

THURSDAY 13 DECEMBER 2007

Present

Eccles of Moulton, B.
Freeman, L. (Chairman)
James of Blackheath, L.
Paul, L.
Walpole, L.

Witnesses: **Ms Jacqueline Minor**, Director at DG Internal Market for Directorate B, Horizontal Policy Development, and **Ms Marian Grubben**, Team Leader, SOLVIT, examined.

Q423 Chairman: Good afternoon. This is the afternoon session of the Select Committee on the European Union, Sub-Committee B, on the internal market. We have to help us this afternoon Jacqueline Minor, Director at DG Internal Market for Directorate B, Horizontal Policy Development, and Ms Marian Grubben, Team Leader, SOLVIT. I am going to ask you where you are in the organisational structure of the Commission and the European Union, and once that has happened the Committee initially would like to learn more about what SOLVIT does and Lady Eccles will be leading off the questioning.

Ms Minor: We both work in DG Internal Market and Services, which is responsible for only part of the single market, it has to be said: financial services, public procurement, intellectual property and free movement of services. My directorate deals with horizontal questions, namely, economic analysis, policy co-ordination and enforcement issues, and that is where the SOLVIT team fits in. We obviously deal with traditional infringement proceedings which you heard about this morning but some years ago we recognised that infringement proceedings were a rather large sledgehammer with which sometimes to crack some small nuts and that what business and citizens needed was a simple, swift, inexpensive, in fact, free

way of resolving problems quickly, and that is when SOLVIT was conceived. It celebrated its fifth anniversary this summer and Marian is its very competent and effective Team Leader.

Ms Grubben: The SOLVIT team consists of six people, so we are a fairly small team, and the network that we run consists of 30 national SOLVIT centres. SOLVIT was established in 2002. Each EU Member State has its own SOLVIT centre and the three EEA states, Norway, Iceland and Lichtenstein, are also part of the network. All the SOLVIT centres are part of the national administration so they are not some sort of independent organisation but are all based in either a ministry or another part of the administration. This is left to the choice of the Member State. The objective of SOLVIT is to try and solve problems that arise with the application of EU rules, EU single market rules in particular, in the Member States caused by national authorities and to try and solve these problems quickly and free of charge. The deadline that SOLVIT has set itself is to try and solve problems within ten weeks and over the past years SOLVIT has done quite well in reaching that target because right now the average case handling time is around 50-55 calendar days, so that is not bad, I think, if you look at normal administrative procedures. SOLVIT deals with a very wide range of problems. As Jackie has just told you, DG Internal Market is only concerned with financial services and services in general and the application of the treaty principles, but SOLVIT has a wider span than that. We deal also with problems concerning taxation, social security, employment rights, free movement of persons, residence rights, the market for products, so it really covers the entire internal market, as is set out in the treaty. The strong point of SOLVIT, I think, is the fact that we can operate on a purely informal basis. If you normally have a problem which crosses borders you would have to go via the hierarchy and write formal letters. Member States have a tendency to just defend the position which they have taken in the past and it then becomes really difficult to solve things. SOLVIT was set up from the beginning as an informal network. There is not even a formal legal basis; there is just a Commission

recommendation that was endorsed by the Council of Ministers. In a way Member States are just committing to the SOLVIT principles on a purely voluntary basis and so far that has served us very well. In practice it means that in order to solve a problem it is enough for two people within two different Member States at the operational level to contact each other and try and sort out the legal merits of a particular case, to address the authority that has caused the problem and try and convince them to come up with a proper solution. In addition to that, another essential element for SOLVIT is the fact that we have a very powerful IT tool. We work with a database to which all the SOLVIT centres and the Commission are connected, and this database allows us first of all to have a complete file of all the cases that are going on. Of course, because of that it also provides an enormous amount of transparency and with that transparency you see a lot of peer pressure emerging in the network. No SOLVIT centre wants to be at the bottom of the list when it comes to resolution rates or case handling times and they can all see what the others are doing. This is one of the things that we have managed to achieve through the database. Another thing is that because we can see the cases that are being processed in the database, we can also keep a good eye on the quality of the solutions that are proposed because sometimes solutions proposed by Member States may not be entirely compatible with EU law and that is where we from the Commission side are often called in to come up with informal legal advice to check whether what is being proposed is really compatible with EU principles. That gives us an important handle on the quality of the system. Finally, the database helps us to ensure that in all Member States a sort of minimum type of procedure is followed and this is about informing the clients about what is going on, about, as I said, the quality of the solution, but also about the contacts between the SOLVIT centres. It is with these elements that we have managed to achieve a fairly impressive resolution rate of around 80 per cent. As I just said, also the average case handling time is quite good with a current average over the past year of around 55 days.

