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THE SELECT COMMITTEE OF THE EUROPEAN UNION

ANNUAL POLICY STRATEGY

TUESDAY 10 JUNE 2008

MR JIM MURPHY MP

Evidence heard in Public

Questions 1- 33

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TUESDAY 10 JUNE 2008

Present

Blackwell, L.
Cohen of Pimlico, B.
Dykes, L.
Grenfell, L. (Chairman)
Harrison, L.
Howarth of Breckland, B.
Jopling, L.
Kerr of Kinlochard, L.
Mance, L.
Plumb, L.
Roper, L.
Sewel, L.
Tomlinson, L.
Wade, L.
Wright of Richmond, L.

Witness: **Mr Jim Murphy**, a Member of the House of Commons, Minister for Europe, examined.

Q1 Chairman: Thank you very much, Minister, for being with us. We have just had an interesting hour with the Ambassador on the French Presidency priorities, so we are all fired up and ready to go now on the Annual Policy Strategy, moving forward on the second half of 2008 and to what is going to happen in 2009. Do you want to make an opening statement?

Mr Murphy: I am happy to go straight into the questions.

Q2 Chairman: Maybe you would like to start by saying something that we are interested in very much, which is what real value does the Government put on the APS? I thought that the Explanatory Memorandum was interesting but it said very little in terms of opinions and relevance of the value of it. It was a very good recital of what is in it, but at the end it was fairly brief on what you felt was the real value of it and what individual aspects of it appealed to the Government. Could you talk a little bit about what good you see in this exercise?

Mr Murphy: Of course; I will happily do so. What is important is to get a sense of really what purpose the document serves. As your Lordships will be aware, it is not a statement of legislative intent: it is a statement of intention. In that sense we consider it to be useful but it is useful in the context that it is a relatively internal document which gives us a decent degree of guidance and a degree of predictability about the energy that is going to be invested over the subsequent twelve months, so on that basis it is an important predictor of what is to follow, but that is all it is. It is not prescriptive: it probably is not as detailed as others would wish; but it certainly is more detailed than the multi annual strategic work plan, it is a bit more granular than that. On that basis it is important and useful but I do not think we should overstate its significance, because in and of itself it does not create a single legislative vehicle.

Q3 Chairman: There are seven priority actions mentioned by the Commission, so you are right in saying that this is not a legislative programme but a statement of intentions, which are fairly well defined. I am just probing a little bit to know what you see as the really high priorities from the Government's point of view, amongst those identified by the Commission as their priorities.

Mr Murphy: On the seven, climate change, not least for the geopolitical reasons and the impending argument about a globular climate change, which is that if Europe either reneges on its commitment on renewables and other aspects of the climate change package or gives the impression of being luke warm I think it will send a signal to other groups of nations across the planet and would have a negative impact on other world capitals, not least in Brazil, Russia, Washington and elsewhere. There is a double pressure point to climate change, I think. Firstly, there is the pressure point about trying to get a global success at Kyoto but, secondly, and the French Ambassador may have spoken about this as the important one the French would like to see during their Presidency on climate change, the fact that after the French the Czechs will have the opportunity to assume the Presidency, and

please, I know the Czech government would not take this as an implicit criticism so your Lordships should not take it as such either, but the jury is still out in Prague as to the need for a concerted effort on climate change, so if I were to say what the time pressure priority is it is important we make progress on climate change for one internal Europe reason and one much wider reason. Other than that, without going into detail, better regulation, and, thirdly, it is a watching brief on justice and home affairs. Now, I am not saying the others are not important, but if your Lordships ask me for some sort of hierarchy that would be my response this afternoon.

Q4 Baroness Cohen of Pimlico: My question is not on climate change but on the general question of tying the APS to budgets, because my sub-committee which looks at budgets rather yearns to see some of the APS' proposals costed or some kind of indication as to where the money will be coming from to render any of these policies possible in any way at all, or within any known timescale. Do you have any comment on the Commission's general framework for human and financial resources? There are very few. The Government's EM said that financial implications are not applicable to the APS. Well, shouldn't they be? Would we not be better off with a costed APS? How do you see it fitting into the system?

Mr Murphy: It is essential that there is, first, increasing attention paid to costings, of course. I am not certain the APS is the right vehicle to do that but it is essential the European Commission properly identifies a monetarised value of its proposals. This is absolutely essential. There is an improvement in the discipline of that but we are not where we should be. I am far from convinced that the APS is a way of doing that on the basis that the APS does not in itself contain the specific proposals, so I am not sure a monetarised assessment of the potential cost of general intention is the right way to go. The best way to capture that is when it gets to the status of specific legislative proposals and a monetarised value of a specific proposal, so in general, of course, you are right, there needs to be progress along the

lines you have suggested, but I do not believe the APS is the most cost effective way of doing it on the basis it is a relatively broad-ranging set of commitments rather than specifics.

