

TUESDAY 8 JANUARY 2008

Present

Blackwell, L.
Dykes, L.
Grenfell, L. (Chairman)
Harrison, L.
Kerr of Kinlochard, L.
Maclennan of Rogart, L.
Mance, L.
Plumb, L.
Powell of Bayswater, L.
Roper, L.
Wade of Chorlton, L.
Wright of Richmond, L.

Witnesses: **Mr Jens Nymand Christensen**, Director of the Secretariat General for Directorate E, and **Mr Pascal Lefevre**, Secretariat General, examined.

Q297 Chairman: May I thank you very much indeed, Mr Nymand Christensen, and also your colleague, Pascal Lefevre, for being with us. You have stepped into the breach very nobly to take the place of Christian Leffler, and we understand exactly why he could not be here. We are delighted to have you with us. I think you have been able to see some of the questions that we would like to put to you. I should start by saying I think this is a record number of the members of the Select Committee who have ever come together in this room, which demonstrates the deep interest we have in the topic of the Lisbon Treaty. We are on the record, if that is all right with you, but if there is anything you want to say where you want to go off the record if you will just indicate that, but we hope that you will not need to resort to that. I would just like to ask you whether or not you would like to make an opening statement of any sort or go straight into the questions, I leave it entirely to you.

Mr Nymand Christensen: My Lord Chairman, my Lords, thank you very much for inviting Mr Lefevre and myself to come here today. We send apologies to you from Mr Leffler again,

who is in Slovenia with Margot Wallström who has stepped in and replaced the President leading the Commission's delegation to the new Presidency country. We have had to do a lot of shuffling around. I am delighted to be here today. We are in a very interesting period because we see a lot of opportunity from where we are now. Let us face it, after the successful ending of the IGC and the signing of the new Treaty here in December, we hope the Union can very shortly move into concentrating fully on the issues at stake for the citizens of the countries. It is, of course, an exaggeration to say that we have not been able to deal with a lot of matters of substance in the meantime, but it is clear, and you have all seen it from the press coverage and the minutes of the European Council and things like that, that institutional matters and Treaty matters have been occupying the Heads of Government and State for a number of years now, starting with the Laeken Declaration over the Convention, the IGC and the ratification process which was ultimately aborted. We see that we have reached a very important stage where we hope that the 27 Member States within a short period of time will be able to successfully complete the ratification of what their prime ministers have signed up to so that all the energies and forces in Europe can start to concentrate singularly on the issues of globalisation, environmental challenges, security, safety for our citizens and things like that. We think that 2008 is the beginning of that but it is clear, however, that the year will be marked by the fact that we are in a process of ratification in 27 countries and each Member State pursues this process under its own constitutional national procedures and it is not for us in Brussels and the European institutions to interfere in any way whatsoever in that process. We wish to be helpful in explaining, as we see it, how the new provisions in the Treaty may be helpful for a future Union, how it may turn out to be a better Union, but we also recognise that the Treaty, and treaties per se, is the product of agreement between governments and we are living with what governments have agreed. The Commission has embraced the result and thinks that it will lead to a better Union but, first and

foremost, it is an agreement between the 27. I just wanted to say that as an opening. We are very happy to try to answer some of your questions.

Q298 Chairman: Thank you very much indeed. As you will clearly understand, having you here with us is an occasion for us to probe a little bit more about the Commission and what the impact of the Treaty has been on the Commission. Maybe you would like to answer that focusing a bit on whether or not you feel that the Commission has come out of this with enhanced powers or the opposite.