Q424 Baroness Eccles of Moulton: That has been a very helpful introduction. Thank you very much. We are building up our corpus of knowledge about SOLVIT and other ways of helping cross-border co-operation. One of the areas that we have been concentrating on, and I think the Commission's review has paid quite a lot of attention to it, is the situation regarding SMEs and the extent to which SOLVIT is involved in the solving of problems that particularly arise for SMEs and whether there are problems in that area which affect SMEs more acutely than other sectors. Could you tell us a bit about that please?

Ms Grubben: If we look at the origin of cases in SOLVIT right now, two-thirds are submitted by citizens and one third by businesses. We also last year looked at what types of businesses we normally get in SOLVIT and the vast majority are SMEs because probably the bigger companies have their own ways to address this type of problem. They can afford lawyers and they do not really rely on instruments like SOLVIT. SOLVIT therefore has an important role to play for SMEs and if you look at the types of problems they have submitted over the past few years, many of them concern the provision of services, the terribly complicated procedures they are faced with in other Member States, all sorts of documents they have to provide. It is very difficult sometimes in different languages to provide proof of the fact that a document is genuine. It can cause all sorts of difficulties. Another obvious area is marketing products. Although, according to treaty rules, if your product is marketed in one Member State and complies with EU standards, you should be able to market it in all other Member States as well, but the reality quite often is not as rosy as that and companies are quite often faced with demands to do re-testing of their products which can be extremely costly and sometimes even prohibitive. What we also see are a lot of problems in the area of taxation. One recurring problem is late repayment of VAT and this does cause a problem for SMEs because sometimes it concerns very big amounts which for SMEs can be really

important in terms of their bookkeeping. In these areas SOLVIT has established quite a record and has become quite competent in finding fast solutions.

Q425 Baroness Eccles of Moulton: So within the regulations that exist which businesses need to operate within in the single market is it possible for SOLVIT to identify particular hurdles or problems that SMEs have to contend with and therefore start a process by which improvements can be made within the existing regulations, or is it all now so tightly regulated, as it were, that, apart from giving guidance wherever possible, the situation is so fixed that SMEs are always going to have to struggle?

Ms Grubben: Of course SOLVIT in principle only deals with problems when SMEs have already gone through the process of finding out what they can do and what their rights are and then still cannot enforce these rights. In SOLVIT, if you look at the on-line complaints forms that come in, of which only 20 per cent are accepted as SOLVIT cases, and you then look at the other 80 per cent, quite often they are about the impossibility of finding decent information about what the rules are or what they should do to market a product. This is maybe the single most important problem for SMEs, that if you are based in the UK and you then want to sell your product, let us say, in Germany how do you go about finding out what you need to do? Especially if you take the example of Germany, a lot of things are decentralised and you really do not know where to go and what to do first. Apart from the problem-solving which SOLVIT does at the end of this process, there is an enormous need for more user-friendly, targeted information for businesses just about practical things – where do I go to achieve this, what sort of forms do I need to fill in, that sort of thing. We have been looking recently into the information that is provided on the Commission Europa website and I think all services concerned agreed that this information is not up to date, it is not complete and it is not user-friendly. We have also been looking at examples of similar sites that have been done by the Member States and there we have found a couple of examples which are

very good. There is a site in the UK called Business Link. You probably know that site. It is excellent. It is a very pragmatic way of informing businesses about what to do and where to go and I think what we should do at EU level is take more notice of these very good examples that are around and try to model our own website on these examples.

Q426 Baroness Eccles of Moulton: Can SOLVIT do that on its own or does it really have to be done through the Commission?

Ms Grubben: This is not something that SOLVIT does at all but it is a problem SOLVIT is confronted with because we have these 80 per cent of queries coming in which are not for us. So, rather than do the signposting for 80 per cent of the incoming complaints, it would be much better if the information tools were improved so that we would not get all these requests for information and that is why we were brought into this. There is another initiative which is part of the Single Market Review. I do not know whether that has already been mentioned.

Ms Minor: We mentioned it briefly this morning.