Q5 Lord Tomlinson: Minister, one of the first things I always look at in government explanatory memoranda is the statement of financial implications, and I am always fascinated to how great and wide the ambitions are and how usually the financial implications are stated as nil. In your Explanatory Memorandum on this the financial implications are not applicable to the APS but, as I look through some of the ambitions of it, I see 619 million euro for the Lisbon agenda, a specific 1,538,000,000 euro for cohesion for growth and employment, 16 per cent more for freedom, security and justice. What kind of assurance can you give the Committee that the sort of general framework that is put before us in an annual policy statement and the implication it has for human and financial resources for 2009 matches the financial commitments that have been made in the framework, in the annual budget, in the financial perspectives? How do they all match up? Or is the APS even a little bit less than you implied at the beginning and a total waste of time because it is financially incoherent?

Mr Murphy: Discuss! I do not believe it is irrelevant, far from it, but neither do I believe we should overstate its importance. That is the balance I am trying to strike in my comments thus far this afternoon. It does set a framework for the preliminary draft budget and I think that is the importance of the APS in terms of European Commission financing and, therefore, it is a guide towards the budget. Now, I have not had the opportunity, I do not believe, to share with your lordships Committee thinking on the budget, and I may be committing a different minister for that purpose and if that is what I am doing I apologise, but there may be an additional purpose in having a conversation about the preliminary draft budget and the fiscal consequences of that, because, returning to the point already raised, the APS really does not claim to be, nor should be seen as, a commitment of financial investment, that is done through the preliminary draft budget, and it does not commit the Commission to spending.

Q6 Lord Tomlinson: So, really, is it anything more than a Christmas tree on which everybody hangs their wish list for presents?

Mr Murphy: I think it prevents the European Commission becoming a Christmas tree and enabling people to hang their presents, because normally it would be a year-long aspiration of work that is to be completed and for me what it does is it prevents in February, March, April - right up to Christmas - people decorating the Commission with a new wish list. So I think that is one of the things it prevents. It gives a degree of predictability: it is more granular in its detail than the multi annual work plan. I would assume that, if an annual statement of this nature did not exist, then the conversation we would be having today is “Why isn’t there one?” It is important for all organisations to have a forward statement of their plan over the next 52 weeks, and that is really what it is, but that is all we should see it as.

Q7 Lord Kerr of Kinlochard: I agree with you, Minister, about its usefulness, but I do not think the Explanatory Memorandum can be said to be quite so useful. I agree with Lord Tomlinson, the second half of the strategy document is devoted to description of movements of money and comparisons between the new totals and a breakdown, and the totals in the financial perspectives and their breakdowns. It is not clear to me how that relates to the budget: it is not clear to me that the remaining headroom under the ceilings, which is spelled out, is sufficient, and that does seem to be a serious financial implication which the Government might want to think about. In all cases as I read it, and I may have got the numbers wrong, the available headroom is well under 1 per cent of the money under that sub ceiling in the financial perspective. Now, I agree with you, this probably does have the disciplinary effect inside the Brussels institutions, but it seems to me we ought for that very reason to take it seriously and see if we agree with the shifts that they are recording and in some cases proposing; the words “the Commission proposes” occur from time to time. What

is our view of their proposals and do we think the sum of their proposals comes sufficiently below the ceilings or rather close? In my personal view it is rather close, but I may be wrong.

Mr Murphy: On the specifics, on finance, without wishing to add too much to what I have already referred to, in the introduction to the APS it does talk about, if my recollection is right, increased staffing of 250 to deal with the final component of the enlargement regarding Bulgaria and Romania, and there are no further staffing commitments other than those which would be met by internal reprioritisation. I would not wish to disagree with the noble Lord's general financial point, but it may be helpful for your Lordships if, when it comes to the draft preliminary budget, I return, which I am happy to do, to have this specific conversation about the specific fiscal proposals.

Q8 Lord Kerr of Kinlochard: But this is presumably the money being spent this year, and when it comes to the budget you are looking at the money for next year?

