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Witnesses: Elmar Brok MEP and Danuta Hübner MEP

Members present

Lord Boswell of Aynho (Chairman)
Lord Davies of Stamford
Lord Green of Hurstpierpoint
Lord Jay of Ewelme
Lord Liddle
Baroness Scott of Needham Market

Examination of Witnesses

Elmar Brok MEP and Danuta Hübner MEP, European Parliament

Q120 The Chairman: Good morning, my Lords, ladies and gentlemen, and welcome to a formal evidence-taking session of the House of Lords EU Select Committee in Brussels. We are delighted that Danuta Hübner is here, as chair of the European Parliament's Committee on Constitutional Affairs. We are also grateful for the hospitality of the European Parliament. From our previous hearings from COSAC and others, we can probably say that we find an easy working relationship much better than a stand-off between the two groups of institutions. We welcomed the AFCO visit to London and subsequent contacts that we have had in Brussels, where we were invited to be represented—I was able to go to your committee. Clearly, there is a strong coincidence of concern and interest between our two institutions in relation to the British process of negotiation and referendum, as well as the wider issue that we are looking at in particular in this current inquiry. Here as we speak we welcome, as well as Danuta, Elmar Brok—we are delighted to see you, Elmar. I just reminded everyone that we are on the record. I also said how much we had enjoyed the AFCO visit to London and the fact that we had a chance to participate, as national parliament representatives, in your considerations in Brussels. On the whole, I think it will be very much more constructive if we work together rather than distance ourselves from each other.

The immediate business is about the British negotiations and referendum, but we have concerned ourselves as a Committee, and will continue to concern ourselves, with the mechanism and process for that purpose. We are taking an interest in that here, too, but we are particularly interested in looking at the extent to which there are visions of a European future and the extent to which the British proposals are relevant to, and consistent with, those sorts of shared views and opinions.

We will start, if you are happy for us to ask you questions. The first question that we would like to ask is how your committee aims to respond to the United Kingdom renegotiation

agenda in the weeks to come. Are you doing an opinion? Will you be making speeches about it? Is it difficult to form a common view among your members, or are some treating it with indifference? How will it go? Danuta, do you want to lead? Members of the Committee can join in if they want to.

Danuta Hübner: Thank you very much for coming. Our visit to London was very useful for us, too, hearing different interests from the people we met. It was a useful exercise for us, which is why we went there. We understand that it is up to the British citizens to decide, but we believe that it is our duty to share with you as much information as we can on our position on the most important issues. In general, the role of the European Parliament is rather limited—although I hesitate to say that—in its involvement, because it is the European Council and the heads of state and government that will hopefully hammer out an agreement with the British Government. In the negotiation process, it is the secretariat of the Council that is leading the whole process, with the participation of the taskforce from the European Commission, with a limited involvement in terms of direct participation of the Commissioners.

The European Parliament will take the floor the moment a deal is proposed and on the table. Depending on what form the final deal will take in terms of vehicles to implement the commitments, the Parliament will be involved if it comes to treaty changes or to changes to secondary level legislation. Also, politically—Elmar may know more about this at this stage—there will certainly be a tendency on the part of the political groups to make a strong statement from the Parliament, hopefully to support the result of the negotiations. I can also say that we are all committed in the European Parliament—at least, those who follow the whole process—to give support as early as possible in this challenge.

Hopefully, the February Council will finalise the negotiations between the EU and the UK. That is our general attitude. When it comes to the AFCO committee, our involvement later on will be crucial for the implementation of the deal, depending on the vehicle taken on individual issues. Otherwise, the role of the European Parliament is mostly political, I would say, in support of the process. That does not mean that we are not technically involved and it does not mean that the role of the Parliament is not important. Without the support of the Parliament, which will later on have to be involved in the implementation of the negotiation results, the process will lack political support on the side of the European Union. We know that relations between the national parliaments and the European Parliament are not always the way that we would like, but nevertheless we understand very well that the European

Parliament is directly elected to represent the citizens, so we see the European Parliament as an important political actor in the whole process.

On AFCO's side, we are keeping our hands on the negotiations through inviting the chair of the European Commission task force, Jonathan Faull, to share with us information around the process. We also had two or three discussions over the last months in the framework of AFCO meetings with different experts and representatives of different institutions to better understand the process but also to share our views. You can find different positions within different political groups in the Parliament, but generally I would say that there is a lot of openness and support for the process, understanding that once we have it we will be in a win-win situation for both sides—it will be better for Europe and better for the UK. So here we have people who want to have the UK in the EU, but we also say, "Not at any price". That is very important.

