



# HOUSE OF LORDS

Revised transcript of evidence taken before  
**The Select Committee on the European Union**

Inquiry on

## **VISIONS OF EU REFORM**

*Evidence Session No. 16      Heard in Public      Questions 162 - 180*

TUESDAY 26 JANUARY 2016

4.10 pm

Witnesses: Rt Hon Philip Hammond MP and Vijay Rangarajan

Members present

Lord Boswell of Aynho (Chairman)  
Baroness Armstrong of Hill Top  
Lord Borwick  
Earl of Caithness  
Lord Green of Hurstpierpoint  
Lord Jay of Ewelme  
Lord Liddle  
Lord Mawson  
Baroness Prashar  
Baroness Suttie  
Lord Tugendhat  
Lord Whitty  
Baroness Wilcox

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**Examination of Witnesses**

**Rt Hon Philip Hammond MP**, Foreign Secretary, Foreign and Commonwealth Office, and  
**Vijay Rangarajan**, Europe Director, Foreign and Commonwealth Office

**Q162 The Chairman:** My Lords, Ladies and gentlemen, good afternoon and welcome to this open, formal evidence session of the EU Select Committee in the Lords. We would very much like this afternoon—this is not said simply as a courtesy—to welcome the Foreign Secretary, Philip Hammond, and his official, Vijay Rangarajan. Before we start, I would like to do the pro forma, as it were. This is a televised session—although not, I think, in real time—and the normal rules of engagement with Ministers apply, including the fact that we will send you a transcript afterwards for the correction of any errors. Indeed, if you have any great afterthoughts that you wish to inject, we would be delighted to hear from you. I want to do two things before we start. First, I have not done the research on the date, but this will be the first occasion for some considerable time that Her Majesty’s Foreign Secretary of the time has attended the EU Select Committee, and we would like to express our appreciation. We appreciate that this is an extremely important moment in the nation’s affairs, but it is very helpful to have you here. Secondly, and in no sense to be derogatory or to qualify that, I would like to record on behalf of the Committee our thanks to you, your colleague Ministers and your officials, both in London and in Brussels, for the support that they unfailingly extend to our Committee. It is always a reassurance and genuinely helpful to our work. Indeed, we extend that to the fact that, as our range goes a bit wider, particularly in the sub-committees when we are carrying out inquiries, posts along the way are invariably helpful, in my

experience, and we appreciate that very much. I would be grateful if you would pass that on to your officials, because it is meant sincerely.

Perhaps we may kick off with the first question, not least because I know that parliamentary votes and procedures may disrupt this—we will have to work on the basis of going ahead as soon as we can. You will know that our inquiry is called “Visions of EU Reform”. That in a sense slightly differentiates it or develops it from our earlier inquiry, the report of which we published in July last year, which was very much about the process of the negotiation, reform and, ultimately, the referendum process. While the referendum is a domestic issue and not formally within the remit of this Committee, it is obviously cognate to it. We are still interested in the process, of course, but a number of us have felt, and the Committee has collectively felt, that we needed to get a better handle on the extent to which what Britain was aiming for in these talks was coincident with the interests and perceptions of other member states and whether in a sense there was a possibility of all going in the same direction, of which this may be part, albeit not necessarily the whole.

In that spirit, perhaps I could kick things off, Foreign Secretary, by asking whether you feel that the Government have a vision for the whole European Union or just for the United Kingdom. On the basis of the negotiations so far, how would you summarise the attitude of your interlocutors both in the European institutions and in other member states towards this possible common vision?

**Philip Hammond MP:** Thank you, Chairman. Certainly it would be naive for us to look only at Britain’s position and Britain’s interest. Clearly, in any negotiation in a multilateral forum, we have to be cognisant of the interests of all parties. I think we can see clear strands of our agenda that address concerns that exist not only in Britain but across the European Union—concerns about the competitiveness of the European Union and our ability to hold our own in a globalising economy and concerns about the accountability of the European institutions in the face of European parliamentary election after European parliamentary election with declining voter participation across the Union. So there are areas where I firmly believe that the agenda that we are putting forward is speaking for a strand of concern that runs across many, if not all, member states of the European Union.

