



House of Commons  
European Scrutiny Committee

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**Free movement of  
workers in the EU**

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**Fourteenth Report of Session 2008–  
09**

*Report, together with formal minutes and oral  
evidence*

*Ordered by the House of Commons  
to be printed 25 March 2009*

## European Scrutiny Committee

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Standing Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers —

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at [www.parliament.uk](http://www.parliament.uk).

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Mr David S. Borrow MP (*Labour, South Ribble*)  
Mr William Cash MP (*Conservative, Stone*)  
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Mr Greg Hands MP (*Conservative, Hammersmith and Fulham*)  
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Keith Hill MP (*Labour, Streatham*)  
Kelvin Hopkins MP (*Labour, Luton North*)  
Mr Lindsay Hoyle MP (*Labour, Chorley*)  
Mr Bob Laxton MP (*Labour, Derby North*)  
Angus Robertson MP (*SNP, Moray*)  
Mr Anthony Steen MP (*Conservative, Totnes*)  
Richard Younger-Ross MP (*Liberal Democrat, Teignbridge*)

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# Free movement of workers in the EU

(30210) 16162/08 COM(08) 765	Commission Communication — <i>The impact of free movement of workers in the context of EU enlargement</i> — Report on the transitional arrangements set out in the Accession Treaties of 2003 and 2005
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<i>Legal base</i>	—
<i>Department</i>	Home Office
<i>Basis of consideration</i>	Oral evidence of 9 and 11 March 2009
<i>Previous Committee Report</i>	HC 19-vi (2008-09), chapter 2 (4 February 2009)
<i>To be discussed in Council</i>	No date set
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	For debate in European Committee B

## Previous scrutiny

1. The European Commission's Communication reports on the scale, pattern and effects of the movement of workers from eight of the Member States which acceded to the European Union in 2004 ("the A-8") and the two which acceded in 2007 ("the A-2").<sup>1</sup> The Accession Treaties gave the existing Member States discretion to impose temporary restrictions on the access of workers from the new countries to their labour markets for up to seven years. Some Members imposed no restrictions or removed them after an initial period; some retain restrictions.

2. When we considered the report in February, we concluded that the document contains much useful information about an issue of major political importance. We were minded to recommend it for debate in European Committee B.<sup>2</sup> First, however, there were some matters on which we believed it would be useful to receive oral evidence from the Rt Hon the Lord Mandelson, Secretary of State for Business, Enterprise and Regulatory Reform and Mr Phil Woolas MP, the Minister of State for Borders and Immigration.

## The evidence

3. The Secretary of State gave us oral evidence on 9 March and the Minister on 11 March. We are very grateful to them and their officials for the time and thought they put into preparing for the evidence sessions and appearing before us.

4. Our meeting in February to consider the Commission's report coincided with the dispute at the Lindsey oil refinery following the decision to award a contract to an Italian company (IREM) to carry out some of the work on the installation of a new facility at the

1 The A-8 are Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Bulgaria and Romania — the A-2 — acceded to the EU on 1 January 2007.

2 See HC 19-vi (2008-09), chapter 2 (4 February 2009).

site. The conditions on which IREM's staff were posted to the job were subject to the requirements of the Posting of Workers Directive<sup>3</sup>, about which there is controversy as a result of the decisions of the European Court of Justice in four recent cases. We decided, therefore, that we should ask the Ministers about those matters as well as the Commission's report.

5. The Secretary of State began his evidence as follows:

“If I may, perhaps I could just set out some introductory remarks on the subject of the free movement of workers and to provide some context about the very important and substantial benefits that I believe the UK receives from the open EU market. Statistics alone paint a clear picture. Half of the UK's exports go to the 27 Member States of the EU making the European Union our biggest market. 3 million to 3.5 million UK jobs are linked to our trade with the European Union and roughly half of all UK inward investment is from the European Union which is worth about £315 billion a year. Over 320,000 British-owned firms are operating in Western Europe. You will see that the importance of the EU, its single market and its openness to trade and the circulation of capital and workers is of immense economic importance to Britain. In view of these benefits, it is my firm belief that there is no advantage for the UK whatsoever doing anything to deny ourselves full access to the European single market and therefore any openness to protectionism, in the light of the current recession, would be a very grave error in the government's view. This would only lead to an erosion of the single market. It would lead to a tit for tat inexorable closing of markets and opportunities for trade for us in this country. It would lead very quickly to a race to the bottom as people tried to hang on to what they had and to exclude others which would very quickly create a downward spiral. It is also, in our view, very important to keep our labour market flexibility. This is the best way to ensure that people can move between jobs and to other jobs as the economy adjusts and recovers as it will. The UK has always been a firm supporter of the free movement of workers in Europe which is why we fully implemented the Posting of Workers Directive which has been in force now for some years in the EU. We have also supported the Commission's work with social partners and with enforcement authorities to look at the operation of the Posting of Workers Directive and we look forward to the results of that examination by the social partners. We will continue to resist calls for additional burdensome employment legislation, including from the EU. In particular we will fight to retain the right of individuals to opt out of the Working Time Directive's maximum 48 hour week. It is very important if British workers are going to compete for supply chain opportunities both in Britain and in Europe that we maximise their skills and productivity capability and that is why John Denham and I commissioned an independent review of the skills and productivity in engineering construction in Britain which will identify specific factors influencing success for UK-based companies bidding for UK and foreign engineering construction contracts. It will shed light on the current state of skills in this sector and it will shape our strategy of investment in the future. I think this is particularly important in the light of the unofficial disputes, strikes and stoppages that have been present in this sector in recent months and which of course it is very important for us

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3 Directive 96/71/EC.

to seek to avoid in the future. With those introductory remarks, I would be happy to take any questions from you and members of the Committee.”

6. We asked the Secretary of State a wide range of questions. They included, for example, questions:

- about the number of workers from the A-8, A-2 and other Member States who are working in the UK (QQ 1, 2 and 14 to 16);
- whether new restrictions should be placed on the movement of workers from the A-8 and A-2 because of the current economic downturn (QQ 4 to 7 and 17 to 19);
- about the Posting of Workers Directive, the Committee of Experts the Commission has set up to review the Directive and the decisions of European Court of Justice which have caused controversy (QQ24, 25 and 33 to 36); and
- whether collective agreements on terms and conditions of employment should be made legally binding in the UK (QQ 29 to 32).

7. We draw particular attention to the following points in the Secretary of State’s evidence:

- He could “categorically rule out” the introduction of restrictive measures which would prevent British nationals from working in the oil and gas industry anywhere in the EU (Q 4).
- The Home Secretary has already indicated that she is attracted to keeping the Worker Registration Scheme in place for workers from the A-8 after April of this year (QQ 4 and 19).
- So far as he knew, there have been no discussions with other Member States or trades unions in the UK about altering the EC’s existing rules on the free movement of workers in response to the current economic downturn (Q 6).
- He does not share the concerns of some trades unions about the decisions of the European Court of Justice in the *Laval un Parteri*<sup>4</sup> and *Viking Line*<sup>5</sup> cases but, because they had caused such controversy, the Commission was right to establish a Committee of Experts to examine any questions, difficulties or specific issues which might arise concerning the practical application of the Posting of Workers Directive or its implementation and enforcement (QQ 24 and 33 to 35).
- The ACAS report on the dispute at the Lindsey oil refinery had found that the employees of the Italian sub-contractor, IREM, had the same terms and conditions as local workers under the National Agreement for the Engineering Construction Industry (QQ 28 and 29).<sup>6</sup>
- The Government currently has no proposal to amend the Posting of Workers Directive to make collective agreements enforceable in the UK (QQ 29 and 30).

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4 Case C 341/05.

5 Case C 438/05.

6 ACAS report of an inquiry into the circumstances surrounding the Lindsey oil refinery dispute, 16 February 2009.

8. Most of our questions to the Minister of State for Borders and Immigration were about the number of workers from the A-8 and A-2 who have come to the UK. Despite repeated questioning and the Minister's efforts to explain the Government's figures, we were left in doubt about the statistics and the reliability of the estimates.

9. In response to our invitation to sum up his views on the effects of the movement of workers from the A-8 and the A-2, the Minister told us that the overall impact was beneficial. He added that:

“One would have to look at regional and local impacts. You could not in all cases say that there was value added with certainty. I am not suggesting that there is evidence to the contrary but I think one would have to look at the immigration impact, social as well as economic. Overall, we support the analysis that shows that it is beneficial. We believe that there is, other things being equal, a diminishing return on that. We believe that the current economic situation will present us with unknown quantities of people and activity in the future, which is why we are cautious and why we believe that the migration controls that I was mentioning before, in answer to Mr Steen,<sup>7</sup> are increasingly important. We were doing them anyway but we think they are increasingly important. We are keen to put into the debate the other side of the coin which I characterise as the Auf Wiedersehen Pet point, which is that many of my constituents work within other European Union Member States. All of these policies can be reciprocal. I urge caution in looking at that. This is a report about the 27, not about the one, that the European Commission has presented us with. Overall, we support the analysis that it has been beneficial. We proceed with the benefit of hindsight for future potential accession.”<sup>8</sup>

## Conclusion

**10. We now formally recommend the Commission's Communication for debate in European Committee B. We believe that the evidence Lord Mandelson and Mr Woolas gave us will be useful to the debate and is likely to suggest subjects for further discussion on that occasion.**

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7 QQ 58 to 60.

8 Q 55.



# Formal Minutes

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**Wednesday 25 March 2009**

Members present:

Michael Connarty, in the Chair

Mr Adrian Bailey  
Mr David S Borrow  
Mr William Cash  
Mr James Clappison  
Jim Dobbin

Mr Greg Hands  
Kelvin Hopkins  
Mr Bob Laxton  
Angus Robertson  
Mr Anthony Steen

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Draft Report, [Free movement of workers in the EU] proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 10 read and agreed to.

*Resolved*, That the Report, be the Fourteenth Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

[Adjourned till Wednesday 1 April at 2.30pm.]

# Witnesses

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## Monday 9 March 2009

*Page*

**Rt Hon Lord Mandelson** and Secretary of State and Government Spokesman for Business, Enterprise and Regulatory Reform

Ev 1

## Wednesday 11 March 2009

**Mr Phil Woolas MP**, Minister of State, Home Office, **Ms Emma Churchill**, Director of Immigration Policy, **Mr Nigel Farminer**, Deputy Director of Immigration Policy, and **Mr Ragnar Clifford**, Senior Officer, Immigration Services

Ev 11

# Scrutiny of European Documents

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## European Scrutiny Committee

Monday 9 March 2009

Members present

Michael Connarty, in the Chair

Mr David S Borrow  
Mr William Cash  
Mr James Clappison  
Jim Dobbin  
Mr Greg Hands  
Keith Hill

Kelvin Hopkins  
Mr Lindsay Hoyle  
Mr Bob Laxton  
Angus Robertson  
Mr Anthony Steen  
Richard Younger-Ross

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*Witness:* **Rt Hon Lord Mandelson**, a Member of the House of Lords, Secretary of State and Government Spokesperson for Business, Enterprise and Regulatory Reform, gave evidence.

**Chairman:** Welcome Minister. I am not sure how you wish to be addressed all the time.

**Lord Mandelson:** Call me anything you like. Green Warrior!

**Chairman:** We are very pleased that you could take the time. I know you have a very busy schedule but, as the Secretary said in the report to us, we did receive a document, as you know, from the Commission on the movement of workers within the EU which just happened to come at the time where there was some controversy about a number of items in the public domain. We thought it would be very useful to use that document to take some evidence to try and get behind the rhetoric of what was being said given that that is our duty as a Scrutiny Committee. I believe you would like to make a statement to begin the session and we would be happy for you to do that at this time.