Q121 The Chairman: Thank you for that. In welcoming you to this discussion, Elmar, I am conscious that you have to go at 9.30 am, so perhaps we could give you an opportunity to make a comment on that general question now. We will understand, of course, if you need to go because of other engagements. What is your take on this from the point of view of the Foreign Affairs Committee?

Elmar Brok: I think that the Foreign Affairs Committee is not so much involved, because there are no positions on the table that have to do directly with foreign policy. We are only concerned that the progress that is possible is on the basis of the Treaty of Lisbon, such as permanent structured co-operation and so on. It is not developed at the moment because of the British referendum, so it is more on that side where we are critical. If the agreement is done on the basis of promising treaty changes, in protocols and so on, then the European Parliament might ask for a constitutional convention and, for sure, as Danuta mentioned, if it comes to the second level, the European Parliament is in a position of co-decision.

Let me give a few examples. I think that the most difficult question is about free movement of labour within the European Union. If this touches on the principle of non-discrimination, we will have a problem. I understand that you have a problem with that question in relation to in-work benefits—that is a British speciality in law. A solution might be possible, but it might involve both acceptance here and perhaps a few changes in your legislation. We have also had this question sometimes in Germany. The national legislator very seldom checks whether this is compatible with European law. Here we have to find a solution, but it cannot be done against the principle of free movement and the principle of non-discrimination. This is not so

much a political point but a way of finding a legal solution to avoid contradicting those principles.

The second point relates to parliaments. The proposal on the table is that the Treaty of Lisbon is used and there is a certain self-commitment of the Council. That is the right way. The Treaty of Lisbon gives the orange card, which says that if 50% of national parliaments are against a legislative proposal because of the principle of subsidiarity and proportionality, the European Parliament or the Council can stop the legislation. The proposal now on the table is that if 55% of national parliaments—exactly the number that you need for legislation in the Council—say no, the Council commits to ensuring that the legislation is finished. This I think is an interpretation of the Treaty of Lisbon, so that with the self-commitment of one of the institutions this would be acceptable. That might perhaps be a way out of that situation.

The Chairman: Just to be clear, that has been floated, if we may use the phrase, as an idea by the European Council and the secretariat of the Council. Nothing is agreed until everything is agreed, but this is, as it were, an interim proposal that there should be a blocking majority of national parliaments, which then triggers some action by the Commission.

Elmar Brok: Yes, if 55% of national parliaments say no, because of the principles of subsidiarity and proportionality—not whether you like it or not—the Council makes the commitment that automatically the legislation is finished. I think that the European Parliament would stop legislation then, because if 55% of national parliaments are against a certain law it does not make any sense to continue. Therefore, this does not need a change of the treaty and it might be the best way to get out of the situation.

On the question of competitiveness, I do not think that there is a problem, because the policy of the Juncker Commission is that we are already on the way to having in this period 50% fewer legislative proposals than before. My main concern is the fact that the Cameron letter says that the European Union should not have one currency, as in the treaty. The euro is the currency of the European Union and Britain has an exception from that—

Danuta Hübner: Can I just add something to that?

Elmar Brok: Can I just finish my sentence? Therefore, we have to make it clear that the euro is the currency of the European Union. Britain has an opt-out; Denmark has an opt-in; others have an obligation to join. We have now 19 countries—another country joined last year. We will not accept making a division between the 19 and nine. What we agree on is that we should find a mechanism that you, as a full member of the internal market, will not be negatively influenced by the work of the euro countries. Here we have to find a mechanism to do that.

Danuta Hübner: On what Elmar started to say on the law-making exercise, we have just finalised negotiations between the three institutions. By the time you have the referendum, this should be voted on. There will then be negotiations between the Council, the Parliament and the Commission on what we call better law-making, in which we address a lot of concerns of the British people. When it comes to, for example, avoiding excessive and unnecessary legislation, we will have much more consultation by the Commission at different stages, such as when the law is ready for negotiation with the Parliament. Also we are going to have much better impact assessment, where the impact in terms of the administrative burden on territories will be more deeply analysed. So we have moved a lot when it comes to rationalising the law-making activities in the European Union.