Ms Grubben: It is an initiative to try and streamline all the services that we now have made available which are still working very much in parallel. The websites certainly are not all that user-friendly and there is enormous scope for improvement.

Q427 Baroness Eccles of Moulton: So is that the one-stop shop?

Ms Grubben: Yes.

Q428 Baroness Eccles of Moulton: Being able to use the internet, presumably you can see ways in which the systems can be improved and life can be made considerably easier for that part of the business world, which is encouraging because that is possible to be done, is it not, and that would mean that the 80 per cent that you tell us about could be better accommodated than they are now, but that is beyond your scope for dealing with?

Ms Grubben: Yes.

Ms Minor: It is beyond the scope of SOLVIT.

Q429 Baroness Eccles of Moulton: Yes, that is what I mean.

Ms Minor: It is being addressed, perhaps not as quickly and as vigorously as we might like but it is being addressed as part *inter alia* of the reworking of the specifically enterprise-biased network, and I still cannot remember the name of it.

Ms Grubben: It is now Enterprise Europe Network.

Q430 Baroness Eccles of Moulton: Where do the points of single contact come in in that arrangement?

Ms Minor: For the Services Directive?

Baroness Eccles of Moulton: Yes.

Q431 Chairman: It is only the Services Directive.

Ms Minor: They are only for the Services Directive. I think one of your questions was whether this was being combined with SOLVIT. We take a fairly diffident line, which is to say that we encourage Member States to regroup all of the different contact points, information centres, problem-solving bodies within their administration, ideally in some kind of single market centre – it does not have to be a physical centre – to get the economies of scale and the crossover of expertise of all the people, as they do, for example, in the Czech Republic. They all have offices down the same corridor and then they can talk to each other in the simplest human terms. That is what we are saying, for example, about single points of contact, that Member States might like to consider whether these could be regrouped with the SOLVIT centres. There are also points of contact with free movement of goods and various other networks, but for some Member States it is a very delicate question as to where these

different bodies are situated in their national administration, so we have to tread a little carefully.

Q432 Baroness Eccles of Moulton: I suppose that the existence of the web must make getting good helpful messages across the 27 Member States easier. Can you imagine life without it?

Ms Minor: No, not for many things.

Q433 Chairman: Can you tell us a bit more about the Enterprise Europe Network?

Ms Grubben: It is a network run by DG Enterprise, so that is probably why they called it that. It is based on a merger of two existing networks. One is the Euro Info Centres; I do not know whether you have heard of them. It is a network of 400 different national centres which are supposed to provide assistance to SMEs and help in finding partnerships across borders and things like that. They have recently been merged with innovation relay centres which also cater for SMEs to help them to turn good ideas into practice using innovative techniques and things like that. As of 1 February, I believe, they will start as a newly merged network called Enterprise Europe Network, but they will very much have the same vocation as the two separate networks had in the past. From the SOLVIT perspective we intend to strengthen our co-operation with this network because it is of crucial importance that all the centres know about SOLVIT and that if SMEs come to them with SOLVIT-able problems they know where to send these people.

Q434 Chairman: Could you just give the Committee a couple of examples, without necessarily mentioning confidential information about the names of the applicant or the company, of SOLVIT cases which were solved?

Ms Grubben: The UK helpfully sent me a case which has been solved only this week, I believe. It is an interesting case and it is a very typical case. It is about a UK company that manufactures marine electronics equipment, like VHF radios which are used on vessels, and these things have been tested for the UK market. They have been selling them everywhere. They wanted to expand to Germany and in Germany they were confronted with a request to retest everything. They had been struggling with this request for a year and they could not get past it. On the other hand they could not afford to do the retest and so they were really stuck with this. Apparently SOLVIT UK informed me that they have now solved this together with SOLVIT Germany and the Bundesamt fuer Seeschiffahrt has even decided to change its rules so that from now on this sort of request will no longer be made and they will accept the UK testing results. That is a very upbeat success story, I think, also because the company has estimated that having this problem solved has saved them one million euros; I do not know exactly how much that is in pounds but it is rounder in euros, I guess. This is a typical case. There was another case also relating to a UK hairdresser. He had been running a salon in the UK for ten years and he wanted to move also to Germany, to Berlin, but in order to open his hairdressing salon there he had to prove that he had experience, so he handed over a certificate from the Department for Education and Skills in Sheffield, but the Berlin chamber of commerce said, "We have never seen this type of paper. We cannot accept that. It cannot be true. You have to go to your local chamber of commerce", and this hairdresser said, "That is not the way we do things in the UK and the Department for Education and Skills can deliver this", so he got really stuck; he could not open his hairdressing salon. There again the UK SOLVIT centre stepped in and they explained that there is an EU directive which says that there is an annex which lists all these organisations which can provide these certificates, so it was clarified in that way and then he could open his hairdressing salon. This is a typical SOLVIT story in the sense that many of these problems are just caused by lack of knowledge

