If, like me, you tend to be a bit impatient, you think that we ought to be able to do better than that in view of the gravity and the urgency of the problems that we face.

**Q220 Lord Lea of Crondall:** In terms of not frightening the horses, we can do even more by not frightening horses than if we do want to go into this theology.

*Lord Brittan of Spennithorne:* If I may say so, Lord Lea, I think that can be a dangerous approach, of not frightening the horses, because the horses are not stupid animals and if you try and do by stealth what you are not prepared to do or think you cannot achieve overtly, it will not take long before there will be people who will tell the horses what is going on and would exaggerate what is going on for mischievous purposes that you and I, I know, deeply disapprove of. All this stuff about achieving by subterfuge what you cannot persuade people to go along with because they will vote against it in a referendum and so on is not to be underestimated. I think if there is a lesson to be learned from anything—there is a lesson to be learned in the handling of European issues—it is that thinking, “Oh, well, this is all very complicated and people will not really understand and let us just do it but perhaps not be fully candid in telling people what is going on”, I think that is an approach that has at least as many dangers as advantages.

**Q221 Lord Lea of Crondall:** You certainly have been provocative to my mind and I am basically a get-on-and-do-it person myself but I do not think people would say, would they, that it is stealth to say, broadening the field, “It is clear we have got to have something to do with migration, it is clear we have got to have something to do with energy policy and it is clear that we have got to do things which even the tabloids know we have got to do”? That is not stealth, that is very transparent, that we have got to do certain things, and that is exactly the opposite of stealth. It is because it is patently obvious there is the need to do certain things, that Europe is there and Europe should extend.

*Lord Brittan of Spennithorne:* I think you and I would agree totally on the need for these things to be done and I think we would agree totally on the need for Europe to do them. All I am saying is that even if people agree it should be done, if it is Europe that does them and they are not told or allowed to see that it is Europe which does them, that has its dangers and it can backfire. That is all I am saying. A little bit of stealth but not too much.

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**Q222 Lord Truscott:** Looking at the Commission's proposals on strategic planning and the role of the President of the Commission, do you think it gives too great an emphasis in a way on the future role of the President of the Commission under those proposals vis-à-vis the other external Commissioners?

*Lord Brittan of Spennithorne:* Of course, I think what we have seen, curiously enough, has been an increase in the role of the President of the Commission as compared with other members of the Commission, compared even with the Delors days. The interesting thing is that in the Delors days although Delors, by all accounts, would be regarded by both those who admired him and those who did not like what he did as the most powerful and effective President of the Commission there has been, actually he was the most collegiate. I remember one occasion—I cannot even remember what the issue was—it was what I would call “a middle-rank issue”, he did not express his views. He asked everybody to express their views. No doubt his team had been less assiduous in stimulating opinion than they often were and everybody expressed a view, he did not say a thing and sat pofaced and then at the end he said, “Well, I disagree with you all”. Those who were inclined towards agreeing with him were horrified because they had not realised that he disagreed with them all. Not only did he say he disagreed with them all, he said, “And I demand a vote”. Everybody had already expressed their position and could not but vote against him and he was voted against by 16 to 1; they were 17 Commissioners at the time. That was curious and I do not think that subsequent presidents of the Commission, who in image were less authoritarian or dictatorial, whatever you want to call it, behaved in that way. I understand it from my friends who remained in the Commission after I left that the practice of having votes at all is one that in times has almost fallen into desuetude, whereas Delors was an enthusiast for votes. It depends how you run an institution and how your colleagues allow to you run an institution. I think that we have seen in terms of the President to be more important and to be able to get away with it all, for it to be accepted that he should play a more directorial role than even past strong presidents have played.

**Q223 Lord Truscott:** Lord Brittan, do you welcome this development? Do you welcome the proposals as they stand or would you prefer to see a more collegiate system?

*Lord Brittan of Spennithorne:* I think they are inevitable. As somebody who was Vice-President of the Commission, inevitably I have a certain nostalgia for extreme collegiality but I have to recognise that probably a move in the other direction is certainly inevitable and probably desirable.

**Q224 Chairman:** Perhaps we can turn then to the suggestions and the proposals about the participation of the High Representative and the Relex Group. Do you think that is something that is easily achieved or is it something that is going to lead to a blurring of his particular role?