Mr Nymand Christensen: I do not think that is the case either way. The Commission's powers are not fundamentally changed. The Commission note that the Treaty preserves the right of initiative on most areas of policy in the EU within itself. The main change which we see in the Treaty concerning the Commission is, of course, the provision that from 2014 there will be fewer Commissioners than the number of Member States, which unavoidably will change the nature of the body. For those of us who were party to the lengthy discussions between the government representatives at the IGC before the Constitution was drafted, and even at the Convention, we know that it was a subject of great discussion between governments whether there should be one per Member State, and the compromise which is maintained in the Lisbon Treaty was that out of respect for the 12 new Member States, who it was largely agreed should be entitled to have a member of the College for a full period up to 2014, it was decided to delay the introduction of the, so to speak, reduced Commission until then. The main change is in that area. The number of Commissioners will be two-thirds of the number of Member States and if it was today it would be 18. Another change which one should not overlook is the High Representative. It is clear the fact that the Member States have agreed to unite three key roles in one single person, the Foreign Policy Commissioner, the High Representative and the President of the Council of Foreign Ministers, who is also the Vice-President of the Commission, is a significant institutional development which will also

impact on the Commission. These are the main large institutional reforms. The fact is that the new Treaty moving to co-decision in some policy areas where that has not been experienced earlier, such as in agriculture, will impact on the Commission because our way of operating between Council and Parliament is significantly impacted by the fact that we have co-legislators on all internal market legislation and the fact that the European Parliament now becomes a player on a par with the Council in deciding agricultural policy is a significant innovation which we will adjust to and work with and it will have an impact on how we work with our agricultural legislation.

Q299 Chairman: We may explore that a little bit more in a while. Do you feel, given the fact that the President of the European Council is accountable to the national governments and that the President of the Commission is accountable to the Parliament, that this creates tensions or difficulties? You will have a permanent President of the Council who may feel that there is a difficulty in fulfilling his function with the President of the Commission being a very distinguished operator as well. Are there going to be problems there?

Mr Nymand Christensen: I think one can say that the texts have been drafted in such a manner to make it as clear as possible how each of those people will function. First of all, the future President of the European Council will not set up his own big, independent apparatus, he will rely on the Council of Ministers. That is the first point I want to make. The second is that the President of the European Commission is accustomed to working with the Presidents of the European Council, some of them with large personalities, who also play out exactly the role that the future President of the European Council will play, in other words represent next to him the EU in a number of international fora. I think you all know, it works amazingly well. We have a very good co-operative spirit between the European Commission, the President of the Commission, and the various Presidencies, including their prime ministers or presidents. The texts have clearly been drafted with a view to limit any kind of confusion or

turf battle. In particular, of course, the President of the European Council prepares the meeting for the European Council. It is perceived, and I have seen it myself and I know a number of you around the table have as well, that it is such a workload to prepare a European Council meeting by consulting 26 other colleagues that it is virtually impossible to fulfil your national role as prime minister or president fully and satisfactorily in the weeks preceding the European Council. One should not underestimate the workload that comes with the role. He or she will be responsible in the future for preparing it, setting the agenda and monitoring the follow-up so far as it is within the remit of what the governments would do. The real area where one must reflect on the work is in the field of international co-operation and there it is clear that the texts foresee that the President of the European Council will represent the EU at Heads of State and Government level when we speak about foreign, security and defence matters. In all other matters of EU competence it is the President of the European Commission who represents the EU as it is today. In a way, it is not moving the roles around from what the President of the European Commission has today vis-à-vis a rotating President and a more permanent President of the European Council. We have the expectation, and experience shows, that there will develop a spirit of mutual interest and common understanding and preparations when you go to G8 meetings and things like that to make sure that we are all pulling in the same direction, that what the 27 Member States and the European Parliament have agreed as the outline of the EU strategy is pursued by all players, whoever they are and in whatever role they play. The risk is always there that senior politicians try to mark their territories slightly more sharply, but experience shows that we should be rather optimistic about how those two players will be able to work together in the external global field to the benefit of the EU.

Q300 Lord Roper: Perhaps I can pursue that with the question of the treble-hatted post of the High Representative. As you have said, he will have the current role of the High

Representative, status as a member of the Commission and head of the external relations department. What do you see will be the relationship between the High Representative and the three Union Presidents?