Mr Murphy: Yes. The way it would work is that the APS for 2009 would help inform the CLWP, the Commission's legislative work programme, which is published in final form in December. It is I think published initially in October with conversations and discussions in European capitals and Parliaments in between October and December, with, alongside that, the preliminary budget. So it is a package of proposals for 2009. Individually each of the documents serve a specific purpose but together the three documents serve a combined aggregate function, which I think is about right.

Q9 Baroness Howarth: Following up this question but taking it into a slightly different area, one of the budgetary problems at the end of last year was the funding of the EIT and the question of finding money within the margins in order that the European Institute of Technology could be set up. Subsequently we asked a number of questions about whether or not that would affect the KICs, the local projects, in relation to developing small businesses

and making sure that that work went on locally. I was assured at the COSAC meeting that that was so and that really the focus should be on local. Now, one of the objectives of next year's programme is to involve local citizens to make sure that Europe makes sense to local citizens, and keeping things local does help with that. However, I have recently had sight of another document which describes where the funding for EIT is going to come from, and that includes a comment that it will come from local projects. Now, which local projects? That is another document we have for scrutiny, and the question of which local projects is difficult. But you see the confusion that arises if the project is not thought through in terms of the funding from the beginning because it affects the policy and whether the policy is to set up a huge institute, which we are assured it is not, or whether the policy is to have an institute that maintains and develops local and which feeds in, then, to helping Europe to become much more understood by local communities.

Mr Murphy: Again, there are three or four different aspects to the question, noble Lord Chairman. The purpose of the European Institute, in my understanding, is to be a European hub of innovation, it is not to create a research and development monster and it is not to suck up capacity and expertise that already exists in other European capitals, and not just in capitals but in different regions and towns and cities throughout the European Union. I have not had the option to read the document referred to but I am happy to do so, if you wish me to, and to reflect on it. In terms of the localism point, I share the assessment which I have referred to in debates on the Lisbon Treaty in the Commons about the problem with Europe in terms of the disconnect with citizens, and I do not want to talk about Ireland and the Lisbon Treaty, that is perhaps for another time. I do not believe the disconnect with citizens is structural but largely about relevance, and until you have proved beyond doubt its contemporary relevance to the lives of citizens then euro scepticism will be alive and kicking

in the United Kingdom and elsewhere, so it is essential that we have a sensible approach to localism, whether it is in technology, in democratic control or whatever. So it is essential.

Q10 Baroness Howarth: You think it becomes more meaningful when people become engaged in that way?

Mr Murphy: It is more meaningful, and it is something that an enormous amount of energy is expended upon. My approach in these evidence sessions is to try and be entirely frank, and an awful lot of energy and some resource has been invested in this challenge, and I think, on fair reflection at the moment, with limited success. The opportunities for information technology and internet activism around the European Union have met with limited success, but that is no reason to stop trying, but as we stop talking about structures and concentrate more on substance in the next few months and years I think we stand a much better chance.

Q11 Lord Roper: I want to follow up something asked at the beginning, which concerns the process by which we are able to influence the APS. What action does the Government take to influence the Annual Policy Strategy, and are you satisfied with the system the Commission has in place for ensuring that the views of national governments and parliaments are taken into account? Is there a proper dialogue, and is it effective?

Mr Murphy: I think there is, but I have never sought to say that things cannot continue to evolve and improve. In terms of how to handle it across Whitehall and with devolved administrations, Cabinet Office ensures the distribution of the relevant material to Whitehall departments. I think within perhaps two or three separate ring rounds of Whitehall departments there is an opportunity for devolved administrations through the Joint Ministerial Committee on Europe to play a role, but we should continue to find additional ways to make that more effective. I am content the system at the moment works pretty effectively, but I am sure it could be improved upon.

Q12 Lord Roper: How is this fed into the Commission system, and are you satisfied that they take any notice of what anybody else says?

Mr Murphy: On the basis that the building blocks of the annual policy programme of work are large resourced from the multi annual work plan which is largely sourced from Council conclusions and commitments, if you look at the building blocks that way you could argue that the work in itself at its inception has taken account of the wishes of Member States and to a large extent often can reflect the concerns of national parliaments, but, once you get to the final point, governments through the European Council and national parliaments have an opportunity to make their observations and then those are all brought together, and if amendments are needed to the annual work plan they can take place. So there is a myriad of different pressure points in the process, but the most effective pressure point is at the beginning to make sure, where we can, that the annual programme of work is rooted in the multi annual work plan, and that the multi annual work plan is a reflection of the wishes of Member States at the beginning.

Q13 Lord Roper: We as sub-committees and in this Committee put in a certain amount of time to consider this, and I suppose what we are really saying is what evidence do we have that this is a useful way of spending our time.