*Lord Brittan of Spennithorne:* I think it is hard to achieve in the absence of the treaty provision which provides for it. If the treaty had been enacted, then clearly he would be a member of both institutions. If he is not, what is he? A sort of visiting expert or ambassador from another institution? How is it actually at work? Does he say something and then everybody says, “Thank you very much and now we will take a decision” or what? I think it would require a very exceptional degree of co-operation for that to work effectively if he is given really a part of that. If he is a friendly neighbour who is welcomed, invited in, whose views are taken seriously and may, therefore, by the force of his personality and the content of his views, have an impact, fine, that could work but I am not sure whether that is quite what is meant by being part of the Relex Group.

**Q225 Lord Hannay of Chiswick:** Surely, your criticism would apply more if what had been proposed by the Commission was that Solana should participate in Commission meetings without having any status—I would agree entirely with your strictures—but that is not the proposal. The proposal is he should take part in a meeting of Relex Group of Commissioners which has no legal status whatsoever, which cannot even take a decision on behalf of the Commission. Personally, but I would like to hear your comments, I find it difficult to believe that much of a problem arises. Solana's views given to the Relex Group of Commissioners are likely to be pretty influential, frankly, I would have thought. If he were to say, “Well, what you are contemplating is simply not going to fly”, I would imagine the Council would tend to favour protection of him and that might prevent some of the wilder flights of the Commission's fancy ever seeing the light of day.

*Lord Brittan of Spennithorne:* I am not sure that I quite buy the picture of the realistic man from the Council of Ministers coming along and dampening down the nonsense that might otherwise emanate from the Commission, which slightly lies behind what you are saying. I do not necessarily buy that. Also I have got a slight objection, as I have said, to him coming along and people listening to what he has to say. It is the cost of being part of it that I am unhappy with. If you are saying, “This is a body that does not really exist other than as a sort of chat show”, not a chat show but an opportunity for Commissioners to get together and maybe that will then lead to something emerging from the Commission that otherwise would not emerge, that is an understatement of the Relex

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position, whatever the formal position might be, even in my day, it did more than that. As always, as in a Cabinet Committee, if the people most interested in the subject discuss it and reach a common view, then it is rare—not impossible but rare—for that to be overthrown by the larger collegiate body, so the Relex Group, whatever its formal position, did take policy decisions. That is where I think the cost of being part of it is more than a mere nicety but it might work so as long as it is clearly understood that he is not a member of it and that he comes along and has the influential role you have described by force of his experience and knowledge, fine. Maybe I am just quibbling about the vocabulary of it, but personally I would not like being part of it.

**Q226 Lord Truscott:** Moving on, if the Commission and Council Secretariat begin to produce joint reports and information for Council meetings, how do you avoid a blurring of competences and lines of accountability?

*Lord Brittan of Spennithorne:* I do not find a problem with that. The problem will be in getting them to produce the joint report. If they do produce a joint report, invariably it means that two people coming from different places have arrived at the same place together, and that is a good thing rather than a bad thing. The institutional difficulty, of course, is because they are separate you cannot force them to do that, and if that does happen—and I said in my opening observations that if you work from the bottom up it is increasingly likely to happen—that is a good thing. I do not think there is any institutional problem about that at all. Why should there be if you come from two different bodies and they both happen to say the same thing, everybody should say, “Hurrah!” these issues are difficult enough as it is without having to deal with different people.

**Q227 Lord Hannay of Chiswick:** I was going to say we were told in Brussels that, in fact, recently Olli Rehn and Solana have produced a joint paper on Bosnia, I think it was, and Solana and Michel have produced a joint paper on some aspect of Africa, so apparently it is something that is developing. Could I ask you about the external representation. First of all, perhaps we could start with the Iranian rather institutionally odd but perhaps substantively effective way of proceeding with the EU Three getting out in front and then being joined by Solana at some stage in the proceedings, and the procedure becoming pretty fully communitarised subsequently in the sense that the Council discusses the matter regularly on the basis of the reports back to it but does not get involved in the negotiation. Do you think this is not a template but a way of proceeding which is both within the treaties and also likely to prove useful and valuable in the future?