**Lord Mandelson:** Thank you very much for inviting me. I think you are going to have the Immigration Minister later this week and he will have greater expertise than I on the particular Commission document. If I may, perhaps I could just set out some introductory remarks on the subject of the free movement of workers and to provide some context about the very important and substantial benefits that I believe the UK receives from the open EU market. Statistics alone paint a clear picture. Half of the UK's exports go to the 27 Member States of the EU making the European Union our biggest market. 3 million to 3.5 million UK jobs are linked to our trade with the European Union and roughly half of all UK inward investment is from the European Union which is worth about £315 billion a year. Over 320,000 British-owned firms are operating in Western Europe. You will see that the importance of the EU, its single market and its openness to trade and the circulation of capital and workers is of immense economic importance to Britain. In view of these benefits, it is my firm belief that there is no advantage for the UK whatsoever doing anything to deny ourselves full access to the European single market and therefore any openness

to protectionism, in the light of the current recession, would be a very grave error in the government's view. This would only lead to an erosion of the single market. It would lead to a tit for tat inexorable closing of markets and opportunities for trade for us in this country. It would lead very quickly to a race to the bottom as people tried to hang on to what they had and to exclude others which would very quickly create a downward spiral. It is also, in our view, very important to keep our labour market flexibility. This is the best way to ensure that people can move between jobs and to other jobs as the economy adjusts and recovers as it will. The UK has always been a firm supporter of the free movement of workers in Europe which is why we fully implemented the Posting of Workers Directive which has been in force now for some years in the EU. We have also supported the Commission's work with social partners and with enforcement authorities to look at the operation of the Posting of Workers Directive and we look forward to the results of that examination by the social partners. We will continue to resist calls for additional burdensome employment legislation, including from the EU. In particular we will fight to retain the right of individuals to opt out of the Working Time Directive's maximum 48 hour week. It is very important if British workers are going to compete for supply chain opportunities both in Britain and in Europe that we maximise their skills and productivity capability and that is why John Denham and I commissioned an independent review of the skills and productivity in engineering construction in Britain which will identify specific factors influencing success for UK-based companies bidding for UK and foreign engineering construction contracts. It will shed light on the current state of skills in this sector and it will shape our strategy of investment in the future. I think this is particularly important in the light of the unofficial disputes, strikes and stoppages that have been present in this sector in recent months and which of course it is very important for us to seek to avoid in the future. With those introductory remarks, I would be happy to take any questions from you and members of the Committee.

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**Q1 Chairman:** You do come before us with a substantial and even illustrious background coming from the Commission and you have seen this in operation. We all know that Article 39 of the EC Treaty was there when we signed up to join. That right was there for the EU masses to move freely to any Member State to take up employment but the report that we are looking at that has caused us to call this evidence session a report from the Commission on the impact of free movement of EU workers in the context of EU enlargement. That is the context in which a lot of the comments have been made. To be fair, some people—and that means some people in the employment area and some people in the trade union movement and some people in the political sphere—think British nationals are unemployed, or at risk of losing their jobs, because of migration from the new Member States. It may not be within your remit at the moment but do you have any sense of the scale of how many people from the new Member States have actually taken up jobs? In the report they give us some percentages on that. What we are trying to ask is, is it a real fear or is it a fiction?

**Lord Mandelson:** I think it is important to note at the outset that the nationals coming here from the original eight new accession countries (the other two being Romania and Bulgaria), those whom for these purposes I would call A8 nationals, are helping to fill gaps in our labour market which British nationals are either not available to fill or are unwilling to fill. We have seen the expansion of vacancies in key sectors, not just hospitality and retail but in others, where the growth of these sectors has been unable in many cases to find British nationals to fill the vacancies that have been created. In many cases too, A8 nationals are supporting the provision of public services and very few claim benefits. The government's own research has found that there has been no statistically significant impact on wages from A8 migration, and indeed if you look at the state of the labour market at any recent time, and still to an extent now as well, there are around half a million vacancies available in the UK labour market. This shows that there are jobs available for British nationals despite the circulation of workers that has resulted from EU enlargement. In the case of A2 workers from Bulgaria and Romania, these are very small numbers we are seeing coming to the UK and we do not have any specific evidence on the impact of their movement on the UK economy but by inference I would conclude that it is very, very slight indeed. The last point I would make is that there are over 600,000 more UK nationals in employment now compared to 2001 and so the accession of new Member States to the EU does not seem to have had any discernible impact on the higher activity rate in the labour market against British nationals. Over nine out of every ten people in employment are UK nationals and over half the employment increase since 1997 is attributed to UK nationals. I think that from this evidence one can only conclude that there has not been an adverse effect on the employment of British nationals and, on the contrary, the addition to our workforce of EU

nationals has filled jobs and vacancies that would otherwise have remained very difficult to fill by British nationals and, therefore, they have had a positive contribution to the UK economy as a whole.

**Q2 Chairman:** Can I quote from the report of the Commission which says that one of the study's estimates is that the increase in average EU15 unemployment rate because of the flow is in fact only 0.04%, which is 1/25th of 1% difference and they say it will have a neutral effect in the long run. From our point of view, what is the basis of the government's statistics on employment of nationals of other EU Member States and how reliable do you believe the figures are?

**Lord Mandelson:** I have no reason to believe that the figures are unreliable but of course one has to look at this from a British point of view in the overall context of the operation of the single market and of course the immense opportunities that our companies and our nationals receive from their ability to circulate freely in the single market. The latest figures show that quite apart from the British migration to European Union countries, those who are seeking to resettle and work in other EU countries which is well over a quarter of a million UK nationals, 47,000 UK workers have been posted to the rest of Europe and that is the fifth highest number by member state. These are people, our own nationals, who are working for UK companies, posted or seconded to EU countries, in contrast to something in the region of 10,000 fewer EU nationals who are acting as posted workers in the UK. There would seem to be a strong balance in our favour of those posted workers from the UK taking advantage of opportunities to move with their companies to work elsewhere in the European Union.

**Q3 Mr Laxton:** You raise the issue of the half a million or so vacant jobs. I am not going to say they are wholly and exclusively jobs in the low skilled, low pay area but I would suggest they are predominantly that. I have families and individuals in my constituency who are highly skilled and have worked for many years in the power construction industry. Although no-one condones or supports the unofficial action that has taken, they ended up with a reasonable expectation that when one contract finished they would move on to another one and they found that was not the case and they were left unemployed. One can sympathise with the fact that they were extremely aggrieved about that. Can I go on to say that I do not think it necessarily helps the case where people talk about British jobs for British workers, a title that is quite inappropriate in many respects. For example, in my constituency, the rail industry, there is only one rail manufacturing company left in the UK, Bombardier, and they lose a £7.5 billion contract to Hitachi of Japan. There are real doubts and concerns about what impact that will make upon skilled engineers, skilled technical people and design people in the railway industry. Many of us have real doubts about how much of that

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will find its way into the UK when it could have been awarded to a UK-based company that could do that work and could sustain plenty of jobs. This just exacerbates individual's fears about what the future holds for them particularly in these skilled and technical areas.

**Lord Mandelson:** I think that in the light of the recent disputes, for example at Lindsey oil refinery, Staythorpe and Isle of Grain, the rather misleading impression has been created that the workforce there is drawn almost exclusively from countries outside Britain and that somehow Portuguese, Italian, Spanish or whatever, are essentially comprising the workforce at these locations. That of course is very far from the truth. People were generalising about those locations as a whole from the particular subcontractors around which there was some temporary controversy. If you look at those locations as a whole, well over two thirds of the workforce as a whole are British nationals. Of course there will be similar sites and contractors operating in sites in other countries of the European Union where there will be British nationals who are working there. You just have to take the example of the oil and gas industry to see the opportunities that are created by British companies operating elsewhere in the European Union offering jobs in those out of British sites for British nationals. You folded into your remarks a reference to Bombardier and Hitachi which is a separate albeit related subject. I know why you folded it in but it is in a somewhat different category of issue.

**Chairman:** I suggest that we do not want to take on the world trade debate right at this moment.

**Lord Mandelson:** Could I very briefly make this point since Mr Laxton raised it? It would be unfortunate if the impression was created that because Hitachi is a Japanese company it is neither going to be based in its manufacturing and production of trains here in Britain and because it is Japanese it is not going to be employing British nationals. Of course that is not the case, and before awarding this contract the government secured a very clear understanding and conditionality for this contract which will benefit British workers and a British-based supply chain.

**Mr Laxton:** I hope that is the case.

**Chairman:** I recall that when I had the pleasure of joining the 1992 Congress in their training week, Robert Reich was made the Labour Secretary in the middle of that session at Harvard and he said he did not care what kind of flag flew outside the factory as long as they paid in dollars and hired American labour. I think that is a lesson for all of us.

**Q4 Angus Robertson:** Lord Mandelson raised a very important point relating to the oil and gas industry. There are literally tens of thousands of people in that sector who work out of Aberdeen. Many of them live in the north of Scotland but elsewhere in UK as well. A great many of them work in other sectors of the North Sea, so outside the UK sector of the North Sea, and some even further afield. It has not been well reported but a great many of them are very

concerned about the calls that have been made for a more restrictive approach to the movement of labour within the EU or other countries. Is the Minister aware of that and can he categorically rule out any changes, or the acceptance of changes, by the UK government which would mean that these people would no longer be able to work in these other sectors of the North Sea or elsewhere?

**Lord Mandelson:** I can categorically rule out any introduction of restrictive measures that would prevent British nationals, including tens of thousands of workers from Scotland, benefiting from these opportunities overseas. We have to understand that half of all Scottish oil companies' revenues are generated abroad. There is a very good reason for this and it is that our history of North Sea oil exploration has given UK-based companies a wealth of experience and expertise in operating in very difficult environments and this of course leaves them very well placed to compete for exploration work around the world. These are companies who can supply workers with a wealth of technical, operational, professional skill and expertise who of course built up that experience and expertise because they are gaining from working on foreign contracts during the course of their career. Just to offer two examples, the Wood Group, founded 30 years ago in Aberdeen, employs more than 28,000 people worldwide and operates in 46 different countries. AMEC employs 23,000 people in 30 countries worldwide based on the experience and expertise they have built up in North Sea exploration. Of course the last thing we would like to see is any restriction being placed on those companies and those workers as a result of any temptation in Britain to adopt protectionist measures of our own.

**Q5 Mr Borrow:** You mentioned earlier that citizens of the EU can generally work anywhere within the EU but that is not a complete right in that there are restrictions of flexibilities within that. I notice that the government has altered the rules as far as seasonal agricultural workers are concerned by increasing the numbers of Bulgarian and Romanian workers that can come and work in the UK. I see that is a response by the government to pressure from farmers, such as those in my constituency, to have greater flexibility around that issue. I would be interested to know whether, as part of looking at the flexibility of existing rules, the government is currently in discussions with the European Commission about possible changes to the rules within the flexibility of the overall package of measures around Article 39 that can be brought in to recognise the need for some changes given the increasing level of unemployment in the European Union.

**Lord Mandelson:** The Worker Registration Scheme which was introduced in 2004 has helped us to monitor access to our labour market by migrants from the eight non-Bulgarian and non-Romanian accession countries. We are currently considering exercising our option to maintain this scheme rather than to scrap it in April of this year which was the original thought. The point of this is that it does give

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us the chance to monitor carefully as a transitional measure the migration that is taking place and to help us manage this migration. It has helped us to monitor access to our labour market and to make adjustments as appropriate where it is in our economic interests to do so, where there is a demand for such labour, where there are vacancies in the UK that have not been filled by British nationals and where those companies and that economic activity will be helped by looking for those vacancies to be filled from beyond our borders. We will maintain that flexible approach. If you look at movement of labour outside the EEA area, we have, as you know, a points-based system that helps us meet our business and economic needs with employees with skills that we need. We will continue to build on our experience of that points-based system in order to manage migration in a flexible and appropriate way which helps meet our economic needs. As you know, adjustments were announced just in February by the Home Secretary and we will continue to keep the operation of that system as a whole—and of course that does not apply to the EEA area—in a way that meets our economic needs.

**Q6 Mr Borrow:** Could you confirm that there have been no discussions between the Commission and the UK government, or between the UK government and the governments of other Member States, about altering the existing rules around free movement of labour in response to the current European-wide recession?

**Lord Mandelson:** No, there have been no such discussions as far as I know but that is a question you might also give to the Immigration Minister when he comes before you.

