

TUESDAY 6 APRIL 2010

Present

Bowness, L
Dear, L
Dykes, L
Freeman, L
Hannay of Chiswick, L
Howarth of Breckland, B
Jopling, L
Kerr of Kinlochard, L
Paul, L
Plumb, L
Richard, L
Roper, L (Chairman)
Sewel, L
Sharp of Guildford, B
Teverson, L
Trimble, L

Witnesses: **Chris Bryant**, a Member of the House of Commons, Minister for Europe, **Mr Paul Williams**, Head of Europe Global Group in Europe Directorate, and **Mr Ivan Smyth**, Legal Adviser, Foreign and Commonwealth Office, examined.

Q1 Chairman: Minister, thank you very much indeed for coming to see us. You did come to see our Sub-Committee C about these matters a little while ago but things have moved on and we are anxious to pursue them. Perhaps you could introduce the colleagues you have brought with you from the Foreign Office? Can I also tell you that the session is in public and that a full transcript will be taken but you will have the opportunity to check and correct the transcript. The transcript will be published on the parliamentary website in due course and the session will be webcast live. Can I ask you the first question? What do you see as the current timetable for the adoption of the Council Decision which we have before us this afternoon, and the Staff and Financial Regulations on which you have kindly sent us an Explanatory Memorandum as well?

Chris Bryant: Thank you for having me along this afternoon, and I apologise if I repeat some of the things I said in the previous Committee but I suppose in the words of Browning: “Hark, the dominant’s persistence till it must be answered to!” I have a slight hesitation about the precise nature of the timing because, whilst the December Council agreed that we would have all of this in place by the end of April, as I have said to you privately and to the Committee last week, the paper has arrived rather late for everybody to be able to engage in discussion. This happens to many different countries around Europe, of course, that when they have a General Election it makes it rather more difficult for them to have parliamentary scrutiny, or indeed for that matter public scrutiny, on any of these kinds of decisions. The current thinking is still that this will be going to the General Affairs Council at the end of April.

Q2 Chairman: And the Staff and Financial Regulations, which require the ordinary legislative procedure and therefore the European Parliament as well?

Mr Williams: The idea now is that since, as you rightly say, the Staff and Financial Regulations require a co-decision with the European Parliament everything will be taken legally as a package but, as the Minister says, discussions will continue in the Council on all of them, including on the draft Decision itself, with a view to coming to some kind of decision by 26 April.

Q3 Lord Dear: Minister, good afternoon. Could you help us on two matters: firstly, whether the Government have any specific concerns about the proposals and, secondly, following the evidence that you gave to Sub-Committee C of this House on 25 March, whether the Government now has a position on what its “red lines” are, if there are any?

Chris Bryant: We have two main concerns and one is in relation to the wording that there presently is in relation to consular services. We have long argued, and in all the discussions

I have had with other countries' representations here in London and while I have been abroad and discussed it with my counterparts I have made it very clear, that we do not believe that it should be right for the External Action Service to be considering setting up consular services all around the world as one of its first actions. We understand fully that some of the smaller countries, of course, want to see the EAS taking on this responsibility because it is difficult for them to maintain posts all around the world, but the truth is we have pretty good ways of dealing with that in many different countries. We do not have representation in Laos, for instance, as I mentioned to Sub-Committee C, and actually that is picked up for us by our relations with the Australians, and in other countries we reciprocate. Informal arrangements of that kind are perfectly sufficient to be able to deal with the consulate issue. There are, however, those still arguing that it would be a great symbol of European citizenship if people were able to have the guarantee of a European consular service all around the world. I keep on pointing out, for instance to my French and German colleagues, that the consular service that each of those two countries provides is very different one from another at the moment, and to educate the whole of Europe about some new concept of citizenship when you travel abroad would be difficult and they would have to educate all British people when they travel abroad in the same way. The other issue is about the financing elements. We are keen that this should end up at a budget neutral position because we believe that one of the main ideas behind creating the External Action Service was to end the duplication and replication that exists within the structure at the moment.

Q4 Lord Dear: Do you have a timescale on your last point?

Chris Bryant: We hope we will be able to reconcile both of these by the time the decision is made. Because I know that setting up the EAS is quite controversial for some people within British politics I am quite troubled by the fact there is not time for full parliamentary scrutiny, but at the same time if I were to say now that therefore, because there has not been enough

time, we would not be able to sign it off in April, then that would make it very difficult for us to retain any negotiating power over the coming weeks.

Q5 Lord Jopling: Minister, we are at something of a loss to deal with Article 6(8) because you did not send us the list you referred to - you said it was within the annex but it was not - and therefore we are rather at a disadvantage, but could you tell us which units of the Council Secretariat and Commission are going to be transferred over to the EAS, and give us some idea of dates?

Chris Bryant: I would have sent you the annex if I had had it. I am at the same degree of loss as you are in regard to that because the annex does not yet exist, and that is in large measure because the system of programming has not yet been finalised. This is one of the reasons why I am troubled by the process of parliamentary scrutiny that is available for this decision.

Q6 Chairman: But this is really on the development side; which level of work is going to be done in the EAS and what is going to be done within the Commission?

Chris Bryant: Exactly so. When I spoke to Sub-Committee C I said that there had formerly been an idea that one should just divide the world up vertically, as it were, so the Commission was in charge of certain countries and the External Action Service was in charge of other countries, and then we moved on to a horizontal divide whereby we do not divide up chunks of the world but we decide that there are two extremes, deciding who is going to be working in which post and what job they are going to be doing, and the broad strategy for Europe's representation in a country or a region, so there are several different gradations and the main issue is to decide who does that. To us it is absolutely clear that the High Representative has to have as many levers as possible to be able to produce the outcomes that the Council has agreed to, and that includes development, but at the same time we want to make sure that the

expertise that exists within development and the focus of the Development Commissioner is not diminished.