Mr Murphy: On occasion we all would reflect on that, and I think your Lordship's Committee and other Committees reflected on the impact that the House of Lords and Committee Reports in particular can have on the thinking in Brussels and in other European capitals. The most celebrated example, of course, is that of mobile phone telephony where undoubtedly the reflections of your Lordships had an impact not just on thinking but on action. That is the most celebrated example, and rightly so.

Q14 Lord Roper: We can see very clearly the cases of individual proposals but I am really thinking about the consideration of these very general documents, as to whether reports on them are a useful way for us to spend our time in terms of the way in which our reports are then used in the refinement of such a strategy.

Mr Murphy: I think they undoubtedly are reflections of your Lordship's Committee and other Committees of the House of Lords, and there is a debate we are having in the House of Commons on Thursday on this work in particular. The reflections that your Lordship's Committee offers on the multi annual programme of work and the Annual Policy Strategy are important, but also the way in which Her Majesty's Government feeds into this process is impacted upon by the observations of your Lordship's Committee and the Committee of the House of Commons on our ambitions on global Europe, so I would contend that again there is a myriad of pressure points. It is not the Government's job to invite additional pressure on the points but there are undoubtedly different ways in which you can influence this work, partly by reports that are read in other European capitals but in particular by continuing to pressure Her Majesty's Government on these issues.

Q15 Chairman: Can I follow up a little bit on what Lord Roper has been saying with this question to you? In paragraph 37 of the Explanatory Memorandum you express your disappointment that the APS is not more readable and more focused with greater explanation of prioritisation of policy areas. If they succeeded in doing something about that, and this is very much what we were saying when we did our report on how the APS was put together, if there was more prioritisation, would the Government then in an Explanatory Memorandum be prepared to be more forthcoming and tell us what they think of their priorities? At the moment you have said there is not any prioritisation, and it appears that seems to have let you off the hook of having to say yourselves what you think of what priorities you can unearth in this document?

Mr Murphy: I think this year forthcoming and 2009 is unusual in the same way that every five years there is an unusual year. The APS and possibly the Explanatory Memorandum - and I apologise to your Lordships if it turns out to be more impenetrable than is normally the case: it is not our intention and I will reflect on whether the Explanatory Memorandum cannot be improved in future, of course - is a reflection of the dynamic of the year we are about to approach. As the introduction to the document itself states, most of the substantial legislative proposals have already been tabled in 2008 and, therefore, we are in that period of every five years where there is, to be frank, a degree of uncertainty with the European elections and much else besides approaching us. I will reflect on whether the EM can be improved for future hearings and, of course, we should always try and make the Commission and the European Union as accessible as is possible, and this was a point made this morning. I hosted a seminar this morning at the Oval cricket ground about the European Union on sport, and this was a common frustration. For example, and I do not want to take us down a side track and your Lordship would chastise me for doing so, but take, for example, the nature of the word “specificity” in the context of sport; it is another one of those words that has its origins in the English language but which does not have a clear English meaning, like “flexicurity”, so there are two words that are seemingly English in their origin but have no precise definition. So it is a continual challenge and I would be churlish to suggest there is an easy solution, but as a general principle, my Lord, you are, of course, correct.

Q16 Chairman: For “specificity” read “opt-out”.

Mr Murphy: Well, that is one interpretation but specificity does not allow for opt-out on a free movement of labour, which obviously is an issue about UEFA who are saying that Arsenal should only have five foreign players, so specificity is not an opt-out because, while other European capitals misinterpret it or reinterpret it as an opt-out, the United Kingdom

government will defend the fact that the free movement of labour applies to all professions across the European Union including sport, whether it is football or basketball or rugby.

Q17 Lord Sewel: Can I ask you really for your degree of optimism on making progress on two topics that appear in the APS? One is the health check and achieving a consensus and then implementing it, and I suppose there what is interesting is the extent to which France has really changed and the attitude it will bring to the Presidency at the time when it will be leading on the health check, and the second one is climate change and energy. The next twelve months are going to be very important and the lead-up to Copenhagen and developing a robust European position. My Lord Jopling and I, not wearing EU hats but NATO Parliamentary hats, recently were in Bulgaria and Romania looking very much at energy climate change issues and, really and truly, in those two countries, the response we got time and time again was concentration on energy security, yes, and price and cost, and when you tried to extend the argument into the link with the environment and CO2 I am afraid you got pretty glazed looks. It was: "Well, we are poor countries, we cannot really afford that indulgence", which was a bit depressing. So I am wondering the extent to which you can get a real European-wide position in anticipation of Copenhagen when really there are separate discourses going on, even within Europe.