**Q7 Mr Borrow:** Have any of these issues been raised with the European parliament by UK trade unions?

**Lord Mandelson:** No. No UK trade union has asked the government to introduce a more restrictive or protectionist attitude to the free circulation of labour within the EU.

**Q8 Mr Hoyle:** Can I take you back to a point you made earlier? You quite rightly said if there was protectionism you would step in and do something about it. Part of the Lindsey Oil Refinery was that the contract went to the Italian company, nothing wrong in that they bid for it, but they would not employ UK nationals. The fact is they would only employ Portuguese and Italian workers who worked for the company and nobody from the UK was allowed to apply for a job on that particular part of the contract. I wonder if you would like to mention what your views are on that?

**Lord Mandelson:** It is not true to say that no British national was allowed to apply for that or other labour. It is, however, true to say that in the case of the Italian company, IREM, the contract was, as you know, given to them after the previous subcontractor was unable to fulfil their contract to deliver the work within the timescale that they had originally been contracted to do. This left the core company, TOTAL, in a very, very difficult and

awkward situation. Just bear in mind that when a subcontractor fails to deliver the contracted work on time it is the originating company, in this case TOTAL, that has to absorb all the costs of that. They have nowhere to pass these costs on to and for that reason the original subcontractor chose to remove itself from that contract and for that reason the work was transferred to the Italian company who drew on their fixed workforce in order to get the work done. The point I would like to make in this context is that where skill levels or productivity levels are such that British subcontractors are unable to fulfill a contract then our job as a government is to help ensure that those skill levels and that productivity is raised and improved so that British-based companies and their workforces are able to compete and win contracts and fulfil them so that these subcontracts do not go elsewhere. We cannot stop them going elsewhere. There is a freedom within the single market but obviously we want to see as many of these supply chain opportunities being taken up by British subcontractors and British workers but they do have to compete for those and therefore our job is to help them do so.

**Chairman:** Just to clarify what has put been on the record, you used the word “fulfil” a few times.

**Lord Mandelson:** Carry out.

**Q9 Chairman:** Do you mean finish? The contract was unfinished. It was not that it was not started; it was unfinished.

**Lord Mandelson:** It was unfinished in the time that they were originally contracted to do this work. I think that within the time prescribed and agreed only 40% of the work had been carried out.

**Q10 Mr Cash:** On the Posting of Workers Directive, would you agree that the arrangements under the existing Court of Justice rulings, including the Luxembourg one, should be construed not only as providing free movement but also fair movement for British workers, in other words British jobs for British workers are on a free and fair basis? You have just given us your interpretation of the circumstances in which these matters arose at Lindsey, the Isle of Grain and Staythorpe but the matter did also go to ACAS and, so far as I know, and I may be wrong, the ACAS report has not yet been made available to everybody. You obviously have seen it, or I presume your officials have seen it if you have not, which sets out the circumstances. Do you not agree that it would be very important for everybody to know, in the light of what is at stake—and could you make available that ACAS report which must have gone to the government by now—exactly what it does say and have it placed in the library of the House of Commons?

**Lord Mandelson:** The full report of ACAS was published on the day I received it. I have no explanation to offer as to why you personally do not possess a copy. If you would like a copy which is in my file, I will happily leave it with you when I leave

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the meeting. There is also an ACAS website if you would like to go on the web site and see the report there. Hard copy or net, take your choice.

**Q11 Mr Cash:** Would you agree with my point which is at the heart of this that we need to have not only free movement but also fair movement which will ensure that where circumstances arise where British workers are put at a disadvantage, a less favourable arrangement than they have thought they were getting, that they should be entitled to both free and fair treatment?

**Lord Mandelson:** I do not follow the question.

**Q12 Mr Cash:** In the circumstances of the Lindsey refinery there were many people who were coming on radio and television indicating that they thought they were at a severe disadvantage. You are saying, and you are saying the ACAS report says, that there was no real disadvantage as respects the UK workers. How is it that they continue to take the view, Unite and other people in those unions, that they were in fact being treated unfavourably by comparison with the foreign nationals? Do you think they were entirely wrong? Do you think the ACAS report proves they were wrong? Do you think that it should not only be free movement but also fair?

**Lord Mandelson:** Do you mean free and fair access to the job opportunities at Lindsey or their movement across the European Union?

**Q13 Mr Cash:** I am talking about not only the circumstances as they arise for those three cases that we have mentioned but also with respect to the question of the principles that should be applied. Once a Court of Justice ruling has been given, as you probably know, you cannot change that except with the unanimity of all the Member States. The question at principle is whether in fact you would agree that the arrangements should not only be free movement, which is a fundamental freedom under the European Treaties, but also that it should be fair? Quite clearly Unite did not regard the arrangements as fair.

**Lord Mandelson:** The only representative of Unite whose contribution on the media sticks most clearly in my mind was the lay official who said that he would have as much objection to people being employed at Lindsey if they had come from the Isle of Wight or the north of Scotland as from Portugal or Italy. I remember him making this observation twice on two different occasions.

**Chairman:** I think the gentleman specified Orkney. I do not know what he has against people from Orkney.

**Lord Mandelson:** Your other point about the European Court judgments, you will have to explain to me how you think those judgments affected the fair movement or access of British nationals to those jobs because I do not understand how they did.

**Mr Cash:** You are in the position of answering the questions at the moment.

**Chairman:** Can I suggest we move on?

**Mr Cash:** Your Minister of Employment indicated to me that he did see a connection; you obviously do not.

**Lord Mandelson:** If you could explain to me what the connection is, I would be very happy to comment.

**Q14 Mr Clappison:** Can I say that I do not dissent from the view which you have taken of the freedoms of the European Union and the free movement of people but I do dissent from you on the statistics and the arguments which you used today to support the government's policies particularly the effect it has had on UK workers. In your introductory remarks to us you chose to highlight the figure of an increase of 600,000 in UK nationals in employment since 2001 and you thereby drew the connection between the number of nationals of this country in employment and the consequences of the A8 accession, but you and I both know that the A8 countries did not join in 2001 but 2004. The figure since 2004 is that since then the number of UK nationals in employment has fallen by 200,000 whilst the number of non-UK nationals has gone up very substantially. Do you think the figure you used was misleading?

**Lord Mandelson:** No, I do not. The figures you are drawing on do not contradict our view based on the statistics that over nine out of every ten people in employment in Britain are UK nationals.

**Mr Clappison:** With respect, you are now shifting the statistics you quoted originally. The argument which you are making in support of it is that there has been no effect upon UK employment because of the accession countries joining the UK. The figure you chose to use in your introductory remarks was an increase of 600,000 since 2001. Can I spell it out to you? Since those countries joined in 2004, that was the accession date not 2001, the number of UK workers has fallen by 200,000.

**Lord Mandelson:** Which is not a very substantial number in the context of the overall UK workforce I think you would agree. Are you saying that the number of UK nationals employed out of the total has had any discernible difference made to it since the accession of 2004?

**Mr Clappison:** What I am saying is you cannot use the statistic which you used because it is a misleading statistic. You cannot say there has not been an increase.

**Lord Mandelson:** The figure you seem to be alighting on seems to be an extremely insignificant one and one that does not have any discernable statistical bearing on the argument one way or the other.

**Q15 Mr Clappison:** It has gone down more or less consistently since 2004. Do you know today how many A8 nationals there are in this country working?

**Lord Mandelson:** There probably are, in Mr Newman's briefing, the figure but I do not know off the top of my head what it is. I would be very happy

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either to give it to you directly or make sure the Immigration Minister when he comes before you has the figure to hand.

**Q16 Mr Clappison:** It would be helpful to know. Do you know the estimate which the government made before accession of the A8 countries who were likely to come to this country to work?

**Lord Mandelson:** No. Due to very regrettable circumstances I was not a member of the government prior to the accession in 2004 and shortly after I went to Brussels.

**Mr Clappison:** The estimate which the government made was about 13,000 people every year. The figure, which you do not know, I suggest would be rather more, in fact significantly more, than that. I would suggest to you that as compared the arguments you have made that this was all carefully planned to fill labour shortages it is not nothing of the sort and that it was really rather chaotic and unforeseen.

**Lord Mandelson:** I am afraid that is a conclusion you are entitled to draw.

**Chairman:** Can I just make the point, Mr Clappison? The figures should be available because the Home Office minister said in January that the government had not yet decided whether to require workers from the A8 countries to continue to register on the Workers Registration Scheme after the 1 May 2009, which means they are at this moment registered and therefore should be available. My conclusion would be that since it is a very useful statistic to have we should not withdraw from asking people to register under that scheme.

**Mr Clappison:** Chairman, you will know that the purpose of that scheme is not actually to register how many people are working in the country but to entitle them to claim benefits which is rather a different thing because, as the Secretary of State said, there are many people who come to this country without seeking to claim benefits. The figure of the Workers Registration Scheme is much smaller than the number actually working in this country. The figure, if I can assist the Secretary of State on this, which the Office of National Statistics gives you is half a million but that does not include many of the A8 nationals. That does not include people working here for less than 12 months or living in hostels and I believe the figure is actually much more than that.

**Lord Mandelson:** I can only suggest that the Immigration Minister is a handier port of call for you to obtain these figures from than the Secretary of State for Business.

**Mr Clappison:** Perhaps in future you will have a little more caution in brandishing some of the statistics which you use in your opening remarks as justification for the government's policies.

**Lord Mandelson:** The justification for the government's policies is the huge economic benefit which I do not hear you contesting.

**Mr Clappison:** I said at the beginning I was not dissenting from the arguments but from the statistics which have been misleading and ill thought out, the arguments you have used which have been wrong and the policy of the government which is chaotic. I am not arguing against the free market.

**Lord Mandelson:** What are the policy implications that you are seeking to draw from this exchange and what would you like me, as a member of the government, to take back to my colleagues from this interesting exchange?

**Mr Clappison:** One would be the need to command the confidence of the public which can only be done through the honest presentation of statistics, something which is very important and something your colleague coming to us on Wednesday is attacking and seeking to bully the Statistics Authority.

**Lord Mandelson:** Are there policies that you would like us to change in relation to the free movement of people or goods?

**Mr Clappison:** The government itself changed its policy over the admission of the A8 and the A2 countries because whereas it admitted the A8 countries with unrestricted access, for the much smaller number of people involved in the A2 countries the government then chose to impose restrictions on them which would suggest the government's policy has not been as well thought out as you believe.

**Lord Mandelson:** I will take that as a no then. There are no policy implications or changes that you would like me to take back to my colleagues.

**Chairman:** We will now move on and people can read the record and reach their own conclusion as to the policy implications of your questions.

**Q17 Mr Borrow:** Following on from Mr Clappison's point, he did mention that the government treated the A8 in a different way than the government did as far as the A2 are concerned and one could interpret that as being a recognition that circumstances had changed between the first wave of new entrants and the second wave. Within the provisions of the accession treaties it does allow, in exceptional circumstances, for the government, even when they have given free movement for the A8, to go back and re-address that as a later stage and impose further restrictions. I would be interested to see if there are any circumstances where the government would consider going back and looking again at those original decisions in light of the circumstances in 2009 or is the government satisfied that the decisions they made originally in respect of the A8 should continue? In respect of the A2 I think you mentioned earlier that you were not inclined to lift the existing restrictions in April of this year and leave them as they are.

**Lord Mandelson:** If there are adjustments to be made then the time to make them I think would be in the context of our review of whether or not to continue the scheme beyond April 2009.



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**Q18 Mr Borrow:** At that point of the review when you come to a conclusion in respect of the A2, that would be the point at which, if you were to, in exceptional circumstances, look at the A8 policy you would make such an announcement?

**Lord Mandelson:** I do not have public responsibility for the operation of the scheme. The Home Office is going to be here so I do not want to pre-empt what my colleagues in that department might do. All I am offering you is an observation that if adjustments were to be made that would seem to be an opportune time to do so.

**Q19 Chairman:** As the Secretary of State for Business, Enterprise and Regulatory Reform you must surely then be anticipating making a serious input to that and your assessment of the condition of the UK economy at that time I presume.