Q7 Lord Kerr of Kinlochard: Are you satisfied, Minister, with the provisions on recruitment procedures in the amendments to The Staff Regulation and the Council Decision, and are you in particular satisfied that the nationals coming from Member States shall always be temporary agents? You say in your Explanatory Memorandum that you would expect them to return to national service after their period there, in other words, they would never become established on the same basis that staff from the Commission or from the Council Secretariat are, so this Service will never become like the European Parliament which has its own staff, separate from the staff of the Commission and the Council Secretariat, as indeed does the Court of Justice and the Court of Auditors. This is not to be a career structure. Is that wise? Secondly, when one looks at the provisions for the Consultative Committee on Appointments, a good idea in my view, are you satisfied with the sentence: “The powers concerning appointments shall be exercised on the basis of a short list of candidates to which the Commission has agreed”? Do you interpret that to be always giving the Commission a veto on any candidate for any job, particularly a head of mission job, in the External Action Service?

Chris Bryant: In relation to the question about temporary agents, yes, we believe that is the right way forward. Obviously people might come several times during the course of a British diplomatic career and might go to work for the External Action Service several times, they might have two or three postings there if that is what they chose, but we do conceive of them as being temporary agents in precisely the way you describe. Most important, and there is a bit of a debate about this, is to appoint on the basis of merit. There is always the danger in European structures that there is a bit of divvying up and “If you get this then I get this”, and the danger is that means it is not necessarily the best person who gets the job; it is the person

who has lined up the most number of votes. We want to steer away from that as much as is humanly possible but I think, even in the best system of appointments, you still end up with some degree of that. There are those who have argued - and there is an element of truth to this - that if the External Action Service, for instance, had no Brits we would probably feel that it was not really well structured. Likewise there are many countries who are wanting to say: "Well, that means not only there cannot be none from any individual country but there has to be a specific number, and geographical division is one of the most important elements of how we should split that up." Now, we do not support that. We think that the most important thing is to strive for getting the brightest and the best because we want the External Action Service to thrive. Incidentally, it is also important for us in the UK that we get good British people working in the External Action Service and we can only achieve that if we make sure there is a route for them back into the Foreign Office, and that is one of the things we have been working on in HR and the Foreign Office quite keenly.

Mr Williams: On the first part, if they are going to be Member State secondees then almost by definition they need to be temporary agents otherwise they become officials of the institution, if you see what I mean, but their terms should be renewable. In terms of the draft Decision they are four-year terms. A standard model appears to be two but they can be renewed thereafter as well if the secondees can be taken back to their home Ministries. On the Consultative Committee on Appointments, we are still looking at this, to be honest, but if we have understood it correctly I think it is probably fine because it is related in particular to the Commission delegating its authority on budgets to heads of delegation, and in that case it does seem logical and reasonable to allow the Commission a say on who those heads of delegation are on financial competence grounds, if the Commission is then going to delegate its powers over local budgets to that head of delegation. So we are still looking at it but, on that basis, there is reason to it.

Q8 Lord Kerr of Kinlochard: On the first point, Minister, is it not the case that most of the senior British public servants who are in the Commission now started on a temporary basis and chose to stay, they had a return ticket which they chose not to exercise? Would it not be a pity if the nationals from Member States in the Action Service were always second-class citizens, because they could never become permanently established? I take many of the points you make; of particular importance is selection on merit which I strongly agree with, but I would not have thought it was necessary to insist that everybody from a Member State diplomatic service had to be only temporary and, therefore, second class. On the second point, I understood absolutely about the Commission wishing to check about the financial qualifications of people who are going to be handed a bit of the budget, but I do not see why that should require one to give the Commission what looks like a veto on the names on the short list that is submitted by the consultative committee. This looks like a bit of a sledge hammer to deal with a point which could have been done with a screwdriver. I would have thought it would be sufficient to say something about their financial qualifications, perhaps a requirement for consultation to make sure the Commission were, indeed, content with their financial qualifications, rather than saying the Commission has to agree the short list.

Chris Bryant: You may have a point on the latter. I am particularly conscious at this time of nominations and the drawing up of short lists in other regards that the drawing up of the short list is one of the most important elements of making sure you get the right person in the end, and we are very keen to prevent the process of stitch-up which has so often bedevilled appointments in Europe. I do not want to overstate the likelihood of our being able to prevent that. There is one difference in relation to foreign postings which is that they are by nature normally temporary, and just as British postings for three years or four years in Madrid or Buenos Aires or wherever will be temporary, so many of the people going to these individual postings will be temporary as well.

Q9 Lord Kerr of Kinlochard: A Director General of the Commission is a temporary job, but they are all permanent members of Commission staff at present, and many of those that are British went initially on a temporary basis.

Chris Bryant: To quote *Measure for Measure*, we are all “drest in a little brief authority”.

Q10 Lord Hannay of Chiswick: Could I follow up on this point about the Consultative Committee and the interpretation of it. I entirely share Lord Kerr’s view. I do not myself see why the Commission as such should have a veto on this when the person who makes the appointment is the Vice-President of the Commission, I think I am correct in saying?

Chris Bryant: Yes.