There are other areas where we have a more distinctively British agenda. Clearly one of our concerns is to make the future European Union work effectively with a eurozone core and a significant number of member states that are not using the euro as their currency and are not taking part in the eurozone institutions. That is a concern particularly of the non-euro-using countries. Then there is the issue of access to welfare benefits and inward migration from

other parts of the European Union, which again is not an exclusively British concern but is expressed most clearly by voters in the UK.

When I am talking to my interlocutors in the European Union, I always set the context like this. Britain has never been emotional about the European Union, which has always been a pragmatic construct for us. We were not one of the founding member states seeing it as a bulwark against recidivism to war in Europe. We were not one of the southern countries that joined the European Union as a way of cementing their new democracies after a period of military dictatorship. We were not one of the eastern European countries that saw membership of the European Union as part of the liberation from the yoke of Soviet communism. We have always been in this for firmly pragmatic reasons. We have always been focused primarily on an EU that would act as a turbocharger for the British economy and that would improve and protect the standards of living of British people. Many of our fellow member states see that as a very important, if not critical, role of the European Union and very much appreciate the focus that we put on it.

**Q163 Lord Liddle:** When the Prime Minister embarked on this great venture, which I personally want him to succeed in, he talked about a fundamental change in the relationship between Britain and the EU. Do you see the way in which the negotiations are going as bringing about a fundamental change? Obviously a lot of people defined fundamental change in terms of the repatriation of powers and more Westminster control over Brussels. How would you define this fundamental change in the relationship that we are going to achieve?

**Philip Hammond MP:** In those areas, the role of national Parliaments and the balance of competences exercised in Brussels versus those exercised in national capitals, I think that we will bring about fundamental change through these negotiations, but it will be fundamental change affecting the relationship between all member states and the European Union. Where I think we will see something that is more specifically British is the relationship between the non-euro member states and the euro member states. Britain is by far the largest of the non-euro member states, and clearly there is complete agreement across the European Union that we have to address this issue. We cannot close our eyes to the fact that the eurozone countries will need to move forward with greater levels of integration in a number of areas to ensure the success of the euro as a currency. Whether they want to do so or not is almost a secondary question. Countries that are not part of the euro will not automatically expect to be part of that greater integration; in the case of Britain, we would actively not wish to be part of that greater integration.

The other area that will reset the relationship between the UK and the European Union is a clear declaration, which we have asked for and expect to get, that Britain is not bound by the commitment to ever closer union—that Britain does not want to see closer union. We would like to see ourselves as being past the high-water mark of EU interference in our national life. Getting that declaration that ever closer union, which may be right for some, is not for Britain, and that it is accepted by all members of the European Union that that is not the course that Britain is engaged in, will be an important reset of the relationship.

**The Chairman:** Can I just come back on the question of the underlying vision that I asked you? You have said a number of things very clearly and helpfully about the background to this, including the traditional approach from the United Kingdom and the response of other member states and their need to engage on some of the specific baskets, which we discussed. You have also said, following press comments, that you do not necessarily want to go further into the process of European integration and that that might even mean going backwards. I have two questions. First, do you think that amounts to an underlying vision? Can you put it into a sentence for us?

**Philip Hammond MP:** Yes, I can—a European Union that is fit for the 21st century, that is focused on the things that matter to its citizens, which are economic growth, jobs and security.

**The Chairman:** Thank you. That is helpful. On the second point, I am thinking particularly of remarks that the Prime Minister made at Davos, or is reported as having made. While in some areas—and you have identified some of them—there may be scope for either halting or retreating from greater formal integration, are there other areas of interest to HMG in terms of if not formal integration, at least better collective action?

**Philip Hammond MP:** Collective action is quite different from integration, and we are always in favour of collective action when we can work together with other member states. Integration in the EU context implies to me a transfer of powers from the nation states to the European Union institutions, and I cannot think of any areas in which we would advocate the transfer of further powers from the nation states. Indeed, there are many people in Brussels, including people in the Commission, talking about the European Union in future needing to do less and do it better, and needing to focus on the things that really need to be done at European Union level. The Dutch have a phrase, “Europe where necessary, national where possible”, and we are very much thinking along those lines. The European Union will work best for its member states if we ruthlessly apply the principle of subsidiarity, making sure that we only do from Brussels that which needs to be done from Brussels for the proper operation of the Union, and particularly the single market.