at a local level about what EU rules are and how to apply them. At many of these local levels of government they only come across cross-border problems every once in a while so they do not have the opportunity to develop an enormous amount of expertise, and that is where many of the problems arise. For SOLVIT it is relatively easy to solve this type of problem, though for the persons involved it is not; they can be stuck with something like this for years.

Q435 Baroness Eccles of Moulton: Does protectionism come into it anywhere ever?

Ms Grubben: I guess it comes in a lot, but if you look at the 80 per cent of cases that do get solved that would at least suggest that there is also an enormous willingness to be persuaded to apply the rules correctly; otherwise we would not manage to solve so many cases. There is a bit of that, and there certainly is a bit of that when there is a lot of money involved, but so many problems are really small. They are big for the SMEs concerned but they are relatively small, so therefore they are fairly easy to solve provided that you have a system like SOLVIT.

Q436 Lord James of Blackheath: Is there any element of the service you provide which effectively becomes a sort of arbitration service? Are you always fact-based rather than opinion-based?

Ms Grubben: I guess there is always a bit of both.

Ms Minor: There are two ways probably that you could argue that we as the Commission intervene to mediate. The first is that sometimes we provide support to the SOLVIT centres in analysing the problem, in telling them what the rules are, because some of these cases can be very arcane. There are a lot of recognition of diplomas cases, for example, where there are some specific directives, and there are general system directives, and sometimes it helps to have somebody from the Commission saying, "It is this provision of this directive which applies and it gives this result", so we get involved there as specialist advisers, but we also have a residual responsibility to make sure that the solutions which are arrived at by the

SOLVIT centres are not too far out of line with Community law because the fear of some of our colleagues, let us be honest about this, initially was that this would become a negotiation between Member States and they would arrive at comfortable solutions for the Member States which were not necessarily solutions compatible with Community law. That fear has not materialised.

Ms Grubben: No, certainly not. One of the strengths of SOLVIT is also that SOLVIT centres are really committed to finding solutions. It does sometimes happen, for instance, that there is an ongoing infringement procedure where the Commission has taken a country to court or is about to take the country to court, and then, of course, for the SOLVIT centre the margin in which to come up with an informal solution becomes very narrow. However, even in those cases we have a couple of examples where SOLVIT centres felt that nevertheless they should find a practical solution for the person who was suffering from this problem, so they came up with quite imaginative solutions which might not be entirely compatible with EU law, pending the infringement procedure but still gave the particular person a very good solution.

Q437 Lord James of Blackheath: Suppose I came to you – and I will not – saying, “I manufacture capacitors and I have an order for a lot of capacitors to be supplied to a Middle Eastern country. Can you tell me whether I need to get an end user certificate for them because they could be used as triggers for a nuclear bomb?”. Would that be the sort of question you would get and could you solve that one?

Ms Grubben: No. It concerns the Middle East and we do not do trade with third countries. That is the first thing. Secondly, what you are mentioning now is really a request for information and we would signpost that.

Q438 Lord James of Blackheath: I was trying to cast you in the role of how the DTI as it used to be would have provided information on request to ourselves in the UK.

Ms Minor: I think the European Enterprise Network would be able to provide you with that kind of information.

Q439 Lord James of Blackheath: So that information is available in the system but not from yourselves?

Ms Minor: Yes.

Q440 Lord James of Blackheath: You could be a post-box to where it goes?

Ms Grubben: Yes.

Ms Minor: Can I just come back to an earlier question about how much we can influence the regulations? Again, I think there are two levels where SOLVIT can operate to influence the content of the regulations. Most of our cases, as Marian has said, relate to incorrect application as a result of an individual official taking a wrong or ill-informed decision, but there are some cases where the official has given the only answer that he or she is able to give in the light of national rules and we do have a number of instances where, as a result of the problem being brought to light from SOLVIT, national rules have been changed, so we call those SOLVIT-plus cases and Marian can probably talk about one or two examples. The other thing, of course, is that the information feeds back into the Commission, so we know, for example, that there is a big problem with late payment of VAT refunds and we can tell our colleagues who make the policy in DG Tax that this is an area where the rules are not generally working properly and we can look at how to make them work better. That might mean a change in the rules or it might mean some other initiative about clarifying with national administrations how they should work or better training for national officials.