Mr Murphy: On the specific question of agriculture and whether France has changed, we will see! The Ambassador, of course, will have offered his Government's observations, but the health check is important in terms of looking to simplify the single payment scheme and other farming agricultural reforms, and it is also important, secondly, to have a conversation about the longer term. But we are very firm that the health check should not be used to set a longer term strategy on agricultural reform which is limited in its ambition. It has to be a wholesale reform of the Common Agricultural Policy, that is our starting point and it is where we wish to get to. There can be in a health check specific improvements but it is not a replacement for

a wider reform of the Common Agricultural Policy. To be fair to the French I do not think that is what they see it as but I know there is a temptation in some European capitals for that to happen. In terms of climate security and energy, of all the issues that understandably excite public comment in the United Kingdom I think energy security is the one where the degree of strategic importance and public comment is most out of kilter. We talk about energy security and routes to market often through the prism of the posture of the Government in Moscow and it becomes more accessible in that context, but the viability and security of energy supply in a period where we are climate change sensitive and where the supply pressures exist in the dramatic way they do is one of the biggest strategic challenges in every country in the European Union and beyond. As for the solution, as your noble Lords are only too well aware, we are not in the position that China or Russia would be in. They have a single chequebook with a single pen. We do not. If we have a chequebook at all there are 27 hands and 27 pens, and we are not in the position where we can simply strike a deal in central Asia or elsewhere. So there is so much to this issue. I was in Azerbaijan last month meeting the President and we had conversations about routes to market and the Baku pipeline, there are issues about Ukraine and the proposals to sign a neighbourhood agreement with Ukraine which would include the modernisation of their energy transmission networks, so there is so much to this, and the third part of the noble Lord's question then picks up the sentiment in other European capitals and beyond. It is not just in the developing nations that this conversation is pretty lively. If we look at the conversation in Paris and elsewhere there is this phrase "carbon leakage", another impenetrable phrase but on examination we know what it means - it is the fact that put colloquially why should we do the right thing when others will not? In doing the right thing it is not carbon leakage; it is transfer of jobs as capital and investment opportunities move elsewhere with a less rigorous climate change regime. Now, this is a part of a continuing conversation but Her Majesty's Government is very strongly of

the view that the solution to this is not carbon tariff or a protectionist tariff of any sort, because it is pretty dangerous if the international message is the only way you can do the right thing on climate change is by virtue of a new round of tariffs, and it would lead very quickly to retaliatory measures. So that is the debate not just in developing economies, which of course it is in a different point of their economic evolution, but it is also an important debate in Paris, and there is pressure in Berlin with the niche car industry in terms of the climate change package. That is why I started by saying what our priority is, and I mentioned climate change in the first place, because there are European pressures here which are pretty acute, and there are time limits concerning not only Copenhagen but the impending Czech Presidency as well, and that is why we need to make progress during the French Presidency.

Q18 Lord Kerr of Kinlochard: I think the Explanatory Memorandum is the sort of document the Foreign Office – a wonderful Department, by the way - writes extremely well; it is a descriptive document describing somebody else's plans. But they are not somebody else's plans, they are our plans, the Commission is our plan, and the money bit at the back does give you a hint as to priorities, and there are statements in here that are very political. Do we agree that the current financial turmoil calls for an co-ordinated EU response including a stronger presence of the Commission in international financial institutions? I am not sure that I do, and that is quite a political statement by the Commission, so the policy implications bit at the back of our Explanatory Memorandum seems to me to be as inadequate as the financial implications bit, as Lord Tomlinson pointed out, and that is because, I suspect, this document is being treated as not a very important document. The sentence that I have just read out from the document is one that would, I imagine, cause people in the Treasury to sit up and take notice. The only Treasury paragraph on this that I can see is the financial resources three sentences on what is half the paper, and I guess that was written - because it is beautifully written - not in the Treasury but in the Foreign Office! So it seems to me that we

need to decide whether this is an interesting description of Commission plans which we do not need to bother about, in which case, if that is the Government's view, then maybe we need not bother so much scrutiny of the government, or, if it is an opportunity to influence thinking in the Commission, to tell them that we do not think their implicit priorities as demonstrated by the way they want to move the money about are right, or when we do not agree with a statement they make. Maybe the Government does agree that we want to see a stronger presence of the Commission in international and financial institutions, in which case that in itself would be quite interesting.