**The Chairman:** That is helpful. I suppose it is worth saying for the record that of course if there were to be an extension of the powers by means of integration and greater activity within the institutions, that would come to this Parliament by a referendum if it was material, would it not?

**Philip Hammond MP:** It would come to this country—it would be beyond the Parliament. The referendum lock that we put in place means that it would come to the country.

**Q164 Lord Jay of Ewelme:** Can I ask you a process question? The Prime Minister said that the EU was well on the way to agreement on his four objectives for reform after the December European Council. Is it realistic to expect agreement at the February European Council? To put it another way, where are we on the spectrum from possible through probable to almost certain to getting an agreement?

**Philip Hammond MP:** As you know, we have set our ambition, and the President of the Council has set his ambition, as reaching agreement at the February European Council. That remains our ambition, but we regard it as much more important to get the right deal than to get a quick deal, and we have to recognise the fact that the European Union has a couple of other issues on its plate. Although the British renegotiation is number one on our European agenda, I am afraid that it is not number one on the European agenda of any of our partners, except perhaps for the Irish. The reality of the situation, which we have to recognise, is that there are a lot of other very important issues chewing up bandwidth and time at the Council. If we can get it done in February, we would be delighted, and we are working towards that objective, but if we need more time, we need more time. We have until the end of December 2017 to hold the referendum.

**Lord Jay of Ewelme:** Do you think that the fact that there are other things on the agenda might encourage the other member states to get this one out of the way so that they can focus on those?

**Philip Hammond MP:** Unfortunately, some of the other things are very much real-time challenges for the European Union, whereas this agenda is one that can be dealt with in slightly slower time. I think there is an understanding of that in the European Union, and it would be inappropriate and unwise of us to try to push our agenda ahead of other things, which the other EU member states will see as being pressingly urgent to discuss at the February Council. But we are still confident that there will be a substantive discussion on this issue, and we are hopeful that between now and then we will be able to get to a position where we can get that agreement at the February Council.

**The Chairman:** Would you share the appreciation that some of us who went with this Committee to Brussels recently, in the last two weeks, picked up in our formal evidence sessions and in other encounters that there was a quite strong appetite at the European level to get on with this—and that, conversely, if it were not proceeded with reasonably soon, although I am not saying literally in February, it might be more difficult to get this concluded thereafter? Do you get an impression that it may be a situation whose time has come?

**Philip Hammond MP:** No, I do not think that I get the sense that a window of opportunity will close, or not in the short term. We are clearly very focused on the fact that there are major German and French general elections in 2017 and, if this was not resolved during the course of 2016, we would have to think very carefully about how the realities of those election campaigns interacted with this debate. So we would certainly hope that it will be resolved well before then.

**The Chairman:** Thank you. Baroness Suttie is next, with what may even be a cognate question.

**Q165 Baroness Suttie:** I have two further questions on the timing. Do you think that a failure to reach agreement in February would rule out a summer referendum in June? Could you say a little about the Government's response to Nicola Sturgeon's interview at the weekend, when she said that an EU referendum in June would be a mistake, because it would overlap with campaigning for Scottish elections?

**Philip Hammond MP:** I met Nicola Sturgeon last week, so I am well versed in her view on the subject. When we debated the Referendum Bill in Parliament, Parliament insisted on putting in a prohibition on the referendum day being the same day as the devolved Administration or local elections either this year or next year. It did not seek to impose any wider black-out period, so this is a new issue that has been raised.

To answer the first part of your question, if you get a deal done in February, it will be possible to hold the referendum in June if we choose to do so; there is technically enough time. If the deal is not done in February, it would become much more difficult; certainly, if it is not done in March, it will become impossible because of the timescales provided for in the Bill. So we have said that we will focus on getting the deal done. When we have got a deal done, we will look at the timing options for the referendum and at the sensible approach to that. We note the comments made by the devolved Administrations. Let us see where we get to with the negotiations.

**The Chairman:** While on the subject of elections and voting, Foreign Secretary, I think your presence may be required elsewhere for a bit.