Q11 Lord Hannay of Chiswick: If the person who is making the appointment is the Vice-President of the Commission then that should enable her to achieve the control over expenditure that is required. I honestly think it is being a little innocent to believe that that is all that is intended by this. We have already had one case, the appointment of the head of the Commission Delegation in Washington, which has caused a good deal of controversy as a result of the belief that it was a stitch-up - I am not taking a position on whether it was or it was not - and surely what Europe cannot afford is a sequence of mini rows about these appointments. All our experience in dealing with this in Brussels in my time and Lord Kerr’s, is if you do not do something to stop that happening it will happen because that is the natural way the beast works, so you do need to really put something serious in the way of a road block into it. The Consultative Committee, which is an idea I have been pursuing for a rather long time, is absolutely right: taking away this Consultative Committee’s power to draw up a short list and sustain that short list seems to me to be a great mistake. Is there not something we can do to make that a little bit less open to abuse?

Chris Bryant: As Mr Williams said, it is one of the elements that is still in negotiation, and there are those who are pulling for a tighter version even than this. There will be remarkably few appointments, especially for heads of delegations, that end up being controversy free, not least because there will be at least two countries who think they have a candidate, a national or another national that they are supporting, and I do not want to be naive about how difficult it is going to be to prevent that. We have half the mechanism, and you are right that if too much of the power is ceded to the Commission then there is the danger that we will not have the other half.

Q12 Lord Plumb: Minister, I spent five years in the 1990s as President of the Assembly between the European Parliament and 76 countries of the ACP, and when I read this question I thought, “Nothing changes”. We used to argue about this quite regularly but I note that you support the donor/recipient relationship, which should be one of partnership, which is one that I remember we used to argue about, and yet the Lisbon Treaty states that poverty reduction is the primary goal of Europe’s development policy. According to Article 8(3) the EAS will be responsible for decisions on development funding. Does this not confuse matters yet more, and how does Government expect the arrangements to work in practice?

Chris Bryant: There is a great deal of discussion and negotiation still going on on this. As you know, in the United Kingdom we have adopted a model whereby development has a relatively pure set of goals which are about the Millennium Development Goals and the relief of poverty and so on, and there was a very conscious decision after 1997 that, instead of linking aid to trade, we would link aid to combating poverty but also to good governance because otherwise, frankly, there is a danger you are giving money to bad people who will not give it to those who most need it and will simply siphon it off into their own pockets. The difficulty that we always face is that people say, “But why are you giving money to Uganda when Uganda has terrible policies on human rights?” Your development policy conflicts with

your foreign policy. We have wanted to stick as much as we possibly can to the clarity and the purity of purpose behind the development goal but it would be impossible for the European Union to maintain that purity in all matters because the External Action Service, and particularly the High Representative, with the strict mandate she has, would need all the levers possible to be able to effect outcomes within a particular country and within a region. That is why the discussion about precisely at what level funding decisions are made and what involvement there should be from the External Action Service solely, or from the Commission and the External Action Service, is still going on.

Q13 Lord Plumb: I despair when I hear that developing countries should decide their development strategy because, remembering the days of the 76 countries, that means you would get 76 different opinions on what that strategy should be, and in terms of the responsibility the donor has that would make it extremely difficult. It does seem to me as though Lisbon is pulling this together, and I hope there might be some assistance there which would give a better direction than that which seems to exist at the moment.

Chris Bryant: In the vast majority of cases there is a complete congruence between one's foreign policy and one's development policy, but that is not always the case. In a sense we are talking about two things. Firstly, across the whole Financial Perspective how do we allocate money within the individual economic financial instruments we have? Secondly, how, within each individual year, is money and resource allocated to individual countries as well as the policy that sustains all of those decisions? I have it clear in my mind that the External Action Service and the High Representative cannot be divorced from any of those elements; it has to have a direct and clear involvement in any one of those. The question then is who resolves where there is a difference of view, and that is the battle that is to some degree still going on. The two old positions I described earlier of a vertical segregation and a horizontal segregation seem to have rather fallen away, however, and we seem to be moving

much more towards most countries wanting to have a closer co-operation between the External Action Service and the Commission.

Mr Williams: That is absolutely right. I would only add that you mention, my Lord, Article 8(3) which you rightly say sets out three of the five stages of programming. There is also a sub-paragraph (4) which relates in particular to the development instruments and there, just as the Minister says, it talks about the EAS and the Commission doing the programming. We still have questions about exactly what that will mean which we are asking at the moment but, as the Minister says, our policy in general still stands, which is that we want both the Development Commissioner and the High Representative to be strong in their respective areas, and it is possible that this new proposal will be able to do that but it depends how it will work in practice, and that is what we are still asking about.

Q14 Lord Paul: Is there any danger of EU aid ever being primarily driven by priorities in foreign policy?

Chris Bryant: As I have been trying to explain, in the vast majority of cases there is a complete congruence between the two. There are instances where, either temporarily or in the long term, the development needs of an individual country far outweigh the political approach that we would want to adopt either with them or with the region. Those are the areas where we need to try and avoid conflict and make sure that we have a structure of delivering that funding which does not undermine the development policy.

Q15 Lord Paul: Coming from a developing country myself, I have seen a lot of specialised knowledge is needed in territories where we are trying to give aid. Should there be safeguards to ensure that development programming is carried out with staff with the relevant expertise in line with the EU's existing commitment on development?