*Lord Brittan of Spennithorne:* There I would say that the key to it is to have a little bit of Lord Lea’s stealth or practicality, if that is a more polite and friendly way of putting it, in that it is exactly as you described it. It is an institutional anachronism or curiosity, according to how you want to describe it, and difficult to fit into the classic rules that would normally be applied, but it has been accepted and it works. I suspect that similar things could happen again and it could be useful and people would have noted the Iranian thing and will be tempted to follow that direction. The only point where we start getting into trouble is if you say, “Right, this has worked. This has been a good thing. Let us write it all down and the way it has worked and call that ‘Plan A’ and now let us apply it to another situation.”

**Q228 Lord Lea of Crondall:** Precisely, that is precisely the opposite of your earlier contention, is it not?

*Lord Brittan of Spennithorne:* Why is it the opposite?

**Q229 Lord Lea of Crondall:** Writing it all down and saying, “This is the way it should work” is rather difficult because Italy, or Spain in this case, might say, “Oh, no!” They are happy if you do not say that this is a pattern or a template, just do it pragmatically.

*Lord Brittan of Spennithorne:* I said that whereas I would not want to go too far in the direction you have described because it is dangerous, because it frightens the horses, I just said that this is an area where I do not think going a bit in the direction that you described would be a good thing. I espoused your ideas only to have them spurned! Dangerous, indeed. No, I would say that but I think if you just do it, yes. If you try and say, “Right, hurrah! This has proved a useful way of operating and now let us do it again and let us write it down and have it as a new sort of EU model”, that is the best way of ensuring it does not happen again and I do agree that it could be useful in the future.

**Lord Lea of Crondall:** I do apologise, my Lord Chairman. I thought that this was a contradiction of trying to have too much more in the Constitution. That was my fault, but maybe that is a slightly different point.

**Q230 Lord Hannay of Chiswick:** Could I ask a second, quite different question. Do you accept the basic thesis that getting the Commission, the Council and all the Member States operating together on important issues of foreign policy is a desirable way of achieving more effective outcomes for the Union and its Members? If your answer to that question is broadly affirmative, how far are we falling short of that because of the present mishmash of institutional

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procedures, the difficulty of getting a single voice speaking in different capitals of the world and so on? *Lord Brittan of Spennithorne:* My answer is unhesitatingly yes, I do think it would be desirable to achieve the objectives you describe for the reasons set out at the beginning of the Commission's paper, namely that Europe does have certain common interests which if applied in the area of foreign affairs would be beneficial for Europe's citizens. So if you could achieve it, I unhesitatingly say this would be a good thing. How far are we impeded from achieving that objective by the current institutional arrangements is much more difficult to say and I think virtually impossible to quantify because, of course, we have got to go one step back and say why are these institutional difficulties, why are these institutional arrangements in the first place. I do not believe that they are caused by either wilfulness of some of our predecessors or caused by incompetence of administrative design. I think they do reflect the history of the whole matter and the fact that what you are desperately trying to do is to get people to work together in an area like classic foreign policy which has been regarded as the hallmark of the nation states in a European Union where we are told even in the latest Treaty that it is a union of Member States. It is not surprising that in going about the difficult task of setting some kind of structure which will enable you to do that you reflect the history, and the difficulties that history brings with it, and the structures creak and do not operate in a smooth effective way. You see even in some individual countries that it is not always as simple as all that. I do not find that surprising. The conclusion, therefore, is not just an historically interesting or uninteresting one or a purely historical one, it has relevance to this issue because the relevance is that it means that you should not expect improved institutional arrangements will automatically lead to a quantum leap in the unity and efficacy of European foreign policy. That does not mean they are not worth having, that is why I supported the Treaty, campaigned for it, voted for it and we had a referendum on it in this country. The answer to the question as to how far are we being impeded is we do not know precisely but one suspects that although removing those impediments would lead to an improvement, they would not lead to a giant improvement.

**Q231 Chairman:** Following on from that—I hope I do not put words in your mouth—you think the paper has limited value and that much of it cannot be achieved without some sort of institutional change, but where do we go from here in the light of your last comments?

*Lord Brittan of Spennithorne:* What I am saying is limited value can be read in two ways. Limited value can mean that it has not got much value or it can

mean that it has value but with some limits to it. I am saying it in the latter sense of the word, in other words do not expect too much from this, do not even expect too much from, as it were, the full Treaty. This is the right direction to go, if you cannot have the full Treaty you cannot expect much more than this, it is worth having, do not oversell it.