Mr Nymand Christensen: He is a member of the College of Commissioners and will participate in all Commission decisions. He is a normal Commissioner in that sense. In the Treaty he has been given a specific role identified in the field of foreign policy and security where he can take initiatives and advance EU positions. The first thing one must realise is vis-à-vis the President of the Commission and the rest of the College, on an ongoing basis, a weekly basis, he will be involved in the management of EU policy. It is important to stress that the role that Mrs Ferrero-Waldner exercises today is also a role of co-ordinating what various Commissioners and their departments are pursuing as policies in the external field. That is why it is very important to have this treble-hatted man or woman, in the College because the Commissioners still maintain their prerogatives and their responsibilities of negotiating agreements with third countries in their policy areas. He or she will have a key role within the College of ensuring coherence and co-ordination together with the President, who of course does it for all policy areas. Vis-à-vis the President of the European Council, we know that the European Council returns to a number of foreign policy issues each time and discusses them and I would expect the preparation of the Conclusions of the European Council will very much rely on his input and his draft texts rather than on the situation today where the rotating Presidency chair, plus Council Secretariat, works and tries to put together the pieces. We expect it to lead to a much greater degree of continuity and even higher quality, not that there is any reason to criticise now, but the fact it is the same man or woman with the same kind of common service under them to underpin these kinds of texts will be very helpful.

Q301 Lord Roper: For example, in terms of bilateral summits with strategic partners, such as the United States and Russia, say, would you expect you would have the three Presidents plus the High Representative representing the European Union?

Mr Nymand Christensen: The High Representative is at ministerial level, so it is a different level. He or she will not represent the EU at the level of Heads of State and Government. The question is how to represent the EU at that level and, as I have described, it is clearly laid down in the new Treaty text how that will be done. It works very well already with the rotating Presidency, so once you are at these meetings with Mr Putin or Mr Bush it works very well as to how they share the roles and who advances the EU's positions on various points.

Q302 Lord Roper: You referred earlier on to his chairing the Council of Foreign Ministers. Do you see the existing General Affairs and External Relations Council being divided with a Foreign Affairs Council being chaired by the High Representative and the General Affairs Council made up of the same foreign ministers but chaired by the rotating Presidency?

Mr Nymand Christensen: I do not think I would like to speculate on how the Council will organise its work to create a separate General Affairs Council. I see there is merit in that insofar as it has often been the same person, the same minister chairing it, but under the rotating system it is clear what we in the old jargon called Pillar II files will now be chaired by the High Representative and, therefore, there is a lot of merit in saying if there were to be issues outside that remit of a general nature they would be chaired by the Presidency Member State.

Q303 Lord Roper: But, for example, on development co-operation affairs, which would presumably be prepared in the Commission and then go through a Council working party to Coreper, they would presumably go to a Council which would be chaired by a rotating

President rather than by the High Representative. Is that an assumption we are entitled to make?

Mr Nymand Christensen: I am not the expert on it but it reflects the logic of the role of the High Representative.

Q304 Lord Wright of Richmond: My Lord Chairman, can I ask a particular question about the Middle East Quartet. Could you just describe to us how the representation exists now and how far, if at all, it will change under the Reform Treaty?

Mr Nymand Christensen: I am sorry, I cannot. I do not know that. If you ask me I will get you the answer.

Q305 Lord Wright of Richmond: That would be helpful.

Mr Nymand Christensen: I would like to consult with the experts in DG RELEX:

Chairman: Thank you very much, Mr Nymand Christensen. I have three colleagues, Lord Powell, Lord Blackwell and Lord Maclellan, who want to come in on this rather complex question of the relationships.

Q306 Lord Powell of Bayswater: You gave a description at the beginning of a clear division of labour, but actually the more you talk it through the more crowded. It sounds as though the leadership of the European Union is going to become confused with many of these people having overlapping responsibilities. Is it not the fact that these issues have not yet been determined and probably will not be determined until the Treaty comes into effect, if it does, and all of this has to be tried out in practice because so much of it will depend on personalities or the nature of the people chosen for particular jobs? At the moment it does seem you have got really quite a crowd up at the top there, particularly in the foreign affairs area. The Commission obviously has a role, the President of the Council will have a role and

the High Representative will have a role, but trying to separate those roles and grade them as only one does Heads of Government, one handles governments at a lower level, I do not believe that is going to work in practice. Mr Solana has been dealing with Heads of Government for the last ten years or so and I do not think he is suddenly going to stop. Surely the case is that it will be something which will just work itself out in practice over quite a protracted period.