Q441 Baroness Eccles of Moulton: How fluid are the policies and the rules? Sometimes you cannot manoeuvre within the regulations and sometimes you can. What sort of feel is there for the amount of manoeuvrability you have got? How flexible are they?

Ms Minor: At Commission level?

Q442 Baroness Eccles of Moulton: Yes.

Ms Minor: For example, there is currently being debated by the Council and the Parliament a package on mutual recognition to facilitate free movement of goods between Member States, and certainly the position that we took in the discussions leading up to making the proposal was in part influenced by our experience on the ground from the SOLVIT centres, so it is one of the many things that feed into the conception of a proposal or a new policy but sometimes it will mean altering the existing rules and altering the existing rules means going through the legislative process, which in the European context is quite lengthy and cumbersome, or can be.

Q443 Baroness Eccles of Moulton: And there is only that much space for it anyway?

Ms Minor: Yes.

Q444 Baroness Eccles of Moulton: So it will depend very much. Anyway, you have got some flexibility.

Ms Minor: Yes. For example, in goods package one of the things we felt very strongly about was the need to have nominated contact points again because of this problem that so many people have of not knowing where to go to get a yes or a no, spending a lot of time just wandering around the system trying to get in.

Ms Grubben: It is a general problem. Again, if you look at this experience with SOLVIT, many parts of the administration have a mandate to apply the rules as well as they can, so

probably the measure of success is the number of files they handle over the course of a year, but SOLVIT has as a mandate to solve problems so they are accountable for solutions and that is a quite different perspective. I think that is why it works and that is why probably if you appoint a single point of contact in general you at least have somebody who is accountable for making sure that SMEs and citizens can exercise these rights. That is fairly crucial.

Q445 Lord Walpole: I wish to pick up two words that I heard this morning and find out what SOLVIT has done, if anything. The words “agricultural payments” came up this morning. To say they are being paid well in England is absolute rubbish, is it not? They are being paid in Wales and Scotland and Northern Ireland and they have probably mostly been paid; it starts round about Christmas time, 1 December. When did we finish paying the people in England last year? I think I got my very last payment about six months ago. That is absolutely disgraceful. Does SOLVIT ever get asked about late payments by a government of EU money, which is what it amounts to?

Ms Grubben: No, this is not part of the SOLVIT mandate.

Q446 Lord Walpole: You would not be allowed to?

Ms Grubben: No.

Q447 Lord Walpole: If you have tax and VAT repayment problems what is the difference between that and money that the government should have paid you because it is EU money?

Ms Minor: The remit may seem artificial to you but it is because it is a citizen in one Member State and the government of another Member State, so there is a cross-border element, whereas in the situation which you are talking about it is an English farmer waiting for his payment from the English authorities. That is not something in which SOLVIT gets involved.

Ms Grubben: It is seen as a bit of a problem sometimes that SOLVIT can only deal with cross-border problems because there are plenty of problems that arise from bad application of rules which do not have this cross-border element. The Commission is right now setting up a pilot project. Was that mentioned at all?

Ms Minor: That was mentioned this morning.

Ms Grubben: I will not mention it again then.

Q448 Lord Walpole: I feel incensed about this, I really do. I think it is an absolute disgrace. There is no point taking it up with our Government. It is taken up about once every three months in the House. There was just one other phrase that I rather liked you using and that was “intellectual property”. Can you tell me a little bit more about that? Perhaps it is a little wide of the mark here but are we looking for pan-European intellectual property rights?

Ms Minor: There are pan-European intellectual property rights already.

Q449 Lord Walpole: Completely?

Ms Minor: At the Community level there are the Community trade mark and the Community design, so there you make a single registration application to the office in Alicante and you acquire intellectual property rights for the whole territory of the European Community. There is also a European patent which is issued from Munich and which is not part of Community law. That is a separate treaty in international law and they give you a bundle of national patents, so you tick the countries for which you want patent protection when you make your application.

Q450 Lord Walpole: And when they are infringed do you have to sue each person in each different country?