**Q232 Chairman:** There is no, as it were, halfway house that you are advocating given that the prospects of even getting the Treaty seem somewhat remote at present.

*Lord Brittan of Spennithorne:* That is a different issue altogether. Whether it is possible to achieve more than this politically at the moment is a completely different issue on which I obviously do have views and if it were possible to achieve more of the Treaty than this, that would be a good thing in my book. This paper starts from the basis of saying, and it is very honest in that sense, that it is not trying to achieve the Treaty through the back door.

**Q233 Chairman:** I appreciate that. I am sure that we appreciate hearing your views that you just indicated.

*Lord Brittan of Spennithorne:* There it is a question of political judgment and is really a question of how much can you get away with. The very obvious institutional changes, such as the creation of the foreign minister and the presidency, the more full-time presidency and so on, you obviously cannot do, you either do them through the Treaty change or you cannot. I think working towards some of the other ideas, such as representation without calling it an external service, you can do and that is achieved at a lower level and more could be achieved. The fact of the matter is our euro sceptic friends get hot under the collar if the European Commission and its delegations acquire or are treated as having the trappings of embassies but when in Japan the Emperor of Japan invited the head of the mission to present his credentials and all that sort of stuff. What was it if it was not pretty much that? It is not an accident that it was Japan in which it happened because I found that the degree of readiness of the Member States to work together and in a sense take a lead from the Commission depended on whether the problems they had with the country concerned were ones which individually they could not deal with and collectively were more likely to deal with. In the period that I am talking about when there were real obstacles to economic activity in Japan it was much more likely that the European Union acting as such was going to make more progress, although then painstakingly slow, than any country, even Britain, France or Germany, would make on its own. That meant even our own ambassador and the French and the Germans who might institutionally be less than enthusiastic about taking any sort of lead from the

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Commission were much more ready to work with the Commission and even to accept a lead from the Commission because of its particular competence in trade matters and things of that kind. It is not black or white and you can move in that sort of direction carefully but I think usefully.

**Q234 Lord Lea of Crondall:** Can I ask how we could apply that doctrine, for example, to our relations with China in a third part of the world, in Africa? We have just done a report on Africa and we are expressing concern, whether it is Khartoum or the Congo, it applies right across Africa, that the Chinese are playing on a different sort of wicket from us, they are very keen to have access to minerals and so on, and they go in with lots of infrastructure but not too many questions are asked about what we would call the European strategy for Africa: governance, development and security in a sort of triad where anti-corruption and so on is very, very, very central. Would you think that this is an area too where your Japanese example could apply, that it is going to be easy to get the Europe of 27 to understand that the only way to have a robust negotiation in that triangle with China would be to do it together more and then in the various African countries have some sort of understanding between the EU and the Chinese as a framework within which we are all operating? Would you extend your thinking along that line?

*Lord Brittan of Spennithorne:* I think it is a different situation. It would be completely impossible, and in my view totally undesirable, for the European Union or its Member States to operate in Africa where the Chinese are operating because, to put it bluntly, and as I have no official role at all I can be a little blunter, they are prepared to ask few questions about what is

going on in the countries concerned, they are not desperately concerned with human rights or the environment, they just get on with it and try and get the resources. That is the position of China but it could not possibly be the position of any European Member State. If I may say so, that is to our credit and it is also something that we are reasonably united on. The question becomes not about policy towards Africa so much as policy towards China and the question on which I think I agree with you is if we have a more common and united policy towards China could we stop the Chinese doing some of the things in Africa which we are uncomfortable about. We are not entitled to be uncomfortable about some of the things: we are not entitled to be uncomfortable with them trading effectively in Africa or giving money to Africa, but what we are entitled to object to is some of the other things I have referred to. This sounds terribly pessimistic but the honest answer is that we do do that. I do not think we have a common policy towards China. There are great disagreements about what we should do about China, it has a component of complaining about things that China does that we do not like and I have been responsible for relations with China and was a participant to that, and remember telling Li Peng a thing or two when he was prime minister and getting away with it. The pessimistic side of it is that I regret to say that I think China is now too powerful for that to have a very significant effect.

**Chairman:** Thank you very much. Are there any other questions? Lord Brittan, thank you very much indeed for giving your time this afternoon and, indeed, sharing your considerable experience of the Commission with us and your thoughts on the paper. Thank you very much indeed.