Mr Nymand Christensen: The first thing one should note to give a very simple answer, we are not creating a new element which will crowd the top. There is already a President of the European Council, he is only there for six months. The issue that you are talking about today, it is not that under the new Treaty we have created a supplementary President which did not exist before and who will suddenly be shuffling around trying to get his or her space, that is not the case. For many, many years the President of the European Council has played a very high profile role in the EU, in international fora and bilateral meetings with international leaders.

Q307 Lord Powell of Bayswater: You are not getting rid of the national Presidency though, that will continue.

Mr Nymand Christensen: No, but it is clear that the national Head of Government will no longer play that role. It means that Mrs Merkel would not have played that role in last spring's Brussels machinery and in the various bilateral meetings because the European Council and, therefore, the Heads of Government and State would have been represented at these meetings by their chosen chair. If it is an overcrowding, it is an overcrowding we know of today. We read that the Treaty, for legitimate reasons, has identified the roles of the players and also made sure that what you call the overlapping - you can never draw a complete line in a very few lines when you talk about drafting a Treaty - the authors of the Treaty have successfully tried to describe very simply the roles of at least the two players you

are thinking of. You are codifying how the President of the European Council and the President of the Commission are playing out their roles today and the only really innovative element is that the chair of the European Council is elected for two and a half years and, therefore, replaces a rotating chair. I do not subscribe to the idea that the new Treaty in any way leads to further overcrowding or overlapping compared with what we know today; on the contrary, I think the roles have now been clearly defined.

Q308 Lord Powell of Bayswater: One very brief supplementary. Supposing a large country, let us take the example of France, held the rotating Presidency, would the President of France simply stand aside and think he had no role at some international meeting which was very important to the European Union where the President of the Council and the President of the Commission were present?

Mr Nymand Christensen: I have to answer yes. I cannot imagine he would be invited, it is as simple as that. Mr Putin has a meeting with the leadership in Europe once a year, the invitations are not scattered, they go to individual people, and if the EU Treaty foresees that the EU will be represented in foreign and security matters by a permanent chair of the European Council then that is the person who will be invited. (The answer was continued off the record)

Chairman: Thank you very much indeed. That is a very important point you have made. (The remark was continued off the record)

Q309 Lord Blackwell: Two quick questions. On the overcrowding, has there been any discussion about whether at some stage the President of the Council and the President of the Commission might be combined? I understand the text originally specified that they should be separate posts and it now does not have that specification.

Mr Nymand Christensen: As Lord Kerr knows, it was discussed at the Convention by a few members of the Convention but was never subsequently pursued and at least among the government representatives there was a feeling that they should be two separate posts and they are defined as such.

Q310 Lord Blackwell: So it is not a current issue?

Mr Nymand Christensen: It is not a current issue. From memory, but Pascal Lefevre, who was in the Secretariat of the Commission following the IGC and the Convention, will know more, I believe it was an idea by Benelux countries to have that discussed.

Q311 Lord Blackwell: So it is an issue that could return at some point?

Mr Nymand Christensen: Yes, it could return. It was discussed, at least amongst some government representatives, but not considered to be opportune. As I say, one should not underestimate what it involves to chair the European Council. It is not something where the President of the Commission just walks across rue de la Loi and meets 27 Heads of State and Government and starts chairing a meeting and has an agenda. One of the reasons behind the reform is a number of prime ministers have said that it is such an enormous workload to prepare these meetings and to try to get the 27 before the meeting to have largely agreed positions so they do not spend days and nights discussing the Conclusions, as you know. At this stage, at least, I think it is not on.

Q312 Lord Blackwell: Secondly, could you say a word about what you see as the significance of the European Council becoming an institution of the European Union, what the benefit of that is and what the implications are in terms of these relationships?