On welfare benefits, it is important that we make it clear that we all hope that the outcome of the negotiations of the new relationship between the EU and the UK will be based on the rule of law. We should make that very clear. On welfare benefits, we understand—the Lords were very active on this—that you are not open to any reform of the British system, which is very different from the continental system. That leads to the problems that we face. The example of tax credits shows that there is no willingness to change the law, so we understand that there is a need to find different solutions. We also think that another issue that is important to the British people can be addressed, which relate to cases of abuse of welfare benefits by those who come to work in the UK. We already have a lot of jurisprudence coming from the European Court of Justice, which we can use in the future. In looking into this in the negotiations, we can find other solutions that would make the new approach non-discriminatory. I am optimistic that, on this issue, we can find solutions that will be satisfactory to both sides. We are certain that there is a lot of commitment on either side to find solutions that respect the rule of law.

The Chairman: Those two contributions are very helpful. They touch on some of the areas that I think some of my colleagues will want to ask about during this session. Perhaps while Elmar Brok is here, I can ask him a question.

Elmar Brok: I can stay a little bit longer.

Q122 The Chairman: That is great. I want to ask you a question from the viewpoint of the Foreign Affairs Committee. To what extent has the perspective of your committee changed—maybe the whole European argument has changed—in relation to questions about not only internal security and terrorism but also external security, in terms of external threats, as a result of recent events? It would be fair to say that the British perspective has rather opened up in this matter, because clearly there are some very serious issues around the world. Indeed,

David Cameron, in launching his letter to Tusk, talked about some of the security themes. Is your committee responsive to that or anxious to have a dialogue on it?

Elmar Brok: We are ready for dialogue, and we have started to prepare the annual report about foreign policy. What we would like to do is to use the potential of the Treaty of Lisbon that I think should be the agreement. Let me give you an example. France has asked for Article 42.7, which is about co-operation between member states, not the European Commission. But does it not make sense that we have a headquarters that tries to be helpful in co-ordinating this—not seven Danish fighters go there and 12 French ships go there? We should have one mechanism to be helpful without destroying the sovereignty of member states. It is a question of co-ordinating, so that we have such facilities. Does it not make sense to discuss this question, which in the past it has been quite difficult for Britain to do? It is the free choice of everyone to take part or not take part in that, but we do not want to stop people who want to do that. In internal security, we see now the question of fighting terror. I shall give you an example. Europol should co-ordinate and make it possible to exchange information. Only five of the 28 member countries give the information that they have to Europol—your country not, my country not. None of the big countries does so. Should we not come to the idea, when we have to fight terror, not to set up a European intelligence service, because I am against that, but to co-ordinate so that we have an information centre where we bring all our data together to make it possible to fight terrorism? Does that not make sense? That is possible with the Treaty of Lisbon, and it may be much better to fight terrorism. We know a lot of cases where terror was successful because there was no proper exchange of data. In this question, we should have discussions on how to make us stronger in that regard.

The Chairman: That is very interesting. Of course, recent events have shown that even the exchange of data within the member states is not always seamless; we need to remember that. If I might just add—putting down a marker, as it were—if we are to move towards this kind of co-operation structure there will also be a need for a sensible understanding about parliamentary accountability and governance for that. We will have to think in parallel about how to achieve that to meet the needs of member states and of course the parliamentary organisations.

Elmar Brok: I think this is the responsibility of national intelligence services, which are controlled by national Parliaments. I do not want to set up a European intelligence service; I would like this national data to be used to fight terrorism through Europol. We can already get such data, we have the route to do it, but it is not done in practical terms. If we do not want to

change anything, let us not do it—but the intelligence services are totally under the control of national Parliaments.

The Chairman: Thank you for that. I shall pass on to other colleagues—first, Baroness Scott.

Q123 Baroness Scott of Needham Market: I wanted to ask you about perceptions here about Prime Minister Cameron's letter to Tusk in the autumn and the extent to which you believe that it sets out a coherent vision. It might not be one that you agree with, but has Prime Minister Cameron succeeded in setting out what looks like a coherent vision for the EU? He would argue that his vision is about maintaining diversity in the Union and allowing sufficient flexibility for that diversity to take place—but I wonder whether the view here is that that is a coherent vision, or whether it is seen as an unconnected collection of four baskets of particularly British preoccupations.