**Philip Hammond MP:** I am afraid I have been warned that there could be two votes in the Commons. I will see whether it is possible for me to skip the second one.

**The Chairman:** In the light of that, I would like to adjourn the public evidence session.

*The Committee suspended for a Division in the House of Commons.*

**The Chairman:** Thank you, Foreign Secretary, for returning so promptly. We have just under an hour of your time, and I will ask Lord Mawson to go straight on with his question.

**Q166 Lord Mawson:** Foreign Secretary, the Prime Minister is committed to securing legally binding reforms, and has cited “the protocols and other instruments agreed for Denmark and Ireland” as examples of how the EU had secured such reforms in the past. Do you have a specific model in mind?

**Philip Hammond MP:** As the Prime Minister has said, and as I have said myself, for this to work for the British people, the reforms have to be substantive, legally binding and irreversible. How those things are delivered is something that we are open-minded about, but they have to meet those criteria. It is our belief, and it remains our belief, that some of the changes we are seeking will require treaty change in order to deliver those characteristics, particularly to protect them against judicial challenge in the European system. We envisage a decision made by the 28 member states in Council that is legally binding, an international law decision, including a commitment to enshrine what has been agreed in the treaties at the first opening of the treaties—a situation in which we would have a legally enforceable commitment to what has been agreed as an interim step to a treaty change enshrining those agreements.

**The Chairman:** On which subject, if—and I stress that this is, of course, hypothetical—there were a push-back from, a member state with say, a referendum procedure, when we came to eventual treaty change for the inclusion of that, if they were minded to reject either the new treaty, the revising treaty, with other matters included as a whole, or specific bits of it, it could create something of a legal crux, could it not?

**Philip Hammond MP:** We have to make sure that the interim decision is legally watertight, so that if we have to rest on the interim position, perhaps for a substantial period of time, we are in no way disadvantaged. We cannot accept an interim solution that is not enduring; it has to be capable of enduring for a very long time if necessary.

**Q167 Baroness Prashar:** Foreign Secretary, as part of their reform agenda, the Government are seeking limitations on freedom of movement within the EU. Do you not think that there is



an inconsistency in that the Government strongly support the free movement of goods, services and capital and yet are concerned about the free movement of people?

**Philip Hammond MP:** First of all, a bit of a reality check. We have free movement of goods, more or less, in the European Union. We certainly do not have free movement of services or of capital yet. The Government are not seeking to limit freedom of movement to work—we have been quite clear about that. We are seeking to distinguish between freedom of movement to work and freedom of movement to claim benefits in the country where it is most advantageous to do so. We firmly believe that our benefits system, a unique feature of which in the European Union is the payment of generous in-work benefits to people who are employed on low wages, creates an artificial pull factor towards the UK. Now we have people coming to the UK to work in the labour market not just for the wages they can earn but because on top of the wages that they earn they can expect to receive generous in-work benefits. That is a distortion in the market, which is pulling people into the UK in a way that is not sustainable.

**Baroness Prashar:** My next question was whether, if do you restrict benefits, that may have an indirect impact on freedom of movement. Would that affect the economy, because in a way the UK is dependent on the migrant workforce for its economic performance and competitiveness.

**Philip Hammond MP:** That is precisely the problem. We are talking here about low-skilled jobs. I do not think that anyone is contesting the need to attract highly-skilled people to do highly-skilled jobs, but we are talking about people, sometimes with higher qualifications, coming from low-wage European Union countries to do low-skilled, minimum wage-type jobs in the UK. Those are jobs that frankly we need to equip people in this country to do who are unemployed and unable to access the labour market. It is a challenge for somebody who has perhaps been long-term unemployed and excluded from the labour market, and who has very low levels of qualification or educational attainment, to compete with somebody from eastern Europe who perhaps has a degree-level qualification but is seeking to work in an entry-level job. We would encourage an approach that says that for those kinds of jobs we need to fully exploit all the potential in the UK labour market before we think about opening those jobs up to people coming from outside the UK.