Mr Murphy: I do not want to enter into open speculation as to which government department wrote which sentence of which paragraph, but the noble Lord, as always, has a degree of accuracy in what he is reflecting upon. In terms of the role of Europe in these international debates and international institutions, the Prime Minister himself invited leaders of France, Germany, Spain, Italy and the President of the Commission to Downing Street to discuss these very issues, so there is a role for the Commission, although the exact shape and nature of that role is open to conjecture and continued discussion. The Explanatory Memorandum is the Government's rather than any one government department's. I think the importance of this document, which I tried to allude to earlier, is that between now and October, when the Commission's legislative work programme is published, the response to this document I would argue impacts on the Commission's legislative work programme potentially, and to be frank that is one of the important aspects of evidence sessions such as this. So the document in and of itself can be improved as Member States offer their reflections on it and as the European Parliament offers its reflections on it, but the period between now and October before the Commission publishes - and we hope they stick to the timetable of October despite other pressures - is a point of maximum influence as a consequence of these hearings.

Chairman: Could I make one comment on the general framework of the Human and Financial Resources, which is Part II of the APS? I must say I was very pleased to see there is now a section “Changes in the Allocation of Financial Resources”. Lord Tomlinson may correct me if I am wrong but I seem to remember that was a point we made very strongly with the Commission when we met because it was something that was missing from the previous one, so may we strike one for the European Union Select Committee in that we seem to have got across to the Commission that they should focus on changes to the allocation resources? Am I not right?

Lord Tomlinson: Absolutely, Lord Chairman. Your recollection, as ever, is totally immaculate!

Q19 Lord Wade of Chorlton: I would like to explore a little bit the Government’s views on European regulation. We talk about “better regulation”, et cetera, and I have not the slightest idea what the word “better” means in this context, but I would like to get a view of what government feels about it. Do you think there is an issue relating to continuing EU regulation? We know for a fact from evidence we have had that there are some concerns in some quarters. How do you feel you will react over the next twelve months to better regulation suggested in the agenda?

Mr Murphy: Unlike “specificity” I would argue a pretty clear understanding about what “better regulation” means.

Q20 Lord Wade of Chorlton: You tell me.

Mr Murphy: I think it is proportionate regulation --

Q21 Lord Wade of Chorlton: Proportionate to what?

Mr Murphy: -- by which I mean on occasion. No regulation is proportionate. On occasion we should accept that we live in a world that will never be risk-free, and, therefore, we should not have risk-averse regulation because a risk averse business world and, I would argue, on occasion a risk-averse public sector, ends in the public sector having a degree of mind-numbing uniformity and in the business world a stifled creativity, so proportion is what I would argue. I think I have shared with your Lordship's Committee before my thoughts on being a better regulation minister or the proportionate regulation minister in government a number of years ago, and I was asked about this in one of the sub-committee in your Lordships' House last week: I think the European Commission is making progress on better regulation but what progress does it have to make further? Its consultation has to be wider: it has to consult small businesses much more effectively: it has to ensure that impact assessments are the norm, I think there has been about 300 in recent years: and then they have to have post-implementation assessments of the accuracy of the impact assessments because it is well known to your Lordships that impact assessments are a prediction of what the best assessment is as to what should happen, but these things gain by being revisited after three or five years to see whether they were accurate predictions, because one can never make a judgment as to whether these predictions are worth investing political capital in and whether they are accurate. I agree to monetarisation on the impact assessments: "This proposal will cost X euro or X pounds". That is what I would encapsulate as "better regulation".

Q22 Lord Wade of Chorlton: Do you think there is a further role that our European Committees could play in helping you to do a proper analysis?

Mr Murphy: Undoubtedly. Without question. A change has begun under the present Commission which has to continue under the new Commission when it takes up office next year. As I referred to earlier when I was asked for my priorities, the United Kingdom government, along with a number of other Member States, is genuinely passionate about this,

not in and of itself because in and of itself it is often a relatively dry subject, but a better regulation agenda helps United Kingdom plc achieve so much else and can help Europe as well achieve so much more, which is why three weeks ago now I travelled to Prague and along with the governments of the Czech Republic and four other Member States we signed a declaration of continuing commitment on better regulation to continue to push the Commission and other Member States.

Q23 Lord Wade of Chorlton: I think you will agree that the use of the word “better” suggests it can be done differently than it has been done in the past, so clearly there is room for improvement and, clearly, that means room for a better understanding of what has taken place and how that can be amended?

Mr Murphy: All of that is true.