Danuta Hübner: The letter of Prime Minister Cameron was read here with great interest, as was the response of Mr Tusk to this letter, because these are important sources of information on the position of the UK. We have known about the four baskets from before summer, when Mr Cameron was making visits. He did a lot of exploratory work; he has done a lot of work in Europe and has talked to all the member states. So we knew about that and it did not come as a surprise. On the vision that comes out from the four baskets, I think that on competitiveness we are absolutely in line with the UK, and have always been so. I guess that this part of the challenge that the European economy and the European Union are facing is to make us competitive in the global context. We seek to achieve that competitiveness through different policies; this is something that most of us probably fully share. That is one of the arguments where we can say that it is important that the UK stays with us, because the UK has knowledge of bringing this element to the discussions on markets and on new policies. I hope that in the future, when we go more deeply into energy and digital economy, we will also hear from Britain useful comments for our new legislation. What I find legitimate also is the need to have a look at the relationship between euro and non-euro countries. I come from a non-euro country, so we have had a lot of discussions, and within our political group, on how to make sure that the fact that we do not share one currency across the European Union does not have an inhibiting effect on the coherence of the single market and the benefits that we can all draw from it. But we have been investing in accommodating the rights of non-euro countries for years, especially with all the regulations that came out of the crisis, especially with regard to the financial sector but also with regard to the governance of the eurozone. We have adopted special clauses on non-discrimination against non-euro countries, which are in the regulation on the single resolution mechanism. So there has been an effort to find ways and

means on the one hand to open the possibility for those who want to join and want to participate in the banking agreement, so that it is possible that they have participation in decision-making. That has been done. On the other hand, we are fully aware that the decisions made within the eurozone context have to lead towards deepening the eurozone and making it more effective and efficient, safer and more stable. That we heard also from Prime Minister Cameron for years—that the eurozone should be fixed in such a way that the functions were better for the UK, too. So euro/non-euro is an issue that we are aware of, and we are looking at it from the point of view of openness and from the point of view of the integrity of the single market.

On the question of ever closer union, we should be able to explain to the British public that what is meant by the ever closer union in the treaty is something different from what you normally hear from those who fear closer union. This is not a legally binding article of the European treaty; it is an article saying that the peoples of the states belonging to the European Union should get closer and closer, in the course of the evolution of the European Union, because we have common interests and common risks and challenges to face. So the article is about peoples getting closer and very strongly, in its second part, says that the subsidiarity principle must be respected when we look for closer relationships. So it is not against anybody, and not legally binding. What is wrong with students from Poland getting closer to students from the UK or Germany, or people who co-operate on research? We should get closer, because that is how we make ourselves more effective globally—because we are small. Even with the UK, we are still only 7% of the global population. If you look at the map, we are really a tiny peninsula attached to a huge Eurasia. That is why we have to stick together and get closer as peoples of the European Union. We cannot forget that the EU has competences only when member states decide unanimously to confer those competences on the European Union. It all starts as national competences, and then we come to the conclusion that we can do better together. But as member states, we have to decide that we want to do that—so there is no risk. In that sense, on all those elements of migration and welfare benefits, non-discrimination is absolutely fundamental. There are probably 2 million non-British EU citizens in the UK and more or less 2 million UK citizens in the other member states, so we are all moving to find better jobs and a better life. Here we have to find a solution: how to make it in such a way that it is acceptable for different countries and different benefit systems. But these are elements of division that some will share, and some will think that we should continue to have a dialogue on them and come together to find a solution.

The Chairman: Thank you. Elmar Brok, do you want to add to that?

Elmar Brok: First, the question is: what is the vision?

The Chairman: A vision can be a nightmare or it can be a pleasant experience, I suppose.

Elmar Brok: Helmut Schmidt once said that a visionary has to go to hospital. But Helmut Kohl's answer to that was that only a visionary is a real realist. I think that that is true in this instance. In practical terms, the question is: what do we mean by competitiveness? In legislation, we have always a fight between political groups. The Tory Government would not deal with the social issues and the relation between the social issues and competitiveness in the way that Labour would.

Danuta Hübner: Or the Greens.