**Q168 Lord Tugendhat:** My question is at something of a tangent, but you have just said in your answer that we do not yet have freedom of movement in services, which is perfectly true. That implies that it remains the British Government's aim to secure more freedom of movement in services, which in turn is not easy to reconcile with the statement that you made

at the very beginning about how you did not think that we would want to have any further transfers to Brussels or, indeed, any further integration. I see a slight disconnect between what you implied a moment ago and what you said in your opening statement. Of course, we want more freedom of movement of services; in the nature of things, that is going to involve further development of the single market, which in turn is going to involve certain transfers.

**Philip Hammond MP:** I agree very much that we want to see completion of the single markets in services, financial services in particular, but also the digital single market and the single market in energy. All those things are clearly very much in Britain's interests, but they do not involve any further transfer of competence to the European Union. They effectively involve the European institutions completing the job that they are already mandated to do; they already have the competence in these areas, but for various reasons the single markets have not been completed. Britain is the country with the largest services sector in the European Union, so it is very much to our advantage to be in a European Union that has a single market in services as well as in goods. If you are an economy that is primarily a manufacturing economy, I can see that the most attractive thing is to focus on the single market in goods and perhaps not wish to take the additional steps that are necessary to complete the single market in services. But it is very much in our interests that we do that.

**Q169 Baroness Armstrong of Hill Top:** Can we return to in-work benefits and migrants? First, I was not sure of the implications of your response earlier about migrants who have higher qualifications. I wondered whether you were beginning to move towards saying that they would not be allowed into certain jobs unless they had been tested out—because it sounded a bit like that. Given the discussion in December and the noise that has been around since with what the Germans said yesterday, and so on, how close do you think you are to an agreement across the EU on the issue of benefits? If you do not think that you are getting there, what alternatives are you looking at?

**Philip Hammond MP:** First, let me try to reassure you. The point that I was trying to make was that one challenge facing low-skilled UK workers with low educational attainment seeking entry-level jobs is that they find themselves competing with people with higher education qualifications who come to the UK because the combination of an entry-level wage plus a generous in-work benefit top-up make those kind of opportunities relatively attractive to them. We see that as unfair and as frankly undermining the social purpose of in-work benefits. That system is carefully devised to try to ensure that people who might otherwise be better off on out-of-work benefits have the incentive to join the labour market, because we think that for all sorts of social reasons it is better for people to be in work than on out-of-

work benefits. We want to protect our ability to encourage people who will always be marginal players in the workforce into work and make it worth their while being in work.

On the second part of the question, on progress and where we are, we have been completely open about the fact that this is the most difficult part of the negotiation. We have had numerous discussions with the Commission and the Council as well as with key member states about ways in which our objectives might be delivered here. We are confident that everybody has heard the full range of ideas that have been floated—and lots of ideas have been floated, some of them reported in the media. We are now waiting, ahead of the European Council meeting in February, to see what emerges from the President of the Council, and his ideas to put to the member states ahead of that discussion. We expect that to emerge within the next week or 10 days.

**Q170 The Chairman:** Foreign Secretary, you indicated in a recent article in the *Guardian*, as you have done today, that there may be different options on the table that may be more congenial to some other member states. This is about an apparent pull factor, bringing people into the UK—I think that the original calculation of the four-year period was designed to have a certain effect, although I am not quite sure what effect and what the scale of that was. Can we be sure that if different proposals, or a range of proposals, interact on this—you wrote in that article about having an equivalent or compensatory effect—there will be a robust calculus that enables us to work out that it does have such an effect and that in other words what you are aiming for is what you have achieved by other means, if that is necessary?

**Philip Hammond MP:** That is the clear intention that we have set out. We have put down a proposal, which is a four-year waiting time for access to in-work benefits. If other people have other ideas, we are perfectly prepared to consider them, but they should know that our threshold is four-years' waiting time for benefits. If someone has a combination of other measures that would deliver the same effect—the reduction in flow, recognising that the access to benefits is a mechanism for delivering the primary objective of a reduction in flow—of course we would consider them, as it would be crazy not to do. But they will be judged against the benchmark that we have already set down.