**Lord Mandelson:** The Home Secretary has already indicated that she is attracted to keeping the Worker Registration Scheme in place and I have no view in my mind at present that might lead me to oppose that.

**Q20 Richard Younger-Ross:** You mentioned the points-based immigration system in a response earlier so can I just take you up on that. First of all, like Mr Clappison I believe in free movement. I think it is beneficial to the economy and to the UK. There are times with any free movement and any freedom they can be abused and there is a danger, as we have with the disputes in the UK, where people feel that another tenet of the market or the EU of social justice is being undermined. When this Committee was in Portugal before its presidency we were given evidence that there were 95,000 Ukrainians living in Lisbon. The vast majority of those gained access to the EU and the right to work in Portugal via the German Embassy. They went to Germany and then went to Portugal. Is there not a danger, and perhaps a case for some regulation, over people that come into the EU from outside who then have access to work via another country in the EU? There is a danger that unscrupulous employers might see that as a lucrative way to bring in cheaper labour undermining local agreements that have been arranged in any of these EU countries. It rather undermines any regulation or points-based system which the immigration authorities may put in place.

**Lord Mandelson:** The points-based system itself is justified and sound in its operation. It helps us get the non-European migrants who have the skills that business and the economy in this country needs and it does so on a restrictive, carefully screened and policed basis and I think that must be right. Obviously it is sufficiently flexible that it can be adjusted according to economic circumstances. For example, in response to the current recession the government announced in February changes to the points-based system tightening the criteria for highly skilled migrants, strengthening the resident labour market test concerning the use of the publication of the Shortage Occupation List and also asking the Migration Advisory Committee to further consider the way in which foreign workers are currently able

to enter the UK to work. I would have thought the point that you are raising concern about, which I would share, is something that needs to be taken up in our request to Migration Advisory Committee to examine precisely the ways in which foreign workers are able to enter Britain illegitimately using the single market wrongly as a short-cut to our labour market.

**Q21 Richard Younger-Ross:** Would you accept there ought to be a restriction on where people can work in the EU once they have gained access to the EU for a period of time?

**Lord Mandelson:** We have to be very vigilant and make sure that it is only those with a lawful and legitimate claim to move freely within the European Union.

**Richard Younger-Ross:** The 95,000 in Lisbon are there legitimately.

**Q22 Mr Steen:** On this business of the Workers Registration Scheme you mentioned, are you satisfied that there are sufficient checks in place to ensure that workers coming to the UK do come in for a legitimate job? I wonder if you have discussed with other Member States, and if you have not whether you would, the growth of human trafficking bearing in mind with the economic downturn there is going to be increased human trafficking throughout the EU. I wonder what bearing the right of free movement of workers is going to have on the further enlargement of the EU. I have given you about three questions rolled up into one.

**Lord Mandelson:** The one that strikes me as the most important is the one concerning trafficking, which is reprehensible and which the government has measures and agencies in place to limit and which we will continue to take the strongest possible action against. To be frank, the registration scheme does not have a bearing on trafficking of labour. That is a separate category of activity and of grave concern to the government and we will continue to take measures to counter it.

**Q23 Mr Steen:** I think Britain has done a great deal in the field of trying to resist human trafficking and to put schemes in place so that traffickers do not get easily through the borders but this is not so with other EU countries. What happens now is that Britain is diverting a lot of the workers and the traffickers to other countries because it is getting more and more difficult to get to Britain. Spain and Italy are now destination countries where Britain used to be and with the economic downturn that is going to get worse. I am wondering whether you feel this is something you can raise at the highest level with other EU countries particularly the Eastern European countries.

**Lord Mandelson:** In the case of Spain and Italy and other southern European countries their main problem arises from their geographical proximity to Africa not Eastern Europe. That is where they are most exposed. The EU as a whole, I recall through my days as a member of the Commission, have put in a great deal of help and intervention and resources

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to help those exposed Member States withstand what is a very large influx, currently and potentially, of illegal migrants coming a great deal, but not only, from Africa and North Africa in particular.

**Chairman:** We all recognise Anthony's particular interest as the chairman of the group against trafficking in this parliament. Can we move on very specifically to the Posting of Workers Directive.

**Q24 Kelvin Hopkins:** The trade unions were seriously concerned about the ECJ judgments in the Laval and Viking-Line cases, indeed I put down an Early Day Motion on the Viking-Line case myself which was signed by a considerable number of Labour members with trade union links. Do you share their and our concerns?

**Lord Mandelson:** I do not, no, because I think that the conclusions that many people have reached about those ECJ verdicts are hotly contested by lawyers and academics and I am not aware of any settled definitive view that has been reached about the practical impact of those judgments. Nonetheless, they have sparked a lot of debate, so far inconclusive but a great detail of debate, and a lot of concern and it is only right, in my view, that the Commission, through the expert panel that it has established with the involvement of the European TUC and the employer's organisation Business Europe, should examine this very carefully. The British government supported this initiative by the Commission in December. I gather it has been getting its work under way. It has been delayed by the inability of the social partners to agree specific terms of reference but now their meeting to examine this will take place this month and I welcome that.

**Q25 Kelvin Hopkins:** You will recall that the International Transport Workers Federation, led by our former TUC colleague David Cockcroft, challenged the Viking line judgment and spent a large sum of money in doing that and lost. Alarm was also expressed by John Monks at the time on behalf of the ETUC. Subsequent to that the Irish referendum was lost, and indeed there is alarm amongst trade unionists that the European Union is shifting, or has shifted, substantially towards the interests of employers rather than workers. Is this not all leading in a direction which is going to be very divisive for the European Union?

**Lord Mandelson:** There will be different views. There will be those who will place the greatest emphasis on support for the single market and free movement of workers. There will be others who place a different emphasis on what they regard as appropriate rights for workers in those countries to where workers are moving to take advantage of these rights and their ability to maintain the terms and conditions of collective agreements and of course their desire to take strike action to enforce those collectively negotiated agreements. We have to strike the right balance between support for a single market and workers' rights. I think we have done so in our implementation of the Posting of Workers Directive but you are quite right to say that there are some who believe that the particular ECJ judgments that you

referred to somehow upset that balance or are leading to it operating in a way that is detrimental to employee rights. All I am saying to you is that no definitive view has been reached about that. It is hotly contested amongst lawyers and academics including the government's own lawyers.

**Q26 Kelvin Hopkins:** You talk about striking a balance but this appears to the trade unions as a quantum shift of power from a position where trade unions had certain rights to a union which is now very much on the side of employers. Did you make any representations to the Commission and did you speak to other Member States about this, and have you expressed concern that this shift is not only going to be seen by workers as against their interests but could have serious political implications for the future of the European Union?

**Lord Mandelson:** I am aware of the claims made by trade unions but those claims are hotly contested. I cannot accept that because somebody makes a claim that it is therefore true or because of an interpretation or a construction they wish to place on a particular court judgment that that must be right. I cannot accept that.

**Q27 Kelvin Hopkins:** When crews are replaced by an entire crew from another nation state with much lower pay, it is fairly clear what that is about. There have been three referenda where ordinary trade unionists have had a major role in defeating those referenda: in France, Holland and in Ireland. In all three there was a large trade union component in that No vote. Are you not concerned about that?

**Lord Mandelson:** Of course I am concerned. We could have a lengthy political discussion about the motives and objectives of those trade unions in seeking to use the opportunity of a referendum in order to bring about changes in legislation which legitimately they were seeking but which, from the point of view of the working of the economy and the labour market as a whole, others would feel were not desirable changes to make. Of course if you have the opportunity of a referendum and a chance to beat a drum on behalf of your interests, or indeed on behalf of greater protection for your interests against what they might regard as foreign workers, you cannot be entirely surprised that they seize that opportunity. That is why I do not think referenda are a particularly good idea; they lead to populist campaigns and misleading propaganda.

**Q28 Keith Hill:** I was going to say something in the same vein but my question is certainly not in the area of populist propaganda although I have to say since the Secretary of State has alluded to the question of honesty of statistics I cannot help but recall that the party of which Mr Clappison is such an eminent representative did change the basis of the calculation of unemployment statistics 19 times. I dare say that was in the interests of honest statistics, Secretary of State.

**Lord Mandelson:** You could not expect me to make such partisan comments.

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**Keith Hill:** Let me revert to the trade union issue raised by Mr Hopkins. You will recall that in the case of the East Lindsey dispute at the TOTAL plant there was no question of foreign workers being paid at a lower rate.

**Lord Mandelson:** That was the ACAS finding.

**Q29 Keith Hill:** One gathers that TOTAL honours the collective agreements in the construction engineering unions and the subcontractors therefore pay the same rate. However, the fact that UK collective agreements are not legally enforceable means that foreign posted workers can be paid the national minimum wage even where a preferential collective agreement applies to national workers and a perceived inequality could therefore arise. Do you think this could be justified?

**Lord Mandelson:** The inequality of treatment?

**Keith Hill:** The perception that people doing the same rate of job because of the non-enforceability under the law of collective agreements means that foreign posted workers in the UK can simply be paid the national minimum wage.

**Lord Mandelson:** I think it would be better from everyone's point of view if voluntary agreements were to be operated and observed by everyone across this industry. The engineering construction industry has a national agreement. They provide very clear advice about following and honouring the terms of that agreement. The government would like to see that agreement voluntarily respected by everyone concerned.

**Q30 Keith Hill:** Is there any question of an amendment to the Posting of Workers Directive to ensure that UK collective agreements might come within the Directive?

**Lord Mandelson:** No. There is no proposal by any government for that.

**Chairman:** Can I remind you what the Prime Minister said in reply to my question at the Liaison Committee recently on that specific topic, that the Commission were looking at it and he said that his government were looking at it and if necessary he would bring in legislation.

**Lord Mandelson:** That is why I was extremely careful in my own answer and said the government presently has no proposal to make the sort of change Mr Hill has described.

**Chairman:** Can I point out to you that in answer to Mr Hopkins questions that one of the judgments specifically, the Laval judgment, was about the fact that the workers coming in were being paid the rate for the job for the country from which they came because they do not have a national minimum wage in the country to which they were going to work. We have a national minimum wage and you could have a situation where if a company wished to do so they could actually pay someone £5, or whatever it is at the moment, an hour even though they were a riveter, a welder, an electrician, a skilled engineer, alongside someone who, in a collective agreement on

the same site, would be paid the proper rate for their trade. That is possible. Thank goodness, certainly to my knowledge, in Scotland we have followed this very closely since I have the refinery at Grangemouth in my constituency the NAECI Agreement has never been broken in the 16 years I have been there but it could be and that is what people are concerned about. The national agreement for employment in the construction industry, which is respected even by TOTAL who are not a British company, could be broken by someone who won a contract and they would win in the Court of Justice if you look at the judgments that have taken place so far. Is that not a dangerous situation that we could get rid of by making the national agreement universally binding? It is so in Ireland and it could be in this country.

**Lord Mandelson:** In UK industrial relations at the moment we do not have a system in which voluntarily collective bargain agreements can be enforced on those who do not voluntarily subscribe to it. What you are suggesting is that you would use a change in European law to carry out a very fundamental shift in UK industrial relations practice and that is not something the government would support.

**Chairman:** I do know that the government of the time, and it was not the UK government of this present colour, did in fact oppose the Posting of Workers Directive because they did not believe that workers should have the protection it gives them. The fact is we did make a fundamental change at European level to the relationship which was a totally free market in labour with no controls. The Posting of Workers Directive at least gave the minimum wage. It does not seem to me to be, particularly in these difficult times economically, a great step to make the national agreements, which everyone agrees to and everyone seems to apply, to be universally binding in the industries in which they are agreed. That would then safeguard everyone, all workers from the EU, from exploitation.

**Lord Mandelson:** In the case of a given country or a particular company, it is up to them voluntarily to operate those collective agreements. It is open to them to do so. What they cannot do is to fall below the statutory minimum of rights, the national minimum wage, holiday entitlements, maternity and all the gambit of employment rights for which we have legislated in this country. They cannot disregard them or fall below them and that is the essential principle underpinning the Posting of Workers Directive of which we will not resile.