Q24 Chairman: Maybe what we need is for the better regulation portfolio to be handed over to a British commissioner. We seem to be the ones with our focus on this issue. The results have been pretty disappointing so far.

Mr Murphy: They have made, from a very low base - and I think it is important to reflect that it was from a very low base - progress, but not enough yet. With this Commission, from the President downwards, there is a determination to make progress but I think I have reflected with your Lordships before, and certainly I have with the sub-committees, that the Commission is a reflection on occasion of the demands of Member States and the “something must be done” tendency. We see a problem and “something must be done”. Now on occasion nothing should be done.

Q25 Lord Mance: In the sub-committee you mentioned last week the subject of “less” Europe. Can I ask you about the main interest of that sub-committee, the area of freedom,

security and justice? I think you indicated that this might be regarded as one of the priorities after climate change, but our sub-committee comment was that it did not seem to be from reading the annual programme, and I wanted to ask you some questions about the rather general and vague nature of what is said. At paragraph 2.4 we have “Work on the creation of a common area of justice will continue, in particular by ensuring the mutual recognition of judgments ... and by improving access to justice ...” Is there a problem in those areas, particularly in mutual recognition of judgments? There is a reference later in this programme to modernising the Brussels regulation but I was not aware and I do not know whether the United Kingdom government has taken the view that there is a problem or who has suggested that. Access to justice is extremely broad. Then there is a reference in 2.7 to communicating better governance and policies in the area of freedom, security and justice, and I am a loss I am afraid as to what that might mean, and then there are the two specific references I mentioned in the annex, page 17, to Brussels regulation being modernised, which I think everyone would approve of but which is quite technical law, and simply a communication on the attachment of bank accounts, which is a pretty limited area. There is nothing on another area which has been in the news generally, that is the common frame of reference in relation to contract law, where nobody knows whether what is aimed at is some sort of draft Code or whether it is simply a toolbox for legislators in courts, and I am a little, therefore, puzzled as to where the input comes and whether there is any focus in the area.

Mr Murphy: Another one of those questions where I am invited to “discuss”! It is a remarkably broad area of work, of course. First, on fundamental rights, I know there were some observations about this issue and how the Explanatory Memorandum says no issues arise, but I want to put on the record that that is because the nature of the document is not a package of specific legislative proposals. Once the legislative proposals emerge this year and the first half of 2009, they will be relatively meagre as a consequence of so much else that

is happening in Europe with a new Commission, a new Parliament, the Lisbon Treaty and everything else. In terms of this issue of justice and home affairs and common law and mutual recognition, I think it is a reflection of a degree of vigilance by Her Majesty's Government which is continually arguing the case for mutual recognition rather than harmonisation, and that is the purpose of this statement. It is not a statement where we detect additional pressure for harmonisation: it is a fair reflection of the fact that there is an absolute recognition of mutual recognition rather than harmonisation. On the issue of fundamental freedoms and justice and home affairs more generally, the annual statement is relatively light, I think that is a fair reflection, largely because much of the work is contained in the five-year Hague programme of work, so most of the justice and home affairs issues are on-going as part of the four previous Annual Policy Statements, and I would be surprised, and I will happily come back and explain why I am surprised, if in the first few months of the advance of the Lisbon Treaty there is a substantial number of new justice and home affairs proposals, partly because the architecture governing justice and home affairs changes part of the Lisbon Treaty, and there will be a sense of let's allow the Lisbon Treaty architecture to bed down and then test the proposals in the context of that new architecture. So I think for these fundamental freedom issues and justice and home affairs it will be a relatively quiet period.

Q26 Lord Blackwell: I wonder whether in a way we are not all being too polite about this APS. The reality is that it is not seen as a document that plays any part in negotiating the Commission's remit or budget, the negotiation on what is in the programme is all done elsewhere, and therefore to that extent it is in effect a box-ticking government exercise where they try to put the minimum in it that will restrain their freedom of action. Against that observation I was also struck by the lack of any information about what their future plans were in criminal justice and civil justice; it may be, as you say, that they are waiting for the Lisbon Treaty to be ratified before they do that. Are you aware in that case that there is

a backlog of proposals that they would want to bring forward once it is ratified? It does seem rather odd that they are saying how important it is to have these provisions in the Treaty if they do not have a long list of things they want to use them for once they pass the Treaty.