Mr Nymand Christensen: I would say very small, legally speaking it becomes an institution. If you read the existing Treaty, the European Council is weirdly floating in the air, so to

speak, it is very difficult to see what it is. It has worked quite well in that way for many years but there was a feeling it had reached maturity in recognising it was a body in its own right rather than just a super Council of Ministers kind of thing. They do play a very particular role in setting the strategic objectives and settling some of the most thorny issues of conflict and disagreement between Member States. The time was right to recognise it by giving it that full status as an institution. The implications are not very important in the sense that it will still be relying on the institution of the Council of Ministers for its functioning and I do not see it having a major practical implication.

Q313 Chairman: It is quite clear that the role of the European Court of Justice vis-à-vis an institution in the case of the European Council would be very limited indeed then.

Mr Nymand Christensen: When you read the Conclusions of the European Council it is very difficult to see how the European Court can come in on them. A few of the cases I have in mind, and perhaps Pascal can remind me of them, is when the Heads of State want to take very specific decisions they switch out of their role as the European Council and into the format of the Council of Ministers to be able to execute the practical role. You are right, there is that institutional role vis-à-vis the Court but in general it is not a substantial change.

Q314 Lord Maclellan of Rogart: The mode of appointment of the President of the Commission is changed by the Treaty and is different from that of the mode of appointment of the President of the Council and the High Representative. Do you think that will have any political significance for the role of the President of the Commission vis-à-vis the other two? Secondly, do you anticipate that there might be greater continuity of initiative, if you like, or less jerky initiatives flowing from the change to a two and a half year Presidency of the Council with the possibility that there might be a greater identity of view between the

President of the Council and the President of the Commission about carrying initiatives forward?

Mr Nymand Christensen: On the second question, the Member States already work in a rolling three Presidency mould, so we already see an 18 month programme together to ensure that one Presidency takes over as in a relay from the previous one that leads to a successful outcome, if possible, of the discussion. The European Council as such shows a high degree of continuity in its work. For instance the Spring Council, came back to the Lisbon Strategy, they were continuously pursuing key files. Today there is a high degree of continuity which to a large extent is influenced by the policy agenda of the European Commission which takes the legislative initiatives and institutes the general debates which we have in the European institutions. I hope we can say the continuity is going to be at least as great as it was. It is an issue for the President of the Council, together with the President of the Commission, ensuring that the European Council contributes to the realisation of the agenda agreed by all, often on the basis of initiatives from the European Commission. In answer to your first question about the election of the President of the European Commission, it is true that the procedure is new. We believe it gives the President of the European Commission great democratic legitimacy insofar as he is proposed by 27 democratically elected governments and is then elected by the directly elected representatives of the European Parliament and he is subsequently, with his whole team, voted in as a College. It is clear through that procedure the President of the European Commission has a specific position and we welcome that very much. We think that links very well with the role that the Commission has vis-à-vis the European Parliament generally. Generally, they are there in the Treaty to control the Commission and to monitor what we do and discuss with us on a continue basis in relation to all the policy areas.

Q315 Lord Maclellan of Rogart: Part of the requirement is that the Council pays attention to the results of the election to the European Parliament in making its nomination. How significant is that requirement?

Mr Nymand Christensen: It is quite significant. I remember last time when President Barroso was nominated that there was a debate, at least among a number of players, about what the outcome of the European elections was and how that should be interpreted in the sense of who should then be the European Commission President. That is a completely legitimate debate to be had. It is clear that the President sets the programming and is responsible overall for the policy priorities of the European Commission and, therefore, it is correct that there is a debate about who should lead the Commission following the direct election to the European Parliament. (The answer was continued off the record)

Q316 Lord Kerr of Kinlochard: I wanted to ask a question about the working of the Commission post-2014, when it will come down in size. Many people think not as far as it should come down in size, for efficiency. Efficiency is a function of the number of people in the room and also the calibre of the people. A second concern some people have is that when the nationals of only two-thirds of the Member States are there they will be chosen in *rotation égale*, equal rotation. In other words, if you think the Commission should consist of the best people for the jobs, you have to assume that a Luxembourger or a Maltese is 250 times as likely to be the right person for the job as a German because their *rotation* will be *égale*, there will be a German in the Commission as often as a Maltese and as rarely as a Maltese. Thirdly, given that some would say that this is a little unfair, or possibly even a little undemocratic, it might create a certain sensitivity, say, when the Germans, the British or the French are not in the Commission. How do you envisage arrangements will be made for dealing with the Member States in the one-third not present in the Commission?