Elmar Brok: Or the Greens. When it comes to the environment, they are the same as here. The same thing applies to national Governments. So it is very difficult to define exactly what competitiveness is. In a democracy there is always a question of majorities and balances. What we provide here is a mechanism that makes change possible. We see that decision-making in the Council means that you need 55% of the countries to pass legislation, and these countries must represent 65% of the population, so Britain, Germany and Poland are the weaker part in that. All this is bequeathed by Governments. When it comes to the final point, we always need an overall majority in the European Parliament, not a simple majority, when it comes to legislation. In that context, there is a competitive programme in the common market all the time. The principle is that instead of 28 laws we have one law. Sometimes that law will not be liked in Germany or in Britain because it will be different from what was there before. It is a way in which the world can finally compromise. But it is better for business. A business in Birmingham knows how to sell products in Milan, because we have the same rules. That is the way for competitiveness in the real market. It makes us altogether stronger. That is the positive result.

Sometimes idiotic things are decided in the European Union—that is true, too—but we do not have the sole privilege on that. It happens from time to time also in Berlin and London, I fear. But we have proceeded in that context and come perhaps to a fairer situation. The only clear example that I got from Britain was always the working time directive; I have never heard of another proposal. The principle is that of 48 hours a week, which became law in Britain in 1908, proposed by the Home Affairs Secretary, whose name was Winston Churchill. If we find the right working time for nurses, for example, that is not a question of destroying our competitiveness. We have to discuss it in such a context.

On the question of free movement, I can give you an example of where we cannot destroy that in the social field. If a young Brit came to Germany to work and he lost his pension rights

after four years for his whole lifetime, that is not possible; that is an old rule from the 1960s or 1970s. Then there is the question of unemployment, if he works and pays his contributions to the national system, or the health system. So the principal question of social affairs is when you have a job, not when you are looking for a job; you have to pay not a penny to someone who does not have a job. Looking for a job is not enough. It is European law, and many countries use it in the wrong way, as the European Court of Justice has proved in the past 12 months. You have only the right to get social benefits if you have a job, or if you have enough money to look after you and your family and social assurance, if you want to settle in another country. Otherwise, people have no right to any social contribution. The health question, the unemployment question and the pension question are not met by these four years. We can discuss the rest, the in-work benefits, whether it is social policy or a type of tax policy.

The Chairman: It is really helpful to have that presentation. We were anxious to discuss some of the issues in the four baskets of negotiation that the Prime Minister has indicated. To some extent, you have already brought those up, but colleagues may want to comment. For a few moments, I would like just to concentrate on the rest of the process, as far as Parliament is concerned. You have also spoken on that.

Q124 Lord Liddle: You have been very eloquent about some of the problems in the British position. Our Prime Minister has said that he thinks that he is well on the way to reaching agreement and hopes to wrap it up at the February European Council. Do you think that that is realistic?

Elmar Brok: Yes.

Danuta Hübner: I think we have no other choice. There are interests on both sides. We even hoped that we might move further in December. We all hope to reach agreement at the February European Council. I am sure that on the EU side we will spare no effort to reach agreement, which we hope would allow the British to have a referendum in line with the timing that is envisaged.

I shall add one thing in the context of what Elmar was saying. We sometimes forget that when we come with European laws on competitiveness, for example, which are important for the UK, we are aiming to replace the 28 national regimes with one European law—so in a way we should be reducing the number of legal frameworks that we have at national level. That is not always the case, because there is a lot of gold-plating by the member states, and all those additions. Secondly, in the context of legislating in those areas that are important to the UK, we have a lot of instruments in the European Union to accommodate national interests. We have shown through the history of UK membership in the European Community and then in

the European Union that we can respond as a Union within the treaties to requests. That is why you have the lists of all sorts of special solutions for the UK to opt out in different areas; Schengen and the euro are examples of that, but there are also examples in justice and home affairs and many other areas. We can be open to that. The European Union handles this issue of unity and diversity and national differences in a way that allows us to move forward safely as a community but, at the same time, allows for extremely important national specificity. We have to make sure that through European law we are not undermining the changes at national level, but it is also important that national specificity does not undermine European Union interests, because we have common interests and there is a common good in European integration. We all have to care about that, including the Brits, because, finally, the stronger the Union, the better all of us feel.