**Q171 Lord Tugendhat:** You mentioned in your opening remarks the Government's ambitions in relation to national parliaments. In some ways, of course, this Committee regards itself as a progenitor of ideas in that field. I have two questions. I understand that only twice since the Lisbon treaty have national parliaments reached the threshold of one-third of their number for using a so-called yellow card. Therefore, I would be interested in your views as to whether there is any prospect of the Government's proposed veto for national parliaments ever

actually being used if the threshold is set higher. Secondly, I think we have been to some extent the progenitor of this idea; we worked very extensively on trying to find practical and effective ways in which to promote the role of national parliaments. Yet the Government, while advocating greater powers for national parliaments, have never taken on board any of our suggestions. I note that you do not seem to be consulting us or other aspects of the UK Parliament about how to promote this agenda.

**Philip Hammond MP:** First, I do think that if we have an effective power for the national parliaments acting collectively, that will galvanise its use. One reason why the yellow card was an unattractive mechanism is that the previous Commission was clearly going to ignore it. People will put limited energy and effort into pursuing an avenue that is not going to achieve anything. If we have a clear mechanism that shows that national parliaments working together can determine the outcome of events, that would galvanise national parliaments to work together. There may well be a need to establish more effective support machinery to co-ordinate the national parliaments in this work. I would certainly advocate that if we succeed in getting this power written into the changes that we are seeking, we would put in place some secretariat-type machinery to ensure that the national parliaments are properly co-ordinated and can exercise that power.

**Lord Tugendhat:** What about seeking to do something about the UK Parliament being more active in asserting influence in this area?

**Philip Hammond MP:** Do you mean in terms of the scrutiny mechanisms that we have over decisions that are essentially decisions of the Government?

**Lord Tugendhat:** Yes.

**Philip Hammond MP:** I think there are two separate issues here. I am sure that we could discuss at length the scrutiny arrangements that we have, which are very important but have to be practical—they have to recognise the speed at which decisions sometimes have to be taken. But that is quite different from giving national parliaments a direct voice in the oversight and control of what is going on in the European Union, and in the model that we envisage, national parliaments would have both roles. They would have a role in scrutiny and oversight of what their individual national Governments are doing, as member states, and they would have a direct role working with other national parliaments in ensuring primarily the enforcement of principles of subsidiarity and proportionality in the legislative programme of the European Union.

**The Chairman:** For the record, you are not ruling out the possibility that national parliaments might want what we occasionally call in shorthand a “forward gear” to make forward-looking

proposals. I am not necessarily saying that those have to be done through the European institutions; they could be done by recommendation, for example, or some kind of informal structure. We might feel a little reassured if you were able to tell us that you would not close your mind to that.

**Philip Hammond MP:** This is the green card proposal—no, absolutely not.

**Q172 Baroness Suttie:** I want to return to the question of the European Parliament. Do you think that you have given enough consideration to the role of the European Parliament during negotiations, given its role in any potential treaty change?

**Philip Hammond MP:** You are quite right—the European Parliament will have an important role to play, and we have engaged and are engaging with key figures in the European Parliament, including leaders of the various groups and the President of the Parliament, and have ensured that they are informed of our agenda. I have had, as have the Prime Minister and the Chancellor, many discussions with leaders of the different political groups and with Martin Schulz about the agenda and the Parliament’s view of our evolving agenda.

**The Chairman:** Specifically on that, I understand that there was an invitation from the European Parliament for the Prime Minister to address it and I think that he agreed in principle to do so, but I do not think that a date has been fixed. Is that going to happen now?

**Philip Hammond MP:** We have not actually fixed a date yet, but you are quite right that Martin Schulz invited him, and he agreed in principle to do so.

**Q173 The Chairman:** Good. Can I go on to the other bit of this—the devolved Administrations? We would take the view that as they are elected parliamentary bodies we have a certain obligation and interest in seeing that they are able to fit in with this, which is consistent also with the general approach to national parliaments to which you referred. I appreciate that there will always be room for interpretation, particularly at different political levels, as to who has done or said what to whom—and there is sometimes wisdom after the event, and all that. We will aim off for that. But it would be fair to say that some of our discussions with the devolved institutions have revealed their claim, certainly, that there has been a lack of involvement in the negotiation process. When we went to Cardiff some time ago, the First Minister for Wales said that the discussions were not being shared with them, while the First Minister in Scotland expressed some frustration that the devolved institutions were informed of developments *ex post* rather than being involved in them. Interlocutors in devolved institutions in Northern Ireland, both in the Administration and the Assembly, were concerned—and I think you may have heard some of this from the Taoiseach yesterday—with the potential impact on north-south relations and whether that was fully appreciated in

Whitehall. Allowing for your own view on those comments, could you tell us how you would respond to what we have heard—and I am sure you will have heard some of it yourself.