**Chairman:** Do you not see a contradiction in what you were saying earlier about the need to skill up the people in the industry, the people that certainly I know and I am sure Mr Robertson and other people in the oil and gas industry see those skills and see them being rewarded properly. What you are saying is it does not seem to matter if these skills we value in a UK worker are paid £5.35 an hour if they come from Poland or Latvia or Lithuania or any other part of the European Union. That to me does seem

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to contradict the idea that we want people to be skilled up if they are not going to be rewarded because your chances of working are going to be reduced because someone can do it for £5.35 an hour.

**Lord Mandelson:** Because you are being undercut. You cannot be undercut below the statutory minima which operates.

**Q31 Chairman:** You cannot expect an engineer or a fitter or an electrician to work for £5.35 an hour if he was British surely?

**Lord Mandelson:** I think you are talking about different parts of the employment market.

**Chairman:** No, it is the same market. This is the worry, that people will be brought in and be paid by the Posting of Workers Directive rules which is the minimum wage.

**Lord Mandelson:** I do not think you are talking about the engineering end of the construction market with respect Chairman.

**Q32 Chairman:** Why are people marching? Why are people joining and believing the propaganda you say is false?

**Lord Mandelson:** One of the reasons is because they no more wanted people coming from the Orkneys or the Isle of Wight than from Italy or Portugal because they do not believe in the single market and they do not believe in the free circulation of workers.

**Q33 Mr Cash:** That was really at the heart of what I was saying earlier about the question that it should not only be free but also fair because this Posting of Workers Directive at present, as a matter of law, does not require the matching of local rates of pay for comparable work. The question that the Chairman has been asking is extremely important because if it is clear that there are people who know what is going on, on the ground, and also know that the Directive does not require matching of local rates of pay for comparable work then they are liable to feel very aggrieved. Of course under the court judgments which we have been mentioning, and also the Luxembourg case which I mentioned earlier, it is possible to make adjustments but only on the basis that you produce evidence of what is described as necessity and proportionality but there is room there. The Commission, as we understand it, is looking at all this in order to try to get a degree of fairness into the situation. You seem to be suggesting that the government is looking at the situation but is not actually prepared to step up to the plate. Maybe I am pre-judging the outcome of those discussions. You do admit that the government is discussing the question; it is just that the proposals of the Commission which are around have not yet been published. Is that more or less the situation?

**Lord Mandelson:** No, that is entirely wrong. There are no proposals in the Commission. The government is not discussing it. The social partners in Europe, at the request of the Commissioners, are examining it and they have their first meeting to do so this month.

**Mr Cash:** The Commission, according to what the Chairman understood and according to what we have been informed, is considering the operation of the Directive but they have not published amendments yet.

**Lord Mandelson:** The Commission has no proposals and is not on the verge of therefore publishing any amendments or revisions to that Directive.

**Chairman:** I think you are entirely correct and I would not contradict that answer. The statement is quite clear in the official journal of the European Union. It says the task of this committee, which you have just referred to which is the committee of experts, is to examine any questions, difficulties and specific issues which might arise concerning the implementation of practical application of Directive 96/71 EC, which is the Posting of Workers Directive, or the national implementation measures as well as its enforcement in practice.

**Lord Mandelson:** That is correct.

**Q34 Chairman:** The question is: what is the government's policy towards this committee and will the government make a submission to that committee?

**Lord Mandelson:** I originally said to you in answer to the previous question that at the Employment Council in December the government supported the establishment of this examination. We supported the initiative of the Commission to examine it. That is not the same as saying, as Mr Cash was suggesting, that the Commission has proposals let alone amendments that it is about to introduce.

**Q35 Chairman:** I did say I was not going to contradict your answer by putting the question. Will the government make a submission to this investigation that is going on in this Commission committee?

**Lord Mandelson:** The Member States have not been invited to make submissions. The Commission has asked the social partners, the ETUC and Business Europe, to examine this but they will draw on an expert panel drawn I believe from officials operating in this area of policy from the EU Member States.

**Q36 Chairman:** Is it not true that the European Parliamentary Labour Party will be standing on a manifesto that in fact the PSE manifesto, which is calling for amendments to the Posting of Workers Directive, to close the loopholes that have been opened up by the European Court of Justice? Is that correct or did I misread the manifesto?

**Lord Mandelson:** I am reading in my briefing that is the case but I do not have any greater knowledge.

**Chairman:** I read it last night and it said so I can assure you.

**Lord Mandelson:** If it is in your briefing and mine then it must be true.

**Chairman:** I can assure you it is. Thank you for your time and your tolerance. We have kept you a bit longer than anticipated.

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## Wednesday 11 March 2009

Members present

Michael Connarty, in the Chair

Mr William Cash  
Mr James Clappison  
Jim Dobbin  
Mr Greg Hands

Mr David Heathcoat-Amory  
Kelvin Hopkins  
Mr Bob Laxton  
Mr Anthony Steen

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*Witnesses:* **Mr Phil Woolas MP**, Minister of State, Home Office, **Ms Emma Churchill**, Director of Immigration Policy, **Mr Nigel Farminer**, Deputy Director of Immigration Policy, and **Mr Ragnar Clifford**, Senior Officer, Immigration Services, gave evidence.

**Q37 Chairman:** Can I welcome you, Minister, to our deliberations and thank you very much for the document which you sent to us. We are looking at the report on the impact of free movement of workers in the context of EU enlargement from the Commission, Commission document 2,765. It says “Final” on this document so it must be right. It obviously took our attention because at the same time there were publicly disputed statements about what was happening to the employment base in our country and what was happening to British workers. I think it is fair to say that some people think British nationals are unemployed or at risk of losing their jobs because of migration from new Member States, which this report is about. Could you tell us how many people from the new Member States have jobs in the UK at this moment and what is the trend in the movement to UK nationals from the new Member States?

**Mr Woolas:** First of all, thank you very much for the invitation. On a light note, when I was hit by a custard pie shortly after the reshuffle, the group that threw the custard pie complained to the media that the pie was not made of custard; it was made of veggie cream because they were environmentally sound. That did not help me but the cleaner said that it made cleaning my suit easier. This is a good opportunity for me to answer your question directly and I will give you the best information that we have on the situation at the moment. On the policy that we have regarding the European Union and the workers’ registration scheme, there is often confusion regarding the figures for the number of people who have registered, which is not necessarily the same as the number of people, because people can register twice or even more times. The figures for the number of people who have registered are around a million for the WRS. We are looking of course at the A8 as well as the A2. I also have figures, if you want me to go into the detail, on the welfare benefits that flow from that. I do not know how much detail you want me to go into in this conversation. The figures are: in total, in quarter four 2008, the latest figures we have, there were 29,000 initial applicants to the workers’ registration scheme. That compares to 53,000 in the fourth quarter of 2007 and 65,000 in the fourth quarter of 2006. That shows that there is a downward trend and that has been going on for two years. The number of approved applications in quarter four 2008 was

27,000. That is 2,000 fewer than applied and that compared to 51,000 in the fourth quarter of 2007, again 2,000 down. That compared to 60,000 in quarter four 2006, 5,000 lower than applied. Our analysis shows that the decrease is mainly explained by the fall in applications from Polish nationals coming to our country and that fell to 16,000 applications in quarter four 2008 compared to, in quarter four 2007, 36,000 and, in quarter four 2006, 45,000. I have more details on some of the sectors.

**Q38 Chairman:** What we are trying to get at may be contained in the figures you have just given us. Is there any way of working out how many of the people remain in employment? In other words, what is the cumulative total? The question on which people seem to be drawing their own conclusions is that there is a certain number and that is a very large number that somehow denies UK workers access. You say the trend is going down. What is the likely cumulative number that we have of people in employment who are not UK nationals, people who have come from the new A8 states that have joined the EU?

**Mr Woolas:** These figures are not precise because the answer to the question is not precisely known. The figures we have from between May 2004 and December 2008 show that 965,000 A8 nationals—this is not Bulgaria and Romania—made initial applications to register. I think that is people, not applicants. We have stripped those figures down. Of those, 926,000 applicants were issued with a worker registration card and certificate. That is the measure of the number of people who have arrived in the UK for the purpose of work but, as you rightly point out, not the number who have necessarily stayed. We turn to other sources of data that we use to try and get a picture of what the stock is, if I can use that word, of people here. The Labour Force Survey is a main source of information, although I should point out to the Committee, as you know—because I think you have noted this already in your deliberations—that excludes temporary workers here for less than 12 months and those in communal accommodation. The second source that we have is the analysis of the Labour Force Survey data by the IPPR, the think tank, who estimate that the population of A8 and A2 nationals—they have pooled them together—resident in the UK in April 2008 was 665,000. That

is an increase of 550,000 since the start of the period of the analysis in May 2004. That is our best estimate of what the figures are.

**Q39 Mr Cash:** I would like to know whether, when you are talking about migration from new Member States, you have taken into account the extent to which people come in overtly as legal migrants but are illegal. Have you made any calculation about that?

**Mr Woolas:** If somebody comes to the United Kingdom from an EU Member State, subject to what they do in relation to work, by being here they are not illegal immigrants.

**Q40 Mr Cash:** I appreciate that. What I am asking is whether there are people who get in under the radar screen because, although they overtly have legal visas, they have got them in the Member State. For example, they have come from Africa, they have come through Malta or Spain or Italy and then they come over here. Do you have any way of calculating the relationship between the legal and the illegal based on where they come from, from the Member States?

**Mr Woolas:** That is the question that immigration ministers through the years do not like because the answer is that by definition we do not know. What we do know in relation to asylum claims first of all—it is not directly related but may help the Committee—is that 17% of asylum claims within the European Union Member States are duplicate applications—i.e., people who may have applied in Greece and in the United Kingdom or even three or four different countries. We are reliant of course on the sharing of information on the general points with our European Union partner Member States, particularly through for example Eurodac and the Dublin arrangements. If a document has been issued by a Member State that accredits status to that individual, we would not necessarily know if that person was legitimately granted but on the illegal point the crude answer is it is not known.

**Mr Cash:** That is a very honest answer, if I may say so.

**Chairman:** When we banned people applying for asylum from working in 2002, it is clear that we lost a source of information because then we would have known if they were working and paying tax. I did note that a well known social liberal, the Mayor of London, has suggested it might be logical as his predecessor suggested to allow people applying for asylum to work, register, pay taxes and then be available for clear, statistical analysis. Clearly there is an area where we do not know whether what we have are UK nationals losing jobs to people who are legally in the A8 countries or the plus two in the EU or may be losing it to persons unknown who are not recorded or registered.

**Mr Woolas:** As ever with this debate, it is never as clear as the public debate would have it. There are of course asylum seekers who can work, people who through no fault of their own have been here for 12 months.

**Q41 Chairman:** People who have not lost their appeals?

**Mr Woolas:** Exactly so. They are entitled to working rights. Underneath that point, your point is absolutely valid. We can monitor asylum claims and appeal rights exhausted. What we cannot monitor is abscondee and particularly our policy is absolutely rooted in the reintroduction of border controls. Border controls, the measurement of people coming in and out of the country, were phased out starting in 1994. Quite frankly, my own government carried on that phasing out. I am not trying to make a partisan point although I do think the decision in 1994 was the wrong one. The reintroduction of border controls through our e-borders programme allows us to measure overstayers, people who have come in on legitimate routes for visiting, not for working directly. The points based system combined with the e-borders programme creates a new regime whereby we can see who has come in to work temporarily, who has come in to study and who has overstayed. That is the new policy that we have.

**Q42 Jim Dobbin:** This question is about the rights of citizens of Member States to work anywhere in the EU according to Article 39 of the EC Treaty. Because of the economic downturn, have there been any discussions with the Commission about putting limits on those numbers?