Chris Bryant: This Government very clearly wants to make sure that the expertise that exists in development is maintained and enhanced. I know there are some members of the Foreign Office, indeed former members, who might think it was wrong for us to have a separate Department for International Development with such a clear focus on its particular set of development aims, rather than being more co-ordinated with the Foreign Office, but we believe that has been one of the successes over the last 13 years in the UK and that it can be replicated within the European Union. The new Commissioner for Development is a strong figure as well, whom we want to play a strong role, and we know that Cathy Ashton has been playing an important role in binding together all the different commissioners that have a responsibility for external affairs. Undoubtedly over the years that little body within the Commission will play a stronger role. I have always been a bit suspicious of a Commission of 27 members, let alone a much larger number; it is rather difficult to get that to work effectively as a team.

Q16 Lord Paul: Very many countries have no experience of development or aid, so how are we going to persuade them?

Chris Bryant: That is true, but I think some countries in Europe have tended to focus their aid on the countries with whom they have the strongest historical association rather than the countries with the greatest need, and that is always very difficult for a politician because the people who lobby you will undoubtedly be the people who want to persuade you to give money to countries that perhaps should find it easier to stand on their own two feet but cannot.

Q17 Lord Hannay of Chiswick: Could I take you back to this question of the balance between development considerations and foreign policy considerations in a developing country? I suggest to you that it is not as simple as all that and that we have, in fact, had some

pretty serious problems ourselves. Now I am not speaking as one who ever believed it would be right not to have a separate Department for International Development. I support that strongly. But we have got to a position here where we are now cancelling large numbers of conflict prevention and conflict resolution programmes because we have the budgetary provision between two departments out of balance. It is quite possible that the European Union could fall into the same problem, particularly in country X where the development criteria cannot be fulfilled and you simply cannot engage, for instance Somalia or somewhere like that. The purpose of Lisbon, surely, is to ensure that you can fairly seamlessly get a balance between these two sets of considerations which will be completely different in countries A, B, C, D and E. What is worrying me is all this talk about a strong Development Commissioner and a strong High Representative which leads me to believe there will be strong tensions between the two. Can we not do a bit more to ensure that the reconciliation of these slightly competing demands is taken on board in a proper way?

Chris Bryant: I am sorry if I have given the impression that this is going to be an easy task; I do not for an instant think so, not least because the budgets that are going to be available are not going to be rapidly increasing over the coming years. There are very few countries in Europe who have ambitions for an increased EU budget, and that is why I made reference earlier on to the budget neutrality of the External Action Service. That will mean there will be a battle for resources, I am absolutely certain of that, in many key areas. Particularly in relation to conflict prevention it is important you have a pooled budget response. We have learnt in Afghanistan that there is no point in just delivering troops and kit for the troops on the ground; you have to be able to deliver a civilian transformative operation and have a diplomatic effort as well, and similarly the External Action Service has to work more clearly with the Commission.

Q18 Baroness Howarth of Breckland: You talk with great confidence about the coherence of the policies and also the complexity of the scenario in which the policies are being carried out. How are these policies evaluated in terms of outcome and how do you see the programmes being, if you like, measured from the beginning where we are trying to set out to reach a particular objective, which might be a softer objective because it may not have the clarity of some other programmes where we can see where we are trying to get to? Afghanistan is a very good example where we could have had a clearer set of objectives at the beginning. Having just been engaged in a report on the European Social Fund and seeing the value and the flaws in the evaluation of that, I wonder about these bigger programmes and how you see them being properly measured.

Chris Bryant: By nature I am fairly sceptical about all evaluation processes. Whether it was being subjected for two years to the balanced scorecard of the BBC or what I do not know, but the further they are physically, geographically and, for that matter, politically from those who are doling out the money, on the whole the less reliable they tend to be. I do not know whether Paul or Ivan want to say anything about the specific evaluation of the programmes under the EAS?

Mr Williams: Not really. I am not an expert on development programming and how it is evaluated, I am afraid, but in general these funds all exist already so I am sure that there are some evaluation lessons that have been learnt. Standard elements of the programming cycle are already built in to the process and, therefore, I guess the idea would be to bring those into the new service.

Q19 Baroness Howarth of Breckland: I am not talking about things that are fancy; I am talking about getting strategic direction, because you were describing knowing the strategic direction, or hoping to. How do you know you will ever reach it if you cannot measure it in some way, or at least have a conceptual framework around it?

Chris Bryant: We are trying in the Foreign Office to reduce down to a key set of objectives which the Foreign Office knows it is striving towards, for example, on climate change. It is that much more difficult to do with the structure we are going to have, with the double-hatted High Representative and with 27 different countries having different interests in any one part of the world. For instance, when we are talking about Russia, which I would say was one of the most important priorities for the new service, making sure that there is a co-ordinated response and co-ordinated attitude towards dealing with the Russian Federation is going to be very difficult to achieve when you have Poland and Germany adopting one position on energy and Estonia and Latvia and the UK adopting quite a different one.

Q20 Lord Sewel: Let us look at diplomatic relations and a little bit more about consular protection. Article 5(10) of the draft Council Decision states that: “The Union delegations shall ... upon request by Member States, support the Member States in their diplomatic relations and in their role of providing consular protection.” The first question has to be what do you think is meant by “support Member States in their diplomatic relations”? In operation what would it look like? Clearly, if it means promoting Member States’ interests through diplomatic means, then it is possible that it could be, shall we say, half a dozen contradictory things at the same time, because Member States have different interests. What is behind this? What is the meaning and the content of “support the Member States in their diplomatic relations”?

Chris Bryant: It is one of the areas which is still being somewhat unpacked ---

Q21 Lord Sewel: How surprising!