Ms Minor: Indeed. There has been on the table a proposal for a Community patent for about ten years. There was one that was then withdrawn and then there was a second one. The idea has been kicking around for a long time without so far any real prospect of agreement. We came close under the Irish Presidency about six years ago, I think, but that subsequently disintegrated. In terms of intellectual property the focus now is first of all on trying to find affordable, effective and rapid solutions to litigation because your right is only as good as your ability to defend it. One of the proposals we are looking at is how the Community can best assist patent holders in resolving their cross-border problems, and there is already a proposal on the table that comes from the European patent organisation, which is called EPLA, the European Patent Litigation Agreement. Really our question is, should we be trying something separate or should we be trying to bolt on a Community element to that or can that form the basis of a later agreement within the Community, and there are discussions going on around that. Also, next year we will be turning our attention not to the regulatory framework but to more practical questions about, for example, fee structures in national patent offices: can we encourage national patent offices to have lower fees for smaller companies?

Q451 Lord Walpole: I was going to say this is very relevant to SMEs, is it not?

Ms Minor: Yes. It is also about helping SMEs, for example, to defend their intellectual property in third countries, I know that is something we are looking at, the problem of SMEs which perhaps sub-contract manufacturing of parts, or indeed the whole thing, to one of the larger third country trading blocs and then find that the design or the invention has been copied, and they themselves back in London or back in Berlin find it quite difficult to take action. If we had somebody on the spot who could help them go through the necessary hoops in Beijing or Moscow or wherever it be, would that help? These are the kinds of issues we are looking at, not so much the overarching regulatory framework but what practically can we

do to assist small companies first of all in getting ideas to market and getting them protected properly and then, once they are there, making sure that their intellectual property rights are effectively exercised and not abused.

Lord Walpole: Thank you. I find that very helpful.

Q452 Chairman: Before returning to SOLVIT can we just pursue Lord Walpole's question a bit further? There is a proposal effectively coming out of the new treaty to create an EU intellectual property right.

Ms Minor: This has already been done on the basis of the existing 1957 Treaty. The change in the new treaty will simply make it explicit that this power to agree EU intellectual property rights exists. The trade mark, for example, was done under the existing treaty. The difficulty in agreeing Community property rights is that language arrangements have to be agreed unanimously, and although there are always difficulties with the content the main difficulty does not lie with the content of the right but with the language regime that underpins it.

Q453 Lord Walpole: And presumably where you can sue people when they infringe them?

Ms Minor: And to a lesser extent the jurisdictional system that is attached to it.

Q454 Lord Walpole: That would have to be central though, would it not?

Ms Minor: At the apex it would have to be central. I do not think at first instance it has to be central.

Q455 Chairman: We took evidence on this on Monday and the talk was about regionalisation. How many languages are used in the present system when you register a European patent? How many languages is it translated into?

Ms Minor: This is becoming slightly technical. There is something called the London Protocol which will reduce the number of languages into which it has to be translated. That

protocol has now, I think, but I am not a specialist in this field, been ratified by a sufficient number of states to enable it to become operational and therefore you will only have to make your initial deposition in English, French and German.

Q456 Chairman: This is for the non-European Union?

Ms Minor: This is for the European patent. You would then be called upon to provide translations but of a much smaller part, not the whole file, for the countries where you are seeking protection, so if you are asking to have patent protection in the Benelux countries and the Czech Republic you have to give an abstract. The Community trade mark office, I believe, works in five languages – English, French, German, Italian and Spanish.

Q457 Chairman: Could we return to Lady Eccles's question? If you turn to page 24 of scoreboard 16, this is the document EO708B59, it is under tab 4, and it is figure 17, the staffing levels. It shows that in 2006 by GDP size the second largest, third largest and fourth largest countries in the European Union were not paying much attention to SOLVIT at all. I do not know whether the situation has changed but it says "low" and by low staffing levels I assume that means that the governments were placing less importance and significance on having a centralised staff in the countries to help with incoming and outgoing inquiries about problems with trading across the internal market. When you look at that list you think, "Crikey! The United Kingdom is in the 'adequate', no-one is in the 'high'." Is it working?