Q125 The Chairman: Can I just respond to that—it is very helpful—by asking you whether you recognise a tension between, on the one hand, welcoming flexibility and diversity to accommodate the needs of a member state, not necessarily Britain, which is a strength of the European Union because it makes its members happier as members and creates a stronger unity, and, on the other hand, while you have spoken of strong political support for a deal on the negotiations with Britain, is there perhaps an unspoken fear in some member states that making a deal for Britain will open the way to uncontrolled—

Danuta Hübner: Europe à la carte.

The Chairman: Yes, Europe à la carte, and then it loses its coherence altogether. Is that a matter that your committee, or indeed the Parliament, will discuss and debate here?

Danuta Hübner: I am sure that Elmar will comment strongly on this, but I will start by saying that from the very beginning the European Union got together countries, states, societies, nations that were different. But with all the enlargement, especially in 2004, the diversity has skyrocketed, with different levels of development and different traditions, cultures and histories. Some of us were strong enemies in the past, and we should never forget that the Union is an important table that we sit around to solve problems. We do not go to war or into battles. If we had no euro, you could imagine all the 18 national banks in the crisis fighting for the strength of their currency. I am convinced that everybody on the continent would have run to the Deutschmark. The euro has saved us from a currency war in the European Union. Before the war, we had trade and currency wars. We do not have them today, so it is a problem-solving machinery. At the beginning, we had to push very strongly for homogeneity because we were building a single market, and we had to overcome the differences in order to have a space where we could all be treated equally.

Today we see that more space is needed for diversity in order better to use countries' potential, and we are more open, say in the context of climate change, to allowing for different speeds in moving towards fewer emissions, because we understand that we have different starting positions. I would say that there is an understanding of the need for flexibility, but there are limits to it, because we cannot undermine unity. The single market is always a wake-up call for us; are we doing anything that would undermine unity, because we all benefit equally—is it a level playing field on which we can all compete fairly? We have to care about coherence and unity. That is why there are limits to diversity, and there will be colleagues asking how many opt-outs you can have and still remain a member of the European Union. It is about having the right balance and seeing that we all benefit from the relationship between individual member states and the European Union.

Yes, there are very many fears about being open to UK expectations and demands and how far we can go before we create the situation where everybody starts asking about individual solutions, but I must say that there is still good understanding among peoples in Europe that we need common solutions. As I said, I think there is this common public good, which is integration and being together on the economy, foreign policy and social issues—social issues are becoming increasingly important in the eurozone as well. It is a moving project; it will never be fixed. Sentiments will also move. In the UK, there are a lot of sentiments behind a referendum, so we have to welcome it in order for Europe to be safe and to give people security. We just have to stick together.

Elmar Brok: First, Danuta spoke about gold-plating. I read a British study some years ago which said that, in Britain, one piece of European legislation transforms into 1.3. That is the classical gold-plating thing. It is similar in Germany. I think you might be in contact with national Members of the European Parliament and national parliaments. This gold-plating is normally done by the national Administration, where they put on top of European legislation something they never wanted and blame Europe for that. It is taken in the national parliament, because they do not know. Here, having in legislation a closer relationship between the experts of the European Parliament from your country and Westminster would be helpful; you could find out what European legislation is really needed and what needs to be done at the administrative level of your own country to put something on top of it. You need to find mechanisms so that national parliaments are aware of what the Administration do to them. That would be very helpful in order to keep competitiveness, because most legislation—this is the flexibility answer—is done in directives, which are not 100% binding. This gives room for manoeuvre for national legislation. Very often, that is misused against a competitor of a

country because of administrative influence. Some people already say that we should not make directives any more but that we should make 100% binding law in order to prevent these possibilities. I am against that, but sometimes there is good reason to believe that that is the right approach.

Secondly, I remember very well a four-day meeting at the intergovernmental conference on the constitution treaty, which is now the Treaty of Lisbon, in which the present phrases “enhanced co-operation” and “structural co-operation” were defined. We made it clear that enhanced co-operation, which gives flexibility, should not be done for the parts of the internal market where majority matters are decided. Why? When you have different legislation in the internal market, you no longer have an internal market. The countries must know that they all have to apply the same rules; otherwise, you have a problem again. The internal market must have the same rules. If every country can have different legislation on every issue under the term of flexibility, which goes over the possibilities of this written directive, you have a problem. It is in your interests to have an internal market where the same rules are applied, because if you say that there can be flexibility and every country uses it in a different way, the end result is that you have to decide whether a product coming from a foreign country should be allowed in or not.