**Mr Woolas:** That is the key question, which is why you have asked it. The answer to the question is that the impact of the economic situation on the numbers of people coming to the United Kingdom is not yet known. Of course, the very fact that the economic situation is not isolated to the United Kingdom means that the simple statement that says that, for example, Lithuanians are going home because the UK economy is in trouble ignores the fact that the Lithuanian economy is also in trouble. We believe that exchange rates are very important. There has been a 30% change in the relationship between the zloti in Poland the pound in the last six months I believe. I will correct that if it is wrong. That of course has an impact on how much relatively a Polish worker can earn in the United Kingdom. We have until the end of April to indicate to the Commission whether or not we intend to extend the workers' registration scheme on the A8 which can only run to May 2011. We have the A2 workers' registration scheme which can go through to 2014. We are deliberating this very point which is why, speaking very frankly, your inquiry is so helpful at the moment because you are gathering evidence on these matters. My simple point to the Committee is that it is wrong to say—Mr Dobbin did not suggest this—as some have said, that because the United Kingdom economy is in a downturn therefore people will not wish to come here. What matters of course is the relative situation. We are still the fourth largest economy in the world. We are still at GDP per head much better off than the A8 countries. The honest answer to the question is that we do not know what the future holds.

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**Q43 Jim Dobbin:** Have there been any discussions with any other Member States and also discussions with the trade unions?

**Mr Woolas:** There have certainly been discussions. The document that you are looking at is the lessons for the whole of the European Union. Obviously we are concentrating on the United Kingdom impact. The great lesson for us in hindsight, with the decision over the restrictions or otherwise for the A8, is that one cannot take those decisions in isolation from other countries. Page five of the document gives the chart as to what happened in other countries. Member States do not take the decisions exactly in parallel, so we do have those informal and formal talks with them. Regarding the trade unions, I must point out for the record that the Seasonal Agricultural Workers' Scheme which is now from A2 around 21,000 people on the quota, which was an increase from last year, was a specific negotiation and discussion. The general policy is discussed with the TUC and with individual trade unions.

**Chairman:** If I am correct, there is a break point at which a country, even if it has accepted not to have a derogation in the first phase of the expansion, can decide to take that derogation and rescind that open access. That is the context in which the question has been asked. There is a power to the UK should it decide that there is an adverse effect to withdraw its open access policy and move to a closed policy at a certain break point in this process. You do not have to continue. Even those who have allowed people to come in do not have to continue with that policy.

**Mr Woolas:** That is correct. One of the benefits that we now have because of the points based system is that we could apply the points based system as our criterion to future accession countries. The question at the heart of it is could we impose a quota. In principle, the answer is yes but, if our decision is to continue to apply transitional measures into the third phase of the A8, we could apply a tougher scheme and quotas as we already have applied for low skilled workers for Bulgaria and Romania.

**Q44 Mr Clappison:** You seemed to suggest, when you were being asked about whether we could impose quotas or put a temporary block on movement, that we could look again at the workers' registration scheme but of course that does not stop somebody from coming to work here. They can merely come here and work and they can choose to register if they want to do so. If they do, they can obtain certain benefits. In any case, when Lord Mandelson came to us on Monday, he left me with the impression—and he took issue with me about it—that he seemed to be very strongly in favour of the freedom of movement. There was no question of any UK derogation under freedom of labour movement around the EU. Have you consulted him about this?

**Mr Woolas:** The government's policy is sophisticated and joined up. We are working with other Member States and the Commission towards April of this year to determine what future or otherwise there is for the A8 workers' registration

scheme and, to be fair absolutely to Mr Clappison's point, there are for example self-employed workers who are not covered by the scheme. The Free Movement Directive allows that. That is something that this country has signed up to. I am simply pointing out that as we strengthen our policy in regard to the points based system the future does give us more control within those regimes for future accession countries.

**Q45 Mr Clappison:** I do not know if I can read from the corrected evidence of Lord Mandelson but he said, "The UK has always been a firm supporter of the free movement of workers in Europe." He says that the single market and openness to trade and the circulation of capital and workers is of immense economic importance to Britain. Lord Mandelson was very clear indeed. In his first question the Chairman asked you how many people from the A8 countries were working in this country and, if I may say, you quoted quite a number of figures to us from a variety of sources. Do you have an estimate of the number of A8 workers working in the country today and, if so, what is it?

**Mr Woolas:** I thought I answered that question. The best figures we have are the figures that I gave. The nature of the situation is that one does not know exactly. That is the nature of the Free Movement Directive.

**Mr Steen:** Are you going to call people in turn, Mr Chairman, or are they just going to speak?

**Chairman:** There will be another person on this question which will be called after Mr Clappison.

**Q46 Mr Clappison:** The final figure which you gave was a long series of figures based on the workers' registration scheme. What is your final figure? It is quite a simple question. Can you tell us what it is, please?

**Mr Woolas:** I have given you the best figures we have. It is in the nature of the scheme that we know how many applicants we have had through the scheme. Exact figures are not known in any Member State, other than through surveys, as to how many EU nationals there are working in the United Kingdom.

**Q47 Mr Clappison:** Does the Office for National Statistics produce a figure for this?

**Mr Woolas:** The Office for National Statistics speaks for itself. I am not going there today. I can help the Committee in other ways. The evidence also has to include the answer to the question how many UK nationals are working and living within the European Union.

**Q48 Mr Clappison:** Can you just stick to one question at a time, please? The question is quite simply will you tell us how many people you estimate are working in this country from the A8 countries?

**Mr Woolas:** I have given the figures to the best of my ability and the best of our knowledge.

**Q49 Mr Clappison:** You chose to rely upon the IPPR. Is that part of the government?

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**Mr Woolas:** I did not rely on the IPPR. I quoted the IPPR in an attempt to help the Committee to understand the evidence that we have available. We know the numbers of people registered and the numbers of applications, which I pointed out at the beginning are not necessarily the same figures, although public comment assumes it is.

**Q50 Mr Clappison:** Was the figure you gave us, which you said was your final figure, derived from the IPPR estimate?

**Mr Woolas:** No. That is derived from the number of registrations we have. Also, as you no doubt in your Committee will want to do, we make estimates based on other evidence. The Labour Force Survey is not a government figure as such; it is a figure produced for the Labour Force Survey and is available.

**Q51 Mr Clappison:** It comes from the Office for National Statistics. Does this not underline the value of having an Office for National Statistics? They produce a figure. You could give the figure to us from the Office for National Statistics, which I thought was why we had one, and they say that the latest figure they have for quarter four 2008 is that there are 470,000 A8 nationals working in this country but they cannot include people in that figure who are living in communal establishments. Subject to that, that is the figure they produce. We have an Office for National Statistics. What is wrong with it?

**Mr Woolas:** I am not saying there is anything wrong with it.

**Mr Clappison:** You gave us a very round about series of figures.

**Mr Woolas:** I represent the Home Office, not the Office for National Statistics.

**Chairman:** The figure I have written down is that the estimate is for A8 plus A2, 665,000. You quote a figure of 470,000 for A8.

**Q52 Mr Clappison:** The figure I have is from the Office for National Statistics. My question, which is quite an important question in view of what the Minister has had to say about the Office for National Statistics, is why in his remarks to us he chose not to rely upon it and instead gave the whole series of figures derived from government homework based upon the workers' registration scheme, which is not a record of the number of people working here, and also the IPPR which is not I think part of the government. I think what the Minister says speaks for itself. On the same subject, Lord Mandelson when I was asking him questions about this on Monday gave a quote to us of a figure by which the number of UK citizens in employment had increased since 2001. That is not in fact the case because the number of UK nationals in work started to go down in 2005. I am afraid my statistics here derive from the Office for National Statistics. If the Minister has some different ones, I would like to hear them. Before 2005, the number of UK nationals in employment in this country had been going up

during this period of this government's office according to the Office for National Statistics. In 2005, it started to go down and it has gone down by 350,000 since then, including the period of recession, but the decline started in 2005. Can the Minister throw any light on why that decline has taken place?

**Mr Woolas:** Could I answer the first question that Mr Clappison asked? The ONS figures are in the main based on the Labour Force Survey figures. I was not trying to deny the ONS figures' accuracy or credibility, but that is the derivation of the ONS figures. I did not quote the ONS figures because I had already quoted the Labour Force Survey figures and also because I did not think you wanted a long, rambling answer, but I have statistics here from the ONS that I am more than happy to read into the record.

**Chairman:** I do not think that would benefit anyone.

**Q53 Mr Clappison:** The Minister's answers which he gave earlier will speak for themselves. Can the Minister throw any light as to why the number of UK nationals in work began to fall in 2005, both as a rate and as a number?

**Mr Woolas:** I have come here today with evidence from the UK Border Agency and the Home Office on the migration aspects of the workforce, not on the domestic employment market as such. That is not within my portfolio. I am not being evasive. I do not have those statistics available. I could give you my personal view but I suggest that that would not be scientific and would not help the Committee.

**Q54 Chairman:** The point of the report was the impact of free movement of workers in the context of EU enlargement. There may be a sub-question: was that fall off in UK workers caused by that?

**Mr Clappison:** The Minister said there had been no effect upon the UK labour market. The number has decreased since roughly the period of time of accession of the A8 countries. I am just asking the Minister if he can throw any light upon it. If he cannot, that is fair enough.

**Chairman:** The point that you are reaching for is the Minister adhering to that logic, that that fall in figures which Mr Clappison has given is not caused by the migration of EU workers.

**Mr Clappison:** I am asking if he can throw any light on why it has taken place.

**Chairman:** In the context of this report it is relevant to the migration of workers rather than just a general analysis of the economy. If the Minister thinks it has had an effect on it, he should say so.

**Q55 Mr Clappison:** I am asking if the Minister would give an answer.

**Mr Woolas:** My view is that the general value added—and we share this analysis with BERR—has been to increase from migrant workers coming to the UK. Logically, there is a diminishing return and obviously, depending on the labour market domestically, that would affect it. That is why we believe that the controls that we have, in so far as we



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have controls regarding the European Union, but also the points based system outside the European Union, are the right policy. I think there is a consensus for that policy because it enables us to control flows without an exact number—I would not claim that—but we believe that to be the case. I think there is some truth in both arguments. There is a general value added. The statistics independently show that. We share that view with BERR and indeed with DWP but that does not mean, in our view, that one can extrapolate that into the future against the background of a different labour market.

**Mr Clappison:** You talk about value added to the economy. The House of Lords reported on that. You do not agree with the House of Lords report. It did not agree with you either.

**Mr Woolas:** It agreed in the general direction but the margin of its analysis was less.

**Q56 Mr Clappison:** You refer to the points based system. Of course, access to the UK labour market by the A8 countries is not controlled by the points based system and it could not really be because there would be a lot of problems with EU law if it was. You do have controls over the number of people coming to work here from outside the EU. You have a discretion over them. When you began to see the numbers coming from the A8 countries, it became clear that there was a substantial number of people coming over the years since then. Did that have any effect upon the number of work permits which were issued to people coming from outside the EU? Did you take that into account in determining how many people to admit from outside the EU or not?

**Mr Woolas:** In so far as the establishment of the Migration Advisory Committee, which we took great care over and whose advice we value as objective and independent enormously—they incidentally have said that they do not believe there is a link between A2 migrant workers and UK national unemployment statistics—and the new policy regime allows that policy lever of the points based system to be pulled, if you like, the answer to your question is yes. If I could cite again the Seasonal Agricultural Workers' Scheme, previously it had included non-EU people. Now it is exclusively A2.

**Q57 Chairman:** Can we just read into the record that A2 refers to Romania and Bulgaria?

**Mr Woolas:** Yes.

**Q58 Mr Steen:** The last time we met was at the Bowie Head Hotel, talking about fishing and tourism. This is slightly different now. The Minister probably does not have his feet under the desk yet and has not been down to Lunar House and spent half a day there, which I have in my capacity as chairman of the All Party Group on Trafficking Women and Children. I spent a day at Gatwick. I understand all the problems that he talks about. One of the simplest ways to deal with this—I may have caught him answering the right way on this—is to have exit visas so that at every port of entry you have a port of exit

as well, so that everybody coming out says who they were. Is that being contemplated? That would solve a lot of the problems. The reality is that nobody knows the numbers about anything. That is the truth of the matter. For example, the number of Chinese boys coming in without any passports. They flush them down the loos coming over on the plane or they eat them. The number of children coming into Britain without any documents from the Far East is enormous. You are never going to get the right numbers and what they are here for. In the EU, you have the problem of people coming in on a pretext and they do something else. I am particularly referring to the trafficking of human beings because they are perfectly lawful. They believe they are coming in to do a job and in fact when they come here they find they have been duped. We do not know the figures. I am just wondering whether the Minister is seriously contemplating an exit visa or an exit point, because that would tell us about overstayers, trafficked people, people who are asylum seekers. It would give you a far more accurate indication than the incoming.