Mr Nymand Christensen: To be totally honest, it will not come as a surprise to you that the Commission have hardly begun that discussion. We have noticed that the Treaty now foresees that there will be two-thirds the number of Commissioners there are today from 2014. How we organise our contacts with the one-third which are not in the College - I do not want to use the word "represented" because that is misleading, the Commissioners do not represent Malta or Germany, they are representing European common interests but have been chosen from that Member State - leads to a question that we need to answer in a satisfactory manner as to how we establish contact of a different nature than we have today with the, if it was today, nine Member States that would not be in the College. We have no answer to that question today but it is clear that from this Treaty hopefully coming into force up until 2014 we need to answer that in a satisfactory manner.

Q317 Lord Dykes: Of course, the wider public have always found these internal structures and arrangements quite complicated and difficult to follow and there is no criticism in the various Member States for that because it is complex for the practitioners outside and sometimes even those who are inside.

Mr Nymand Christensen: I can assure you that is the case.

Q318 Lord Dykes: In Directorate E you have seen some of the changes in habits over the years and that kind of thing. Subject to that, would there be a tendency of the one-third to just cluster them round in terms of human as well as country relationships with the two-thirds who are Commissioners functioning so they keep in touch with them so that there would not be much aggro about it and difficulty, it would just be a practical matter of keeping in touch with the ones who are there for that period?

Mr Nymand Christensen: I hesitate to speculate about it because I have had some discussions with wise old men in the Commission who have been dealing with these

responsibilities much longer and there are many ideas about it. It is important to ensure that the Commission can execute and play its role fully towards all Member States irrespective of whether there is a member of the College from that Member State or not, and that the role and the initiatives and decisions of the College are equally respected whether one has that position or not. How we organise that is important. In a way you are describing what we must avoid, that the focus is on the 18 who are to be in and not the nine. The task is to ensure that the nine Member States where there are no Commissioners in the College must feel completely comfortable with the situation and we must have some mechanisms in place and some degree of transparency about it, but today I do not wish to comment on it, it would not be appropriate for me, it is a political decision. The Commission is fully aware of it.

Q319 Lord Dykes: Coming back to the one area where transcending the national frontiers is easier psychologically, and that is the European Parliament, presumably that will accelerate to some extent because the powers of the Parliament are being increased and so on. If you had to talk to an audience of highly educated people in the Member States, how would you postulate very briefly how a higher degree of politicisation might occur with the new Commission President, with MEPs being involved, and how that would pan out? Would it increase public interest do you think? Is it possible that would be a sharp focus, even getting into the newspapers occasionally, maybe not too often?

Mr Nymand Christensen: You come from a country where the EU does appear in the media quite often I have noted.

Q320 Lord Dykes: For different reasons!

Mr Nymand Christensen: I think that legitimate political debate and disagreement and conflict is a prerequisite for a well-functioning democracy and the European Parliament is one of the best guarantees of that because you go into the body and you have MEPs, as you know

in the House of Lords and House of Commons, with very different views arguing them out and trying to win over some people to the positions they hold. If you follow the European Parliament, as I have, for 27/28 years, it has been a remarkable journey that I do not believe any parliament has gone on in such a short time, from in 1979 being the first directly elected but very different political body to what it is today, a very serious player. You probably remember that when the Maastricht Treaty introduced genuine co-legislation there was a lot of doubt about whether the Parliament could discipline itself and play it out, but look at how frequently we have first reading agreements between the two bodies, how to what extent a body with 785 members manages to deliver and play a key role to the benefit of the EU and where the political groups across party lines manage to find the necessary compromises to significantly influence EU legislation. As you saw, it played an absolutely essential role in settling the debates about the Service Directive. The political role and prerogatives and powers of the Parliament should be seen as something positive for European democracy. How it will ultimately be reflected in the media is much more difficult to predict because, as you know, the EU legislative process is very slow and it is very difficult to say when you will report something. Is it when the Parliament voted and made its position or is it when they meet at three o'clock in the morning for conciliation-negotiations or is it when the Commission announces its proposal? I find even the serious media is still searching around for how it legitimately reports and reflects on those debates and when the case should be given the space it merits. That is still something where the jury is out. As we saw with the Service Directive, and we have seen it with major debates such as on the REACH Directive, the Parliament can also set a political agenda which sends waves of media coverage through all the Member States.