Mr Murphy: I think a lot of the energy and time over the next few years on justice and home affairs issues will be about taking existing policies from Pillar 3 governance or the community method. If noble Lords wish to reflect on where is the substantial amount of future work planned perhaps over the next five years on justice and home affairs issues, a very good starting point I think would be the fact that fifty or so Pillar 3 policies areas currently have to be transposed over to a Community method; that is the substantial job that has to be completed over the next few years. Now, the important caveat I have to offer every time I say that is that, of course, the United Kingdom has its opt-out on each of those measures as they transpose over to the Community method, but alongside that there is a plan of work on the Hague programme, and I think your Lordships have previously had evidence about the work that is on-going in the Hague programme on counter-terrorism and on managed migration, so a lot of that work is on-going, but in terms of new energy I think it will be about transfer from Pillar 3 over to Community method on existing policies on justice and home affairs issues.

Q27 Lord Blackwell: If I could just follow on, if that is likely to be the priority area of activity here in the freedom and security and justice area over the next couple of years of the Lisbon Treaty the Government obviously will have to take a view on each one of those on what the position is and whether it is going to move the measure into the Community method. Is that an area that the Committees of this House and the other House with the Government should be thinking about and scrutinising in advance?

Mr Murphy: Absolutely, and Baroness Ashton is reflecting on this, perhaps with your own Committee and I think on the floor of the House of Lords. It is a new decision-making process that we are embarking on on the grounds of subsidiarity and other important matters,

and I repeat this afternoon what I have said in the House of Commons, that it is important that we get it right from the beginning and that does mean an important role for the Select Committees of both Houses in the policing of these opt-in decisions, certainly.

Chairman: We had a lot of that yesterday, as you may know, in the Chamber.

Q28 Lord Tomlinson: I was very interested in the Minister when he was talking about better regulation talking about revisiting some of the regulations every three and five years, that is a principle I am very, very strenuously in favour of, but I would like to see it applied in other areas as well. In budgetary terms, does the Minister perhaps sometimes favour getting the Commission to pledge itself to revisit budget lines on the basis of zero-based budgeting periodically, so that we can revisit them not necessarily every three to five years, a little less frequently, but taking a sample of budget lines which may well have outlived their utility if they are properly and objectively examined?

Mr Murphy: Without wishing to pre-empt the discussions that are going to take place on future budget perspectives, that is generally much of the approach the United Kingdom is going to take on this comprehensive review of the budget in advance of the next financial seven year perspective.

Q29 Lord Tomlinson: Well, I am prepared to leave it until you come back on that.

Mr Murphy: In seven years' time?

Lord Tomlinson: I am still planning to be around even if you are not, Minister, but warn your successor that the question will be there!

Q30 Chairman: Minister, one last question and then we will let you go. In two or three weeks' time I will be going to Edinburgh to talk to representatives of the devolved parliaments, and on the agenda is very likely to be the question of the degree to which they

are kept informed of and consulted on the APS compared to the degree of consultation that takes place with the Westminster Parliament. It would be helpful to me if you could tell me in your processes within the Foreign Office to what extent you are, in fact, talking to the devolved parliaments about the APS?

Mr Murphy: The main way of doing that would be through the Joint Ministerial Committee on Europe, that is the informal way as opposed to less formal structures, and the next meeting of the Joint Ministerial Committee is taking place within the next week or so. That is the structure and the most effective way of involving all devolved administrations. If, after your visit to Edinburgh, you have other reflections on the most effective way of doing it I, of course, am happy to have a conversation with you.

Q31 Chairman: But they will get the EM?

Mr Murphy: I would assume they will. They will get a package of information in advance of the joint ministerial committees, a copy of the documents, of the background documents and everything besides. There is a standing invitation, and perhaps we do not do this as regularly as we should, for the ministers in the devolving administrations to meet with myself in advance of the joint ministerial committees.

Q32 Lord Roper: But is there anything done at official level as well as at ministerial level in order to prepare responses to these documents?

Mr Murphy: I believe there is, yes. There is officials to officials dialogue but that is, as I say, a less formal way of doing it.

Q33 Chairman: At some stage we might like to learn a little bit more about the degree of consultation because it does come up all the time when we meet with our counterparts from the devolved parliaments.

Mr Murphy: It is right to come up, I think, and it will come up again on the issues of subsidiarity and how do we ensure there is a voice from the devolved administrations on subsidiarity issues.

Chairman: And it will also come on the question of scrutiny of opt-ins.

Lord Roper: Particularly because of the different systems for legal matters in at least one of the devolved administrations.

Chairman: So we are quite conscious of it. Minister, thank you for being generous with your time, as always, and thank you for answering our questions, as always, with lots of information and, if I may say so, good humour too. It is much appreciated.