**Philip Hammond MP:** First, our relationship with the European Union is a reserved matter, so it is for the United Kingdom Government to negotiate these issues. However, we recognise that there are key stakeholders, and the devolved Administrations are key stakeholders. They will have a very specific input to make where anything touches devolved issues; they will have a more general input to make as democratically elected stakeholders in the United Kingdom. This matter is routinely on the agenda at the JMC, and I have had meetings, as has the Minister for Europe, with the devolved Governments. As I said, I met Nicola Sturgeon last week in Edinburgh, but I have previously met her here in London to discuss these issues. Unfortunately, we have not had a similar level of discussions with the Northern Ireland Ministers, because of the challenges that there have been over the past six months in Northern Ireland. I wrote yesterday to the Northern Ireland First Minister to see whether, even at this late stage, she and the Deputy First Minister would like to come over and have that discussion, to which they were invited late last summer. So we have had an ongoing discussion with the devolved Administrations. I recognise that it is almost inevitable that they will always have wished for a larger role in the process than they have had.

**The Chairman:** I have two points to make—although I may only record them, and please comment if you wish. One is that there is a critical north-south dimension within the island of Ireland, both at a practical level with 300 miles or 500 kilometres of shared land boundary, for example, but also with constitutional issues. You will have heard comments made by Foreign Minister Flanagan and the Taoiseach. That is one point. Secondly, perhaps you can give us an assurance, particularly as you move towards a conclusion of the negotiations, whenever that takes place, that if devolved Ministers have a problem, or a perceived problem or concern, you or your colleagues in Whitehall will be ready to pick up the phone and address them briskly and effectively, I hope.

**Philip Hammond MP:** I cannot promise that we will be able to address concerns, but I can promise that we will be happy to talk about them. All the leaders of the devolved Governments have had that offer—if there is an issue that they need to talk about, they should pick up the phone or come to see us. We are absolutely ready to discuss them, as you would expect us to be with key stakeholders in this process.

On the Irish dimension, you are absolutely right: there are issues about the peace settlement in Ireland, and there are issues for the Republic of Ireland. There is no doubt at all that if Britain were to decide to leave the European Union, the Republic of Ireland by some distance would

be the country that was most impacted. The Irish are acutely aware of their vulnerability to a decision by the UK to leave the European Union. We discuss this regularly with our Irish counterparts; I talk to Charlie Flanagan routinely about these issues, and the Prime Minister talks to the Taoiseach.

**The Chairman:** Thank you, that is helpful. Let us slightly change tack with Lord Caithness.

**Q174 Earl of Caithness:** I would like to take you on to the problems facing the eurozone and the non-eurozone countries. After the hiccups we had over payments to Greece last year, which had to be sorted out on an ad hoc basis, this is a key area to get right. What are the principles to getting a lasting agreement in this area? In negotiations with member states, has there been any sign of countries that are out of the eurozone but legally required to join the eurozone when the time is right wishing to change the terms of their entry?

**Philip Hammond MP:** That would be moving into the realms of speculation.

**Earl of Caithness:** But this has been raised. If we are going to deal with the eurozone, what about the countries that are saying, “Hang on, we have a problem because we said that we would join, but actually we do not want to”? But that is a secondary question.

**Philip Hammond MP:** That issue is beyond the scope of the discussions that we are having and, I think, one that is properly addressed to the countries in that group: countries that are not currently in the eurozone but are committed to joining the eurozone, which is all countries apart from us and Denmark.