**Mr Woolas:** Can I thank Mr Steen for the question? I remember the visit very well. I remember that his area did get the money for the fish quay, and very valuable to the United Kingdom economy it is too, the highest by value fish port in England, not in the UK. It is second in the United Kingdom and first in England and Wales. We were glad to be able to help in that regard. The lobster was lovely. The point that is being made is absolutely the core of government policy and the answer to your question is, yes, I very much agree with you. The problem with public debate about this issue—and this is perhaps a bit broader than the document that you have before you; I hope you will give me some leeway—is that it is often seen as too easy to get into this country. My view is that it is too easy to stay in this country because of the lack in the past—and to some extent now—of border controls in terms of knowing whether or not a person has overstayed. We have spent an enormous amount of effort as a country over different governments in different decades in issuing visas or not and not in counting people out. Our policy now is directed at the heart of that issue in order that, if somebody comes to our country through the points based system or on the other route through temporary leave to remain, if that leave to remain is overstayed, then we know and enforcement policies become important. There is a different policy of course in relation to the European Union which is the reality of the policy that I am dealing with.

**Q59 Mr Steen:** You are not going to introduce an exit policy for EU nationals?

**Mr Woolas:** We do not have a plan to have exit visas in the sense that Mr Steen is relating to. What we do have is, through electronic borders and the monitoring that we have—I appeal for cross party support for this—the ability to know when somebody has come in, which we have known in the past, but also if they have left and therefore if they have not left.

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**Q60 Mr Steen:** When will that come into practice?

**Mr Woolas:** That is being rolled out now. It is completed—I hesitate to say for 100% of the world—by 2014 but we aim to get 95% by 2011.

**Q61 Mr Heathcoat-Amory:** People agree with the general benefits of free movement provided they know that the government can measure this, can monitor it and control it and, if necessary, take action. We have heard from you already that you do not really know how many people are coming here or staying here. They may or may not register. They may or may not stay. All your figures are estimates. People can see that you have really lost control of the numbers. What I would like to ask you is about the underlying regulations. You will recall that the present immigration system is governed by the Immigration EEA Regulations 2006, of which I have a copy. It is quite clear from reading this that these regulations greatly enhance the rights of people to come here and achieve an immediate right of residency. It is almost impossible to exclude or remove people, even if they have committed crimes. Therefore, do you understand the frustrations building up? We know about it in all our constituencies. We know about the industrial problems and unrest a few weeks ago. People do not believe that you or Parliament any longer controls immigration as regards the population of nearly half a billion people in the EEA.

**Mr Woolas:** Mr Heathcoat-Amory makes a strong point. I disagree with his context. I think it is fair to say that the government is increasingly better able to manage, because of the numbers. We take the view in lay person's terms that if you cannot measure it you cannot manage it, so we are increasingly able to measure it so that we can manage it. I was slightly worried by the statement that says we do not know what is happening. One does have to separate the European Union from non-European Union. That is a fair point. We are better able to measure and manage non-EU movements. We work within the European Free Movement Directive. We point out the benefits to our country of UK nationals working elsewhere in the European Union. There are 581,000 UK born citizens living in the EU 15 countries. There are 285,000 UK nationals working in other European Union countries. In that regard, the government agrees with the statement that has been made, that the numbers are not known exactly in terms of EU movements.

**Q62 Mr Heathcoat-Amory:** You are telling me that eventually you may be able to measure the numbers. You will not be able to do anything about it because these regulations which I have referred to are completely unambiguous. People can only be excluded or removed if they present a sufficiently serious threat affecting one of the fundamental interests of society. That is a very high bar to clear. You may recall the last Prime Minister got into a terrible muddle when Charles Clark resigned as Home Secretary over claiming that people convicted of serious offences would be deported. This is completely illegal under these regulations. Are

people forgiven for thinking that you are trying to measure something and failing but, even if you measure it, there is nothing you can do about it? To me, it is rather enchanting that people still come along to Parliament and think we can do something about it. We have lost control. Will you admit this?

**Mr Woolas:** In terms of EU membership, we do not accept that premise. We are members of the European Union. We support the Free Movement Directive. Our argument is that that is a net benefit to the United Kingdom economy and to the United Kingdom subjects who benefit reciprocally from those free movement rights. History shows that where, for example with Ireland, Portugal, Spain and Greece, EU membership benefited the GDP of those countries, migration to this country subsequently fell and, in many cases, is now a net flow the other way. We think that is a good thing.

**Q63 Mr Heathcoat-Amory:** You are not denying what I am saying.

**Mr Woolas:** I am not denying it.

**Chairman:** I want to caution you both.

**Mr Heathcoat-Amory:** This is an important point of principle.

**Chairman:** I am just trying to put it in context. Remember, we are here to look at a particular report and the report is on the free movement of workers in the context of EU enlargement. Article 39, which was formerly Article 48, was in the treaty we signed in 1972 when we joined, so it is not a question about free movement of people within the EU; it is about what has happened since the enlargement process. We have to restrict ourselves to that.

**Mr Heathcoat-Amory:** I am sorry. These regulations are 2006 and they greater alter and extend the rights of people, including from the enlargement countries—those are the ones I have in mind—to immediate rights of residence. They cannot be deported even if they are criminals. It is unambiguously in these regulations passed by Parliament. My point is that for a citizen of this country, who I am afraid does regard people from Hungary, Slovakia and Bulgaria as being foreigners—perhaps they are being old fashioned about this; I know we are in one European home, but they do—you are telling me that you have a plan eventually to monitor and measure the numbers coming here, but you cannot do anything about it. I would just like you to confirm that.

**Mr Woolas:** On the point about foreign national prisoners, we do deport people who have offended within European Union states as well as outside. We are able to do that and we are negotiating for further powers in that regard. On your general point, within the European Union you are correct.

**Q64 Mr Hands:** Before I ask you a question about future accession countries, can I just ask you a quick question about the last accession? Lord Mandelson told us on Monday, "In the case of A2 workers from Bulgaria and Romania, these are very small numbers we are seeing coming to the UK and we do not have any specific evidence on the impact of their

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movement on the UK economy but by inference I would conclude that it is very, very slight indeed.” Can you explain why we still operate a scheme specifically for Bulgarians and Romanians which is different to the previous scheme for the A8 nationals? In the words of one of my Romanian constituents, he asked why he was being punished because we have too many Poles in the country.

**Mr Woolas:** I will be very honest with you as you would expect me to be.

*(The Committee suspended from 3.46pm to 3.56pm for a division in the House)*

**Q65 Mr Hands:** If the impact is “very, very slight indeed”, why do we continue to operate a separate A2 system to the A8 system?

**Mr Woolas:** The conversation so far—and I believe yesterday—has been about the economic impacts and the employment impacts. Of course we also have to take into account the social impacts as Mr Hands has raised in the House on a number of occasions. We therefore were able, in judging the A2, to benefit from the experience of the A8 and we therefore took into account the transitional impacts of people coming. The purpose of the policy is to ensure that there is not turbulence that can have social and indeed economic impact. In the light of that experience and of course being able to learn from the experience of other Member States in terms of their decisions—again, the memorandum from the European Commission explains the policies that other Member States took—we were able to take those into account.

**Q66 Mr Hands:** I am not following you. You say you took into account the A8 experience when drawing up a policy for the A2 nationals. Why did you not, by the same logic, change the policy on the A8 nationals to make that more restrictive? Surely using that same logic that is what you would have done, rather than just introducing a specific scheme for A2.

**Mr Woolas:** I would argue we did take into account the A8. We were able through the various policy measures we had to look at that impact. We have a decision yet to be taken on the future of WRS for A8 and of course that, as I said to the Committee earlier on, is by April of this year.

**Q67 Mr Hands:** How have regulations for the A8 been tightened?

**Mr Woolas:** They have not been loosened.

**Mr Hands:** Your logic that the A8 experience led you to tighten regulations for the A2 would imply that you should tighten regulations for the A8 but it did not happen.

**Mr Woolas:** No.

**Q68 Mr Hands:** How would you explain to my Romanian constituent who is saying, I think not unreasonably, why should he be punished because there are too many Poles in Britain?

**Mr Woolas:** You could equally argue on that logic that there are too many French people in Britain. The A8 and the A2 may separate themselves in policy decisions but one has to take into account the cumulative effect. You could equally say that the continuation of the restrictions on A8 is punishing some Polish people.

**Q69 Chairman:** What is the difference? What is the restriction on people from Romania and Bulgaria that does not apply to the other A8 countries, the countries that came in in enlargement?

**Mr Hands:** I can answer that if the Minister cannot.

**Chairman:** I can as also, but I thought the Minister might be better to put it on the record.

**Mr Woolas:** The essential difference is that under A2 we can have a quota restriction for unskilled work.

**Q70 Chairman:** I believe also you must have a job to come, whereas you could come from the A8 countries and find employment.

**Mr Woolas:** On the whole, yes.

**Chairman:** You must have a job to come to but you can come. I hope your Romanian is not begging on the streets.

**Q71 Mr Hands:** It is a totally different registration scheme which is driving a lot of Bulgarians and Romanians to avoid it by declaring themselves as self-employed contractors, which in turn costs this country some amount in tax and raises all kinds of national insurance problems for what is really a very small number of people. What I am trying to get at is what I think is the chaotic decision making in all of this. Looking forward, for a future expansion the precedent has been set that for the A2 accession you will look at the previous accession in helping to determine policy. If there is a future expansion, which there is tabled to be with Croatia and at some point with Turkey, how will the recent experience inform policy on those expansions?

**Mr Woolas:** First of all, I do not think it is fair for Mr Hands to say that decision making is chaotic. I think that is, if I may say so, naïve, because one is dealing with the decisions of other countries as well as our own in relation to that. On the registration scheme and the differences, I am being cautious because it is not as black and white as it is being presented. Mr Hands makes the point about the self-employed. That is right. He is right about that. I do not want to make statements that mislead this Committee in any way whatsoever. Our ability to look at potential future accession countries—we now have the experience of the A8 and the A2. It does not necessarily follow but what we are able to do is to base our policy on accession countries on existing migration policy. That allows us to use the points based system, which of course is now in existence but was not in existence for A8 and A2, as a potential platform for our policy for potential future accession countries.

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*(The Committee suspended from 4.02pm to 4.12pm for a division in the House)*

**Q72 Mr Hands:** I have a final question on future and further enlargement. It does seem to me that, if we are going to properly assess the current enlargement, which as you have already conceded is a big factor in assessing any future enlargement, we do need to get the statistical basis on a proper footing. Can you just tell us a little bit more? I am still worried by the fact that you would not quote the ONS but would in preference quote the think tank, IPPR, statistics. Is that because of no confidence in the ONS statistics or is it a problem with their methodology and the IPPR methodology is better? What is the reason for shunning the ONS statistics?

**Mr Woolas:** I did not intend at all to shun the ONS statistics. I ran out of time. The Labour Force Survey makes up the basis for the analysis of the IPPR and makes up the basis of the ONS statistics as well. I do not at all intend to distance myself or criticise the ONS statistics. It was simply presentational.

**Q73 Mr Hands:** It is the same statistics that provide the basis for both. The IPPR estimated 665,000 A10 nationals resident in the UK, you told us, in April 2008. Using the same statistics, what did the ONS say at that time?

**Mr Woolas:** The IPPR is A8 and A2, I think I am right in saying, and the ONS figures were just on A8. ONS published figures from the Labour Force Survey that show the number of non-UK born workers—which is not the same thing but that is their figure—in April to June 2008 at 3.7 million. In April/June 2008, people born in Europe made up the largest number of non-UK born workers in the UK. The group comprises people born in the 14 countries that were members of the European Union prior to May 2004, which was 0.7 million people, people born in the eight central and eastern European countries—the Member States that joined the EU in May 2004—were half a million and people born in other European countries were 0.2 million. Those ONS figures are themselves based on labour force statistics and I am sorry if I gave a different impression.