Q321 Chairman: The increase in the number of first reading agreements makes the role of national parliaments in scrutiny quite an interesting one. This brings us on to the next question. We have only got just over ten minutes left and about six questions.

Mr Nymand Christensen: Sorry, I am too long.

Chairman: Not at all. What I suggest is, if possible, we now eliminate supplementaries so we can try and get through them. Perhaps in answering a question that Lord Wade is going to put to you about national parliaments you could also include some brief comments on the impact of the yellow and orange cards.

Q322 Lord Wade of Chorlton: How significant do you think is the role that is given by the Lisbon Treaty to national parliaments and how should national parliaments position themselves to fulfil that role? I can personalise it by saying we are all parliamentarians, what further responsibility and opportunity will we have that we have not got now?

Mr Nymand Christensen: The new Treaty takes a major step forward in recognising for the first time a role for national parliaments. If you step back a little bit, the EU has always been, and quite legitimately so, built on 27 national governments. It is a union of sovereign states and the sovereign states are represented by governments and, therefore, that is why the institutions meet in the Council of Ministers and the UK is represented by the UK Government and the German Government is represented by its ministers. It is a significant recognition of an institutional development where national parliaments can play a very positive role in the advancement of EU solutions. The fact there is a provision in the Treaty now recognising this is important. As you said, my Lord Chairman, the role specifically attributed in a number of areas in the new Treaty to national parliaments is significant, and there we are talking about substance. On the yellow and orange cards mechanism, we are talking about the future and how you will play it out, so I cannot say how you will do that. Being a Dane, and knowing how the Danish Parliament works, and as you know the Danish

Parliament is one of the parliaments which has worked most systematically since 1973 with EU matters, I expect that the yellow card, orange card subsidiarity mechanism is very important. Subsidiarity is an important principle for the Union and should be brought to the fore, to ensure that we do not slide beyond and out into areas where we do not need to go, that we should leave with Member States a degree of regulation or to raise the question if the EU should regulate at all.. I hope that national parliaments will wake up to that role, but it is not for me to say that they should. The instrument has been put at the disposal of national parliaments now for them to assume that role should they wish to and also to have a debate in the national context with their governments about it. Based on both this particular initiative in the Treaty but also on what we call the Barroso initiative, where the President of the Commission on his own initiative started to send proposals to national parliaments, we believe it advances the democratic quality of the EU if national parliaments are better informed and more actively debating the proposals that are coming out of Brussels. In the particular legal area of whether subsidiarity has been respected, national parliaments are foreseen to have a formal role to play and it is a very significant step forward.

Q323 Chairman: Thank you. You were formerly the Commission's Director of Relations with Civil Society.

Mr Nymand Christensen: That is right.

Q324 Chairman: So I am sure you will want to say something about what you expect the citizen's initiative is going to do for the Commission. Are you a little scared of being overwhelmed by citizen's initiatives?

Mr Nymand Christensen: I am not scared. We think that it reflects well on a democratic practice which is already widely used in quite a large number of Member States. We welcome it because it can motivate a debate about what Europe should be doing. We, as the

Commission with the right of initiative, but also national governments, can benefit from getting this electric shock of having one million signatures coming in suggesting that the EU should take a step in a certain area. We will not always necessarily follow that but it will be a legitimate and positive issue to have debated, that a million citizens in Europe want Europe to act on this. It is a very positive article and I hope it can only lead to a stronger, more participatory democracy in Europe. We are at the very early days but after the coming into force of the new Treaty we will present the proposal from the Commission on how this citizen's initiative should legally be organised.