The same is true for environment rules. You can have higher standards on environmental questions if you just stick to your country, but when it comes to products there must be the same rules. The same rules must apply when you sell a car in Europe; otherwise there is a problem for the internal market. Here we have to see where we can have flexibility and where we cannot in order not to destroy the internal market. It maintains the coherence of the internal market. You should think more in that way.

The last point is about taxation and security schemes. They are the reason for this flexibility; security schemes can be harmonised only by unanimity. There is, de facto, no European competence in that. As long as the difference between national economies is as big as it is, you cannot have the same pension law for Britain and Germany on one side and Romania on the other. It would be idiotic to have flexibility. The same is true for taxation; in most cases, it is a question of national responsibility and therefore also falls under unanimity. None of us wants to destroy the internal market, but here, again, we have to look at certain questions. There is a debate at the moment about some companies in countries such as Luxembourg that have very low taxation—nearly zero. Is it right for the internal market that Luxembourg gets all the post addresses for companies and companies do not pay taxes in the countries where the work is done? That is a principal question, which we have to discuss. The bigger countries

have bigger problems than the smaller ones, because it is an advantage for smaller countries. Here we have to think about whether we can have nothing to do with Europe or whether we have to do something as a result of the internal market. That is the question. There is a need for flexibility but there is also a need to discuss certain rules. Perhaps you can do that with taxation, but on the question of enhanced co-operation there are countries that do not want to do that. They should stay out and let others do that together in order to come to fair conditions for companies. If we see what Google is paying in taxes in Europe, we might consider what we can do in order that they take their fair share in financing the state and national taxation. Flexibility is an interesting question that we have to discuss. It is not yes or no; it is something in between, but always under the headline, “Keep legal unity so that you do not destroy the internal market through diversity”.

Danuta Hübner: We have, of course, the legislation, and on the top of that a treaty that does not simply establish the rules but protects us as individual companies and individual citizens from what others could do if there were no rules. That also allows us to go to the European Court of Justice if we see that others are not respecting the rules and hindering our interests. That is why we need rules, regulations and the treaty, and we have to see that it is not only about responsibilities and duties but also about rights and especially the protection of our interests.

Elmar Brok: Sorry, but I have to intervene. I have to do an interview on German TV, not on Britain but on Poland—keep them moving here some time.

The Chairman: Indeed. I am conscious that a number of our colleagues have questions about some of the details, but you have given very full answers, which have been helpful, on those issues. You have also given us a very useful political perspective on the process and, indeed, the level of support or interest and some of the tensions that exist. That is only realistic: that is what parliamentarians should share. We are very grateful for that. Particularly, but not exclusively, in relation to AFCO but also to the Foreign Affairs Committee, we are open at any time to anything that you want to say to us or any concerns that you want to express to us. I hope, both in the context of the British negotiation and the decision that we anticipate and which, I think like you, we would rather wish to get resolved in February and out of the way—and then we have a referendum campaign—we would like to maintain the dialogue with you. We have found it both politically and intellectually very stimulating to have this exchange of views. Do colleagues want to add anything? The session has been very helpful and very useful for us, and we are grateful for your time.

Elmar Brok: I would like to make you a proposal, if Danuta would agree to that. I am rapporteur to her committee at the moment, looking at what is still possible with regard to the treaty of Lisbon. If you like, after the agreement is done and you need interpretation, both Danuta and I would be ready to see you again, here or in London, to have a debate about that in order to interpret the result.

The Chairman: That is a really helpful suggestion.

Danuta Hübner: Yes, whenever you want and if you want information, on the phone or—

The Chairman: In closing, I would like just to make a general point, which is that we have asked you some quite difficult questions, to which you have responded very fully, but you have also—

Danuta Hübner: You do not know what difficult questions really are.

The Chairman: You have thrown out some challenges to us as a national parliament about how we conduct ourselves. I know that you are doing this study, and we look forward to further dialogue on that, because we need to challenge each other to get the best result. We are very grateful, and we look forward to seeing you soon, perhaps, one could say, as members of the European Union. I will leave that neutrally beyond that point. Thank you.

Danuta Hübner: A reformed European Union will be a better Union.

The Chairman: Indeed. That is the end of the formal session. We are very grateful to you. You are always welcome in London.