**Mr Hands:** The ONS quoted 500,000 and the IPPR 665,000. That cannot possibly mean there are 165,000 A2 nationals. There is quite a considerable difference there between those two figures, is there not?

**Chairman:** The figures I wrote down were 200,000 from other European countries other than the A8 countries.

**Mr Hands:** It seems to me that the ONS figures are lower than the IPPR. I do not understand why anybody would call the ONS figures sinister when they are lower than the IPPR figures.

**Mr Woolas:** That is not what I said and not what I was reported as saying.

**Chairman:** What was read out was 500,000. Other European countries other than the eastern countries were given and then there were 500,000 from the A8 plus another 200,000 from eastern European countries. That would be 700,000.

**Mr Hands:** The A8 are eastern European countries.

**Chairman:** The A2 I believe was 200,000.

**Mr Hands:** It cannot be. There cannot be 200,000 A2 nationals. Lord Mandelson said their impact had been very, very slight indeed.

**Chairman:** If I remember what Mr Clappison said, he said there were 480,000 from A8 and if there are 665,000 overall for A10 there must be almost 200,000 by any calculation.

**Mr Hands:** That cannot be right. If you ask the Romanian and Bulgarian embassies, there is no way.

**Mr Woolas:** It may help if I give you a note on this.

**Mr Hands:** It is very important though. This is a huge difference.

**Mr Woolas:** With respect, you are not repeating what I said. You asked me to quote the ONS figures. I am not defending the ONS figures. I am reporting the ONS figures. Let us be very clear about what they say. Non-UK born is not the same as EU Member State national. Non-UK born can mean the son or daughter of a UK national born in Germany as a son or daughter of a member of the Armed Forces, of whom there are 265,000. That is exactly why I pointed out the difference between the ONS and the migration figures. What I said was people born in other European countries, 0.2 million.

**Mr Hands:** That is not the difference between the 500,000 and the 665, because the IPPR said the 665 is A10. The ONS said 500,000 are the A8. The implication the Chairman is drawing from this is that 165,000 are A2 and I do not think that can possibly be right.

**Chairman:** Can I read into the record the Commission's report which we have a summary of? It is a high statistic. It says, "Polish nationals comprised about 25% of the EU nationals who had moved to other Member States . . . Romanian nationals accounted for about 19% of the total", who had moved to other national states. How many of them have come here is not quite specific.

**Mr Hands:** I think it is very few. I happen to know a lot about this because the Romanian and Bulgarian communities happen to be based in my constituency and they are not very extensive at all. Lord Mandelson is partly right when he says their impact is very, very slight indeed. Most of those figures are Romanians going to Italy and Spain, which is the main destination of choice for them. I am still trying to get to the bottom of these statistics because they seem to be all over the place and I cannot see how we can make an assessment based on these statistics. We are arguing about 200,000 people. We are unsure whether they are A2 nationals or something else.

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**Mr Woolas:** I would urge precision. I simply report the IPPR figures and the ONS figures. The debate proves my point that statistics can prove anything. The figures from the IPPR are population figures. The figures from the ONS are based on non-UK born workers. The Committee's deliberations will no doubt wish to flush those out.

**Q74 Mr Clappison:** I am not familiar with the IPPR. I do not know if this is an organ of government. Perhaps the Minister could explain to us what exactly it is. I think he referred to population, figures in any case which should include people not working in this country. The figures which I have quoted come from a written parliamentary answer which I received on 23 February from the Chancellor of the Duchy of Lancaster, reporting the Office for National Statistics figures, which was the number of EU A8 nationals working in this country. I said 470,000. That was the figure I gave. The reason I gave that was because I asked the question and it came from the Office for National Statistics. The point I want to put to the Minister is: is it not important that we should have the Office for National Statistics there as an independent body, who the public can put confidence in as being free from politicians' interference. Does the Minister have confidence in the ONS figure?

**Mr Woolas:** Yes, but I think the interpretation of figures and the confusion, deliberate or otherwise, of the difference between population and working population and the difference between non-UK born and EU Member State nationality does confuse the analysis. That is why your Committee's deliberations are very helpful and timely.

**Chairman:** We have danced around the statistics quite a bit. We did come to ask the Minister about the migration of workers, particularly in our interests, in the context of EU enlargement. I think we have raised and put on the record a number of serious doubts about the sources of the information, particularly for the Romanian and Bulgarian population that is here. If those figures put on the record are the ones people are using, they seem to be very large compared with the assertion by the Secretary of State for BERR. It is a very small number and not significant at all. They will have to be looked at in some detail and maybe someone else will come back to them at a later date.

**Q75 Kelvin Hopkins:** People may disagree but the IPPR used to be an independent, left of centre research organisation. Now it is a New Labour front. Secondly, I am probably alone in not believing in free movement and it looks like the European Union is moving in my direction because most countries have moved from free access for the A8 to restrictions for the A2. Was it not the case that the government predicted that when free access was given to the A8 20,000 people would come to Britain and indeed 20 or 30 times that amount of people came in, in the end, and that was what changed minds?

**Mr Woolas:** The 13,000 estimate related to migrants, not visitors. A migrant is defined by the ONS. The ONS definition is someone who intends to stay for more than 12 months. The 13,000 estimate related to net migration—i.e., inflow minus outflow—and to longer term migrants—i.e., those coming for over a year. The IPS passport data reflects arrivals only. We would therefore have to count people going the other way from the UK to the A8 to have a comparable figure. Since we do not have data for this at the moment we cannot do a simple comparison. The 13,000 figure was never an official Home Office estimate. It was done on a piece of research undertaken by University College, London, amongst a number of other estimates which helped to inform the government's decision on free movement of workers. It was broadly in line with other studies across Europe, most of which suggested that the numbers coming in would not be very large. The 13,000 estimate did not take account of policy developments elsewhere—i.e., in other Member States. That is the hindsight lesson.

**Kelvin Hopkins:** I do not know whether you are able to answer these questions because it might not be within your purview. The Posting of Workers Directive: rulings were made in the cases of *Laval* and *Viking-Line* by the European Court of Justice which caused great concern amongst trade unions across Europe and indeed at the ETUC. Do you share their concerns?

**Q76 Chairman:** The question is whether you feel that this is an area in which you have any opinion and any remit.

**Mr Woolas:** You are very kind. It is not my policy lead.

**Q77 Chairman:** You think the Posting of Workers Directive is outwith your remit?

**Mr Woolas:** It is outwith my remit. It is of course a factor that we have to take into account in our analysis but it is not our lead.

**Q78 Kelvin Hopkins:** It is something I raised with Lord Mandelson on Monday. Many trade unions across Europe have become deeply concerned that there has been what seems like a quantum shift from being even handed between employers and employees to taking the side of the employers in these rulings; and that trade unionists are now becoming more Eurosceptic and they were indeed a factor in the Irish no votes and before that the French and the Dutch no votes as well. Do you share the concerns that these decisions are going to make unity in the European Union more difficult?

**Mr Woolas:** Yes, in honesty. That is my own personal view. The employment ministers, as I understand it, in the December meeting agreed that they would look at the implication of these judgments with the European TUC and with businesses. They are meeting on 20 March to look at this point in light of the concerns that Mr Hopkins has raised.

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**Q79 Kelvin Hopkins:** Going back to the free movement question, I imagine you would speak with your counterparts in other European Union Member States. Are they concerned about these very substantial movements of populations across their frontiers or are they more relaxed about free movement than perhaps we are?

**Mr Woolas:** Speaking frankly, I think the ball is bouncing towards concern. In deliberations on policy, this Committee is looking at workers' movement. In general migration policy—as we were talking about before—one has to look at asylum or economic migration movement as well. The fact of the matter is that the European Union is moving towards a more pragmatic, Anglo-Saxon based view of things, particularly in the light of global movements from Africa, West Africa, East Africa, the Middle East and so on. Frontex, the cooperative body of border controls within the European Union, is increasingly influential and increasingly important. One only has to look at migration movement across the Mediterranean to see that that is the case. Being very honest and frank with the Committee, my own assessment—and I am new to this job—is that the spectrum of opinion has widened but the centre of gravity has shifted.

**Q80 Kelvin Hopkins:** We have been through an era of an extremely liberal view about these matters when we got rid of border controls and now we are reinstating border controls, which I strongly support and I hope that many others would too. Is that likely to happen elsewhere, especially given those countries with land borders where it might be more difficult?

**Mr Woolas:** Schengen changes the colour of the spectacle through which most EMS states look at the situation. I think the reaction to a number of court judgments and to the reality of global movement and in other related areas, such as Customs and smuggling, is that there is a general move across the European Union towards that policy of more border controls. The most important development has been the European Union Africa migrancy pact which essentially recognises that, if you look at EC policy on migration, the primary purpose of EC policy is the development of the economies of the countries of origin. Ultimately, to paraphrase one of my colleagues, you can put as much barbed wire up as you like but you have to solve the problem at cause.

**Q81 Mr Laxton:** Sticking with the Posting of Workers Directive, about two or three months ago the Commission established a committee of experts to have a look at the Posting of Workers Directive. We are required to take up two seats on that committee. Have you any views on the work of that committee or what the view of government should be? A personal view maybe, if it is not directly within your brief?

**Mr Woolas:** We do not have a view within the Home Office. I do not have a developed view personally on the issue. The way in which this is going is that the expansion of the European Union is bringing out the differences. Crudely put, Jacques Delors' speech in 1988 was for a European Union that was much

smaller. Moving together with 27 is a different kettle of fish to moving together with what were then 12.

**Q82 Chairman:** Thank you very much for coming along. Can I just ask you to sum up? You seem to be saying that you fully support the analysis of the paper on the impact of free movement of workers in the context of EU enlargement; that it has had only a marginal impact on employment prospects for those in the countries to which people have migrated. You seem to also say that it was a beneficial process in the UK. Do you think that will continue in the present economic climate?

**Mr Woolas:** I think that the overall impact is beneficial. One would have to look at regional and local impacts. You could not in all cases say that there was value added with certainty. I am not suggesting that there is evidence to the contrary but I think one would have to look at the immigration impact, social as well as economic. Overall, we support the analysis that shows that it is beneficial. We believe that there is, other things being equal, a diminishing return on that. We believe that the current economic situation will present us with unknown quantities of people and activity in the future, which is why we are cautious and why we believe that the migration controls that I was mentioning before, in answer to Mr Steen, are increasingly important. We were doing them anyway but we think they are increasingly important. We are keen to put into the debate the other side of the coin which I characterise as the *Auf Wiederseh'n* Pet point, which is that many of my constituents work within other European Union Member States. All of these policies can be reciprocal. I urge caution in looking at that. This is a report about the 27, not about the one, that the European Commission has presented us with. Overall, we support the analysis that it has been beneficial. We proceed with the benefit of hindsight for future potential accession.

**Chairman:** Thank you very much. We intend issuing this report for a debate in the European Committee which of course, as you know, can be attended by every Member of the House of Commons to question the appropriate minister and also to speak on the issue. We will have a second chance if it is you who goes along to speak on this policy to a larger audience than this.

**Q83 Mr Heathcoat-Amory:** My question arises out of the controls that you do have on non-EEA immigration. You will be aware that a number of work permits are not being renewed, are being withheld or withdrawn for existing workers from outside the EEA, presumably to make way for higher immigration from the EEA area. The group I have in mind are Filipino nurses who integrate extremely well. They speak English. They are very suited to the jobs in hospitals and care homes. Is it in line with your policy for community harmony and economic integration to deny immigration to a very

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suitable group of workers from outside to be replaced by people from within the EEA who do not speak the same language and may be less suitable? Is this not a distortion in our policy which is forced on you?

**Mr Woolas:** That is not our policy. A2 allows those nurses to remain.

**Chairman:** You have some support with you. Can I thank Emma Churchill, Nigel Farminer and Ragnar Clifford for attending with you at this meeting.