Ms Grubben: There is no "high" list because that would have got us into too much trouble, I think, deciding who was adequate and who was high, plus the resources on paper do not always tell the whole story. It is true that all the countries in the category "low" are very worrying, and especially in France the situation has been fairly hopeless from the beginning because in France the SOLVIT centre has in practice been run by trainees for the past five years, and however good these trainees are, they tend to disappear after five or six months so

there was no continuity, plus the core job of a SOLVIT centre is to try and convince another part of the administration to change their decision. If you give that task to a trainee the results are probably not going to be as good as when you employ people who have a bit more experience in that, so this is a problem and we have been struggling with it for years because it is very difficult for the Commission to go to a Member State and say, “You should employ more people in your SOLVIT centre”. Also, some of the SOLVIT centres, like Germany, we think are understaffed but they do come up with very good resolution rates and case handling times and then they tell us, “But we are doing a good job. Why are you telling us that we are understaffed?”. The thing is that their method of keeping case flow limited is to try and reject as many cases as they can if they are not strictly within the mandate of SOLVIT. That is more difficult to measure and also more difficult to use as an argument to demonstrate that they do not have enough resources. The only thing we can do about this is produce these annual reports, these scoreboard figures, and put peer pressure on the Member States who are not taking SOLVIT seriously enough. Also, in bilateral meetings at the higher levels, such as Director General, every time they go to a country where we have this type of problem with SOLVIT it is raised in the briefing and it is also raised in practice. We do see some improvement because for the next annual report we can say that for the first time in its history SOLVIT France now has a full-time official and we hope that that will improve the situation. For Germany they have also received some additional resources. For Belgium and Austria there are also improvements so I think the picture we will be able to paint of 2007 is a bit more positive than for last year.

Q458 Chairman: Have any of these countries said, “If you will not help an Estonian company trying to expand into France we are not going to accept any inquiries from France to expand into Estonia”? All this is voluntary. It is a charity. There is no legal compulsion about this.

Ms Grubben: No, that is true, but the way it works in practice is that if a SOLVIT centre is understaffed it does not mean that they will not deal with questions but they will deal with them more slowly or not as well as they could if they had more personnel. Nevertheless, amongst SOLVIT centres there is a large degree of solidarity and team spirit, so the poor trainee who is running SOLVIT France is in a bit of a difficult situation and he or she will try to do the best they can. It is not a tit-for-tat on a case-by-case basis. Of course, SOLVIT centres start to complain to us when they think they do not get good treatment in the other SOLVIT centre and we have seen last summer SOLVIT centres which closed down for six weeks, and that, of course, is not acceptable. There is a bit of that but in general I think the team spirit in the network is something we should preserve and encourage.

Q459 Chairman: I think that those who served on the old Committee B, like Lady Eccles and myself, were impressed when we heard an initial reference to it nine months ago and then six months ago. When will you have the figures for 2007? Presumably these statistics will be prepared on the same basis, roughly, will they?

Ms Grubben: Yes.

Q460 Chairman: It is very subjective, of course, but we might be able to compare any movement from “low” to “adequate”.

Ms Grubben: They are not entirely subjective because we ask the SOLVIT centres how many man-months they have devoted to SOLVIT over the past year and we also then ask them, “Was that enough or do you need more resources?”, and it is essentially based on that, so probably if their minister had seen their reply they would have vetoed it but since SOLVIT is informal we manage to get away with getting objective information and putting it in the report. We will do the same thing this year. The questionnaire to the SOLVIT centres will go

out next week and we normally produce the annual report in April because we also need to take account of all the cases that are still open and they tend to be closed towards March.

Q461 Baroness Eccles of Moulton: I think you said that standards were affected quite favourably by peer pressure through the internet. Can each SOLVIT centre publish their accounts on the internet, or do they not do that, because that is another way of exerting pressure?

Ms Grubben: You mean to publish their own resolution rates and case handling times?

Q462 Baroness Eccles of Moulton: No. I was thinking more about the actual resourcing, because you need funds to resource, whether it is for staff or whatever, and if there were certain SOLVIT centres that were not being properly resourced by their Member State government then having the income that they had available to spend published on the internet for each one would be another way of exerting pressure for the ones that are not being funded properly to be more properly resourced, because most of their resource has to come from their own government, does it not?

Ms Grubben: Yes. SOLVIT is based on a Commission recommendation, so it is not a formal thing and there is no instrument we have to force Member States to be as transparent as that. In addition, the number of man-months is not the whole story because there are also SOLVIT centres where in terms of man-months you would think, "This is okay", but still they leave a lot to be desired in terms of the way they treat cases. It would not be fair just to compare that figure. You should also look at resolution rates, case handling times and general satisfaction within the network.