Chris Bryant: --- because it does, on the face of it, seem fairly remarkable. For instance - and I do not know why I always use Laos but it is the most remote place I have visited in this post and many European countries have no representation in Laos - I do not expect that

suddenly the European Union will have a representation in Laos that would be the accredited diplomat, as it were, to the People's Republic of Laos on behalf of the various different countries that have not got a presence there. What I would not be surprised at, however, is, if there is a post in Laos with the Estonian Foreign Minister travelling to Laos - and I am just using Estonia for the sake of argument - the External Action Service office possibly facilitating those meetings. That, it seems to me, would just make broad sense. It is not all that different from what would probably happen if my Estonian counterpart rang me up and said: "Look, I want to go to Zimbabwe and we do not have relations there, would it be possible for you to help us out?" Zimbabwe is not a good case but another country. Then we would probably be helpful.

Q22 Lord Sewel: That is a fairly restrictive view, is it not?

Chris Bryant: I am intending it to remain a restricted view.

Q23 Lord Sewel: So there would be a restricted view?

Chris Bryant: I think it has to be, not least because there is the Geneva Convention in relation to diplomatic representation, which is fairly clear.

Q24 Lord Sewel: Do you have any concerns here with the way it could possibly be interpreted? Does it conform with the Treaty? Do you think there is a danger of drift or enlargement?

Chris Bryant: Certainly in relation to consular services potentially there is, and we have made that fairly clear in the discussions there have been.

Q25 Lord Sewel: A small point: do you see the delegations having the power to issue visas for the Schengen travel area?

Mr Smyth: There is no suggestion of that happening as of yet, and I do not see it happening. I think Member States will still continue to issue visas.

Q26 Lord Sewel: “No suggestion” is one thing. Do you think it is a possibility?

Mr Smyth: It is certainly not on the table at the moment. I cannot say whether or not in subsequent years, as the External Action Service develops its experience on the ground, that will be a proposal.

Q27 Lord Richard: I am bound to say, having read this and tried to understand what it means, I have great sympathy for anybody who is going to be a diplomatic representative of the EU in another country. Let me just see if I have it right. He gets his instructions initially from the High Representative. On the other hand, the Commission are entitled to do things where it is specifically the responsibility of the Commission in the same area that the representative, the head of delegation, will be operating. Thirdly, he has to pay attention not only to the instructions he gets from Brussels but to what the Member States say, he obviously has to pay attention to what the other institutions think, and indeed paragraph 7 of 5, on page 19, says that the Union delegation has the capacity to service the needs of other EU institutions, in particular the European Council and the European Parliament. What strikes me about all this is it is absolutely splendid as long as they are all working in the same direction. If they are not, and you have an argument between the Council and the Parliament and between a Member State and the Commission, and you have an argument between the Commission with one hat on and the High Representative with another hat on, frankly it is either unworkable or meaningless, and I wonder how you are going to get out of these problems.

Chris Bryant: To be honest, if you wanted to describe in a document of this kind for the UK Parliament what a British Ambassador does you would end up with a rather similar sort of ---

Q28 Lord Richard: No.

Chris Bryant: With all respect, Lord Richard, I disagree, because we believe that the heads of delegation have to have the authority and the power to be able to perform their function effectively. There will undoubtedly be people, as there are in the British Embassy, whose line manager may be elsewhere and who are part of, in the UK Embassy case, the Home Office or Defra or DECC or whatever different departments, but it is nonetheless important that, as part of the team within that post, the ambassador has the ultimate say. For the most part embassies are all pulling in the same direction, but I can certainly think of instances where the ambassador and the defence attaché, for instance, are not necessarily at one, and in those circumstances it has to be the ambassador that holds out, and that is the model we are trying to replicate here. We do not have a written constitution in the UK but we do have a set of treaties in Europe which govern individual Members and what the Commission are able to do.

Q29 Lord Richard: Following that up for a second, perhaps I have not made myself clear. I am arguing that the EU ambassador should have that authority, and I am saying to you that this decision removes a great deal of that authority from him because it gives him other things to do, which are essentially how do you consolidate the European position when you have differing institutions and differing Member States? How do you pull it all together? Within a British Embassy in a foreign country it is simple because you get all your instructions from the Foreign Office and you implement them. That is your job.

Chris Bryant: I love the idea of British ambassadors getting their orders from the Foreign Office and implementing them.

Q30 Lord Richard: They do in theory.

Chris Bryant: I do not think this is something that really bears being written down. It is mostly an organic process. You are absolutely right, it is a tall order to ask somebody to

manage their relations as a head of delegation with 27 Member States, with the Commission, with other Commissioners who might have a specific remit or interest in the country where you are working, and that is why we want to make sure we get the best people appointed to it. That is also true of British ambassadorial posts now.

Q31 Lord Richard: And also when he has only two years in the job.

Chris Bryant: Also.

Lord Richard: Very much so, I think.

Chairman: Can we then turn to Lady Sharp?

Q32 Baroness Sharp of Guildford: Article 4 sets out the proposed organisation for the External Affairs Secretariat, and in particular the proposal for a Secretary-General and two Deputy Secretaries-General. Are you concerned that this might possibly create a rather over-powerful Secretary-General who would then undermine the authority of the High Representative?