Q325 Chairman: Let us just see if we can get through two other questions quite quickly before we have to stop, I am afraid. The first of the two is the simplified revision procedure and the other *passerelle* provisions. Could you give us a little bit of your thinking on how they are going to be used and what their impact is going to be?

Mr Nymand Christensen: In the short-term, my personal view, and I have to say it is personal because the College has not discussed them, is they will not have a major impact insofar as now the 27 governments have just agreed unanimously what should be by unanimity and what should be by Qualified Majority Voting, so I do not expect in the near future anybody will wish to revisit these issues again because why would they agree in six, 12 or 24 months to look again at what they have spent a number of years discussing? Your own government was one of those that repeatedly stated where the red lines were, where one could have Qualified Majority Voting, and other Member States had similar positions. If I look at it in calendar terms, and it is always difficult to predict the future, I would not expect it to have any immediate effect. It is more an issue of establishing flexibility so when the time is ripe, when all the Member States do agree that there is merit in going from one procedure to another, they can do so without going through all the formal procedures which are otherwise necessary. It simply establishes a degree of flexibility in technical terms which we welcome

very much. The simplified revision mechanism is the same. There was, and has been for a long period of time, a debate about whether one could have simplified revision mechanisms for certain parts of the Treaty. You will probably have read the proposals inspired by some countries' constitutional issues that when a certain number of Member States had ratified it could come into force. This has never led to any Conclusions. It cannot find unanimity among the Member States, far from it, and therefore cannot become part of the legal basis of the EU. In policy areas, if you look at some of the Treaty policy articles, they are extremely detailed and static. When you look at some of the articles drafted ten, 20, 30 years ago, would we really need an Intergovernmental Conference to sit and discuss this or can we agree time has moved on and we would like to review this particular policy article through a simplified mechanism? This is really what is behind it. As I say, I do not expect this is something that will be at the front of the minds of any of our Heads of State or Government in the near future.

Q326 Chairman: Thank you. I am sorry that this has been a bit rushed but I would like to get your opinion on the amendment to Article 308. What would you have to say about that? How significant is this?

Mr Nymand Christensen: As some of you know, I and my colleague from the Legal Service, Mr. Hartvig, had the pleasure of meeting with some of your colleagues, a few months ago. The new Article 308 is largely the article we know today. The innovative element is the fact that in the future the European Parliament will have to give its consent, so if anything it is going to be used less than it was before because there is now another player, not only do the 27 need to agree but you need to get the European Parliament on board as well and still keep the unanimous 27 on board. That being said, the Commission is of the view that 308 should be used with caution only when it is necessary to implement the objectives which are identified in the Treaty and to the benefit of the EU. Under any circumstances, we would not

wish the article to be used in a manner which would be seen to extend the role and responsibility and competences of the EU. It cannot legally be done and we would not wish it to be so.

Q327 Chairman: In other words, if it is in the wind that the European Parliament is not likely to agree you will not start the initiative anyway.

Mr Nymand Christensen: As Lord Plumb will know, we try it once in a while with a view to winning the argument in the Parliament, and we do win the argument, so it is very difficult to say. Normally you would have a procedure where if you needed to use Article 308 you would have informal discussions between the Member States at senior level at Coreper or at ministerial level, and then you would have informal soundings with the European Parliament, and in the future I expect with the chairs of the political groups. You would have to argue the case for why 308 is the legal base. One of the facts is the European Parliament has been using Article 308 because previously it has only been given the role of being consulted and in a way that problem has been solved now. If 308 is the correct basis for an initiative by legal basis that argument from the European Parliament would not be advanced, I expect. I want to stress that the innovative element is the European Parliament's strengthened role.

Chairman: Jens Nymand Christensen, we thank you very, very warmly indeed for having given of your time in answering our questions so clearly and very informatively. We thank Pascal Lefevre for being with us today as well. We will send you a transcript of this and we will make sure that those parts that were off the record are off the record. Thank you very, very much indeed, it has been a great pleasure to meet with you and your contribution to our inquiry has been extremely useful. We wish you well in the Commission.