Q463 Baroness Eccles of Moulton: It is much more subtle?

Ms Grubben: Yes.

Q464 Baroness Eccles of Moulton: But presumably there need to be ways of bringing the weakest SOLVITs up from the bottom of the list, as it were, so that they are providing a better service to their users. Do you have any ideas for how that can be done, or is that not really up to you?

Ms Grubben: I have the impression it is already being done because you can see how it changes over the years, how SOLVIT centres which were not doing a fairly good job three years ago have now shaped up. Apart from this annual report we also do three annual workshops with SOLVIT centres. We bring all these people together and we really have frank discussions about the way things work. There may be a lot of criticism from one SOLVIT centre about others, without mentioning names, so we really discuss these problems and you can see that that has an effect. You can see that over a couple of months SOLVIT centres try to improve these things. One of the other aspects of SOLVIT centres is that they tend to become better the more cases they have, which makes sense because that gives them the opportunity to build a routine and to develop relations with ministries with whom they need to talk frequently to reverse decisions, and you also see that SOLVIT centres which are relatively small find that very difficult. It is also a matter of building the reputation of a SOLVIT centre within your administration because, just imagine, SOLVIT UK is based in --- DTI now has a new name.

Q465 Baroness Eccles of Moulton: Yes, BERR. Do not laugh!

Ms Grubben: They have a lot of complaints which are about residence rights and visas, which means that they have to talk to other parts of the administration about solving these. As you will imagine, it is not always easy to do that, because why would BERR be concerned about visa cases? Why are they interfering in this area which is essentially within the competence of another ministry? This is the first thing which every SOLVIT centre has to overcome. They have to establish a working relationship with all the ministries where they

will have to handle SOLVIT cases. That is also part of how well or how badly the SOLVIT centre is functioning. Have they managed to create this network? Do they have the political support to do that? What sorts of instruments do they use? The whole picture is more nuanced than just looking at how many people they have there. It is an essential requirement but it does not tell you the whole story.

Q466 Lord Paul: The Single Market Review (and we also heard it this morning) says that regulations are being simplified. If that happens do you think your work will go down? Secondly, you mentioned two examples in Germany where you have intervened. Are there any countries where the regulations are more difficult to understand than in other countries?

Ms Grubben: On your first question, if things are simplified it does not necessarily mean that it becomes easier to enforce them because it may also mean that there is a lot of margin then for Member States to fill in the details which are missing from this nice, simple legislation. That is what you see with many SOLVIT cases. The legislation may be fairly simple but a lot is delegated to the Member States and then you have 30 different interpretations and it becomes quite difficult, so I am not so sure about that. Simplification in a different sense, that you explicitly forbid Member States to impose requirements in particular areas, of course would help, but that is not how simplification in general is normally understood. It means less Brussels and more Member States. That we often see is the cause of many problems, so I am not very optimistic about that. Regarding the difficulty of understanding regulations, there certainly are differences between Member States, especially those who have a very decentralised system, which means that just checking at national level does not give you the full story and you just have to invest in finding out what is happening at the lower levels as well.

Q467 Lord James of Blackheath: Do you publish any record of the cases you have resolved so that they can be used and followed by others? Do you have a newssheet on that?

Ms Grubben: Yes. On the SOLVIT website we have a very long list of our success stories. I sometimes think we should also publish the stories which were not successful because they are sometimes also very informative and then in this annual report, of which I will leave copies for all of you, we have a selection of success stories which will give you examples of cases.

Q468 Lord James of Blackheath: Can we be a bit cheeky? We have asked you for examples of cases where you have succeeded. Can you give us an example of a case where you could not find a solution?

Ms Grubben: Yes. We have a lot of cases with the UK where we cannot find solutions.

Q469 Lord James of Blackheath: That figures. The Government has the same problem.

Ms Grubben: There is this ongoing problem with the new Residence Rights Directive which also regulates visas for third country spouses of EU citizens and the UK has its own interpretation of this directive which is not necessarily accepted by the Commission, so there is a procedure ongoing and a lot of cases we get in SOLVIT are complaints from people who try to exercise their EU rights because they have read the directive and they find that in the UK unfortunately this is not possible. This is a very big category of problems which we cannot solve.

Lord James of Blackheath: That makes a lot of sense.

Chairman: Thank you very much. You have helped us enormously.