Chris Bryant: I have on some occasions been worried about it when I have heard some people talking about it but I am pretty much reassured now. The authority ultimately lies very firmly and squarely under the treaties with the High Representative. I am pretty confident that Cathy Ashton will run a tight ship. She needs to have, as with anybody who is High Representative, a strong back office, as it were. I discussed with Sub-Committee C the issue of whether or not some of these people should be politicians or civil servants, in style. I am not so worried about that distinction; many other countries do not make that distinction in the same way as we do. Many of my counterparts in Europe are civil servants, career diplomats, who, because they then go and get elected or because they are appointed to that post, fulfil this kind of role, so that is a slightly British concern. I would be more concerned if I felt that this was going to be a power base that was going to try and be wholly independent of the

High Representative, but from the conversations I and others have had with Cathy Ashton we are pretty confident that is not going to be the case. I would also be worried if some countries thought that by getting Secretary-General they could basically run the whole affair, and we will make sure, as far as we can, that that will not happen.

Q33 Lord Kerr of Kinlochard: Is there not a UK interest in having a strong Secretary-General? If the thing is to work it is more likely to if the managers, the back office, in your expression, are good, so it seems to me that the Secretary-General and the two Deputy Secretaries-General with very different roles is a very good idea. However, Minister, they will never be seconded from Member States, they will never be members of national diplomatic services, if such people can only go on a temporary basis, because the job of the Secretary-General will be to build a cadre, create an *esprit de corps*, build the morale of the organisation. You cannot go in for a couple of years, do that, and then go home and be a Permanent Secretary in Whitehall or wherever. This is a job where you are going to have to have a degree of permanence. If you insist, as you say in your Explanatory Memorandum: “We want them to come home to UK service at the end of their tour in the External Action Service”, that means you are ruling out ever getting any of the top jobs in the External Action Service. How can that be a good idea?

Chris Bryant: I guess it would rule out anybody getting any of the top jobs because the same would apply to anybody else.

Q34 Lord Kerr of Kinlochard: No. They will be insiders from the Commission and the Council Secretariat, because they are not temporary. Your text makes it absolutely clear; they are permanent. Whereas the postings from the Member States’ services must be temporary, and that is the mistake.

Chris Bryant: It is an interesting point you make. I note you started off with a lot of French expressions, “cadre” and “*corps d’esprit*”. One of my anxieties has been that there are those who want to frame this model of Secretary-General very much on a French diplomatic model, and I am not sure that would be right. The High Representative is not going to be able to be in all the places that she needs to be, let alone would like to be, at any one time. We have already seen several clashes. It is important that she has a Secretary-General who on occasion is able to take that place, but still accounts to her, that the accountability very definitely still lies with her. That is a model that is gaining ground with others in the Union.

Q35 Lord Teverson: I find it very difficult to understand how this can work because you talk about other European state models and I agree on that, but to me the European Union model is one where, if you look at it from a Commission model point of view, the Commissioners and his or her Cabinets are the political operation, and their DGs or Secretaries-General are, as you say, the back-room people who make sure it all works. They are very powerful but they are the back-room people and a lot of the roles needed when the High Representative cannot be there are not back-room roles. You said yourself that there should be a strong back office, but if they are back office they cannot do the sort of roles that substitute for the High Representative herself. I just do not understand how it can work. For example, if she cannot attend the Defence Ministers’ meeting because she is going to a COFAC meeting or something like that, then I cannot imagine some of those bodies being satisfied with a bureaucrat chairing those meetings. They just would not be able to function in the way that those groups need. To me it just cannot work, and I would be interested to understand how it could.

Chris Bryant: In that element it would be the rotating Presidency that would be taking that role. The thing I do not accept is this distinction between the bureaucrat and the politician. Kim Darroch is a bureaucrat, I suppose, by all definitions. I am a politician. If I am not able

to be at the General Affairs Council and the Foreign Secretary is not able to be then he will take the British seat and will advocate the same cause. That is pretty common across Europe. We do it less than other countries, in actual fact ---

Q36 Lord Teverson: And that is in what role, Minister?

Chris Bryant: Kim Darroch is ---

Q37 Lord Teverson: I understand that, but could you go through the circumstance under which he would do that?

Chris Bryant: At the General Affairs Council and the Foreign Affairs Council.

Q38 Lord Teverson: But would he chair it?

Chris Bryant: No, he would not be chairing it.

Q39 Lord Teverson: That is the point I am making. You get away with it if you are a member of that group, but if you are chairing that group, there is no chance of doing that.

Chris Bryant: But if it is not the High Representative, it will be chaired by the rotating Presidency.

Q40 Lord Teverson: It does not say that in here.

Chris Bryant: It is in the Council's Rules of Procedure.

Q41 Lord Kerr of Kinlochard: Why did we agree to that?

Chris Bryant: Why not?

Q42 Lord Kerr of Kinlochard: Because the Treaty says the High Representative would chair the Council, so you would expect it to be the Deputy High Representative. You would expect there to be a political number two. This organisation chart should reflect the realities

on the ground. One of the purposes of getting rid of the rotating chairmanship of the Foreign Affairs Council was precisely to bring about this continuity of policy, which you say we are giving away. If we have agreed Council Rules of Procedure saying that the rotating Presidency will stand in when the High Representative is away, we have given away two-thirds of the game.

Chris Bryant: But it would be very difficult suddenly then to say that we are creating a Secretary-General, which was not in the Treaty, and the Secretary-General now comes forward as a bureaucrat, to use your term, and suddenly starts chairing meetings of the Foreign Affairs Council. That would be a difficult route to go down.

Q43 Lord Teverson: We agree with you, that is our total point. That solution, which I had not realised is not reflected in this, opens up all sorts of potential turf wars and friction, to me.

Chris Bryant: I am not sure what you are advocating, Lord Teverson.

Q44 Lord Teverson: In this organisational structure there are a number of special envoys who are the equivalent of a political delegation in terms of envoy work. I cannot see why there are not equivalent people to deal with the non-specific, delegated envoy area who could play the same role in terms of political chairmanship or leadership when the High Representative herself cannot be there.

Chris Bryant: It is an exaggerated concern, particularly in relation to the Foreign Affairs Council. I cannot see why the High Representative would not be there at the Foreign Affairs Council.

Lord Teverson: I am not just talking about that one meeting. I would expect her always to be at that meeting. There are large numbers of political meetings which the High Representative would be asked to lead or play a major role in, and because of the broader area of responsibility I cannot see a Secretary-General or an Assistant Secretary-

General being able to lead those meetings. Maybe I am exaggerating, as you say, the number of meetings there are, but the High Representative is already under severe criticism, and you may disagree with that but the criticism is made because she cannot attend those meetings, and I cannot see that being satisfied by bureaucrats being at those meetings.

Chairman: Can we ask Lord Richard to come in on this point?

Q45 Lord Richard: It would be much better to have an Under-Secretary-General than to hand it over to the President *pro tem* of the Council. It seems to me that the one thing one is trying to achieve in setting up the External Action Service is to make the whole thing more European and rather less national, and to hand it over to the President of the Council *pro tem* seems to me to go in the opposite direction.

Chris Bryant: The difficulty we have is that the Treaty does not give the High Representative deputies, full stop. They do not exist. So if you want to have people to deputise for the High Representative I am pretty certain from conversations I have had with Cathy Ashton that she will delegate somebody to fulfil that function which is a power she has, so there are a range of meetings where she might well ask the British Foreign Secretary, because the British Foreign Secretary has a particular relationship with the Ukraine, to chair a meeting in the Ukraine that she might not be able to be at, but the default position, as it happens, is that it is chaired by the rotating Presidency, but the authority has to remain with the High Representative. I am not sure that suddenly saying that we are effectively going to create a new post of Deputy High Representative without a formal structure of appointing that person, which would be fiercely contested over, would be a very wise route for us to go down.

Q46 Lord Hannay of Chiswick: Could I very quickly go back to the point that Lord Kerr raised, which I am not sure you fully responded to, about the duration for which the senior appointments in the EAS, if they were British, might be considered? Could you possibly

address that? He has made a totally valid point. If we aspire over time to fill some of these top posts, and clearly our chances of doing so will be much greater when there is not a Briton in the post of High Representative, then we are not going to get there, or not in an effective way, if we limit the amount of time for which people can have supplementary unpaid leave from the Diplomatic Service, and if we force them and others to rotate all the time. It will not work.

Chris Bryant: It is a fair point. It is the first time I have heard that argument so it is something I want to reflect on and something we need to take forward in the negotiations which we are going to have. I thought I had made that clear but thank you for that opportunity.

Q47 Lord Bowness: On the question of opening and closing an EU delegation, Article 5(0) states that the agreement of the Council is required to close a delegation but that the High Representative can open one without referring it to the Council. Are you happy with that? Would it be preferable for the High Representative to have to seek Council agreement to open a delegation? Would that require unanimity or not?

Chris Bryant: We would expect that to proceed by unanimity certainly, yes. We would prefer to be in a situation where opening and closing were parallel. That is not, as you pointed out, what is in the document at the moment; it is one of the elements there is still discussion on. Where I concede to others a bit is that closing a mission can be a big political decision. Opening a mission can, in some circumstances, be a big political decision but in many cases is not. That is the only consideration.

Q48 Chairman: I wonder whether we can exploit you for one final question. This is Lord Kerr's last meeting on the Committee and, therefore, he would like to ask a question on a written statement.

Chris Bryant: Who knows, it may be my last appearance before this Committee. I mean before the General Election!

Q49 Lord Kerr of Kinlochard: Minister, I want to ask you a question to which you would be absolutely entitled to give a written answer because no notice has been given of this question and it relates to a written answer you gave last week about, as I read it, the abrogation of the revised Brussels Treaty. You said last week in a written answer in the other place that we would, this month, be notifying the WEU that we will withdraw from the WEU. As I read it, that means abrogating our strongest defence commitment because, unlike the NATO Treaty, the revised Brussels Treaty commits us to go to war if one of the parties to the WEU is attacked. The reason you gave was that the cost of the WEU Assembly is over €2 million a year and we can save that if we abrogate the Treaty. I find a mismatch between the weight of the political development were we to abrogate the Treaty and a saving of €2 million, important though that is. Secondly, you said that you would use the year – one gives a year's notice – to discuss how European parliamentary scrutiny of security and defence should best be conducted, but you also said that you saw no case for the European Parliament to play any role in this area. Either you are going to invent a new inter-parliamentary structure or you are talking about the North Atlantic Assembly, which is not just European, or you are talking about the Council of Europe Assembly, which is not just Western European. What did you mean? Did you really mean we are abrogating the Treaty and did you really mean that in future EU security and defence activity must be supervised by a transatlantic parliamentary structure or a pan-European parliamentary structure?

Chris Bryant: I think I can answer that. The WEU consists, as I am sure you all know, first of all, of the Treaty commitments, secondly, of the Secretariat and, thirdly, of the Assembly. It has ten substantive members, although all 27 members of the European Union are associate members in one shape or another. There are other countries that have affiliated themselves in

an associate way or have taken on observer status but are not paying for it. Over the autumn and through into the new year I had discussions with my counterparts in Europe and it became clear that everybody else felt that now was the time to close down the Secretariat and the Parliamentary Assembly. Nobody else wanted to do anything about it, they all wanted us to do it and then to follow suit. When we knew that everybody else wanted to follow suit and were absolutely certain of it, we said that we would withdraw from the WEU and the next day all the other countries did the same. I realise that at the time of the WMS people would not have been absolutely clear that was the situation. The finance is an element, but it is by no means the most important element of this. The most important element is we believe that the structure of the WEU was the wrong one now to be doing that scrutiny of security and defence policy across Europe. Because the NATO umbrella, as it were, is now firmly recognised in 432, is it, of the Lisbon Treaty - or it may be 437 - we felt that it was now perfectly legitimate for us to be stepping aside from the Treaty commitment, which is the third part of the WEU. What will happen over the next 12 months is that there will be discussions about what that structure should now be because there does have to be some kind of inter-governmental and inter-parliamentary scrutiny, but it has to be proportionate to the benefit that it can achieve and it has to be inter-governmental. The reason I refer to the European Parliament is because I know nature abhors a vacuum and the European Parliament hates a political vacuum even more than nature does, so it might be tempted to step into that breach. As did all the other countries who made their announcements the day after us, we wanted to make clear that we do not believe this is a role for the European Parliament.

Chairman: I should say that I have had a letter from the Foreign Minister today inviting this Committee to make suggestions as to the sort of ways in which this could be done. I think in private discussion there is the possibility of using mechanisms such as COFAC and the Committee of Defence Chairmen of the national parliaments, of the 27, which would be one

way to examine, but it is something which this Committee, together with Sub-Committee C, will no doubt want to look at when Parliament returns.

Q50 Lord Hannay of Chiswick: I just wanted to offer to you an idea that I put forward in 1996, I think it was, that it would be a good idea to have a Foreign Affairs committee of the European Union made up of representatives of the 27 national parliaments together with a restricted number of European parliamentarians, ie, something very like what you are describing, though I think myself it would be better to be freestanding and not part of the other consultative structures. We can discuss that when we reply to the consultation. Meanwhile, I just mention this because I think there is a perfectly good way forward.

Chris Bryant: I think we should be able to reach some perfectly sensible arrangement. Actually the Brits have tended to play quite a significant role in these discussions more than others and there are significant benefits to getting other parliaments more interested in this degree of scrutiny. That is why we wanted to take some leadership on the issue. I know there were many, in particular people who are representatives, who were somewhat angry that we were moving and being rather pushy on this, but I think the danger is that otherwise we would still be saying in five years' time, "Why are we spending 2.3 million, or whatever it is, a year on the body?"

Chairman: There is, of course, in the protocol to the Lisbon Treaty on the role of the national parliament in Section 2, clause 10, specific reference as well as the creation of something which is similar to COSAC also for the convening of conferences to consider the matters of CFSP and ESDP, but that again is something which could be used. Lord Jopling and Lord Sewel both want to make brief comments.

Lord Sewel: We are saying the same thing.

Lord Jopling: My Lord Chairman, I suspect Lord Sewel and I have the same approach to this. To be quite frank, I threw my hat in the air when I read what you put in your written

statement. I took a view that the WEU Assembly ought to have been wound up a very long time ago. I did play a part years ago in appointing the British delegation and it really was an evening job for the delegation that was appointed to the Council of Europe. People were appointed principally to the Council of Europe and on the side they were also delegates to WEU. I agree really with Lord Hannay more than with you, my Lord Chairman, that I think if you are going to have to set up a new parliamentary body it might be wise to do it freestanding and separately. Of course, one body which I guess with a little tweaking, and it would need a certain amount of tweaking and I think Lord Sewel will talk on this too, is the NATO Assembly which is specialist on defence matters - I came back from the United States only last Wednesday from a standing committee so I declare my interest in this - it could with a bit of tweaking fulfil that role if you really wanted it to.

Q51 Lord Sewel: Minister, it is the same sort of thing. It is not just the NATO Parliamentary Assembly which could be tweaked, but I would have thought any resolution of this issue is going to throw into highlight again the problems of the relationship between the EU and the NATO. The sooner we get that sorted out the better.

Chris Bryant: We hope that will be a good thing. It is time to throw that into sharp relief so that we can achieve a better outcome, I think. I am grateful to Lord Jopling and I am glad he threw his hat in the air and he did not have to face down John Prescott on this issue.

Lord Teverson: I just want to put a slightly contrary view: do not start setting up again for a second time the old European Assembly which became the European Parliament because that was singularly unsuccessful. I think trying to resurrect that will be a very bad use indeed, and far worse spending of €2 million than you get at the moment.

Q52 Chairman: Perhaps I can say on this point, in a personal capacity as soon as I learned from the Foreign Secretary of his intention I wrote him a personal note in a personal capacity

because I had some connections both with the Assembly and also with the WEU, I really commended his courage in doing this. It was about time that a Foreign Secretary was prepared to stand up to the WEU delegation and I think he should be commended for what he did.

Chris Bryant: He was very good at sending me into all those meetings! It is good to have a deputy.

Q53 Chairman: In thanking you for the evidence, obviously we are now going to discuss what we are going to do with this particular instrument. There is still more information to come. This is part of the story and I think the Committee both now and after the election will be anxious to be kept informed of the developments so that we can continue in some way to maintain the scrutiny here and perhaps also in Sub-Committee C. Can I thank you very much and, without wanting to take any particular position, hope that we will see you back in some capacity before too long. Thank you very much indeed, Minister.

Chris Bryant: Thank you very much.