On the question of what we have to achieve, I am glad to say that after a slightly difficult start in this category, the eurozone countries, which perhaps have not really thought about this a great deal, have now recognised that there is an issue here that needs to be addressed and that it is very much in the interest of the eurozone as well as the non-eurozone that we get these challenges out in the open and find a way to resolve them. We need a declaration that the European Union is a union with more than one currency. We need a clear commitment that there can be no discrimination against any business or person on the basis of the currency of the country in which they are domiciled or operate to avoid the problem that we had with the ECB attempt to exclude London from euro-denominated clearing activities. We need the integrity of the single market to be protected—the same case is played in evidence. We need a commitment that any changes which the eurozone needs to make in order to support the currency that might have to be imposed on eurozone countries would never be imposed on non-eurozone; they would be voluntary for non-eurozone countries. We need an absolute commitment, following the EFSM fiasco, that taxpayers in non-eurozone countries will never

be forced to pick up the cost of supporting the euro through action in eurozone countries. That is it in a nutshell.

**Q175 Baroness Wilcox:** I have two questions to follow up on this. I think you will say no to the first one. Is there a risk that in arguing for symbolic changes such as the formal acknowledgement that the EU has more than one currency, the UK Government could lose sight of the more pragmatic and effective solutions?

**Philip Hammond MP:** I do not think so. I start from the principle that I have a problem with being a member of an organisation that cannot acknowledge a blatant fact that is staring it in the face. It is the case that the European Union has more than one currency. It is the case that at least two countries have a permanent opt-out from the need to join the euro. So it is a statement of fact, and I expect the European Union to be able to acknowledge the fact.

**Baroness Wilcox:** Right. Would it be possible to draw on some of the legal precedents set up in the banking union to achieve this vision of a balanced relationship between the euro ins and the euro outs?

**Philip Hammond MP:** We are seeking to agree a mechanism that allows us all to go forward. We have always believed, although I am not sure that every country in the eurozone believes, that the eurozone economies will have to integrate more closely. There will have to be a degree of political and social integration to underpin the success of the euro in the medium to long term. It is very important to us that the euro is a success, because the eurozone is our largest trading partner. We do not want to be in the position of having to act as a drag anchor on the eurozone trying to get its act together to support the euro and make it a successful currency, because our equities are not protected. So we are seeking a win-win for the non-euro countries and the euro countries. By getting this relationship properly codified and creating the mechanisms to regulate it, we will be allowed to be relaxed when the eurozone countries decide that the time is right for them to take further steps towards integration, so long as those steps of integration do not drag us along with them and so long as they do not disadvantage us, for example by undermining the single market or by imposing additional burdens on the UK. That is what we are trying to get right, and fortunately the great majority of eurozone countries have been enlightened enough to recognise that it is in their interest to have us supportive of that agenda when the time comes for it.

**Q176 Lord Borwick:** Foreign Secretary, the phrase used by the Prime Minister was: “one clear commitment that writes competitiveness into the DNA of the whole European Union”. In your *Guardian* interview, I think you said: “For me the test is ‘have we passed the high-water mark of EU intervention in our national life’”. As you may know, on this Committee’s



agenda before you arrived was the subsidiarity assessment reform of the electoral law of the EU, on which the European Parliament seems to us to have done something that we believe is a breach of the subsidiarity principle. Using that as an example, how, in your opinion, is this high-water mark thing going? Have we reached this high-water mark? Does it look like it?

**Philip Hammond MP:** As far as the UK is concerned, that is the clear intention behind this negotiation, the package that we will deliver: to be able to look the British people in the eye and tell them that we have reached the high-water mark and that the intrusive involvement in our national life, which frankly so irritates so many people in this country, is a thing of the past and that we will see gradually—it is not going to happen overnight—powers that no longer need to be exercised in Brussels being returned to the member states. This is not a new idea; the member states made a commitment with the Laeken declaration in, I think, 2004 that powers would flow back to the member states. So far it has not happened, so we are taking a commitment that the European Union has already made and asking in this negotiation to put robust mechanisms in place to operationalise that commitment. We are suggesting that the national parliaments should be involved in driving the delivery of that commitment, since subsidiarity is an issue that touches directly on the interests of the national parliaments. There is a surprising degree of agreement on this. Even in the Commission there is recognition that there is a clear case for Brussels focusing on the things that it really needs to do to make a difference; and in accordance with the principle that many member states, including the UK, adopt, it is better to deal with things as close to the citizen as it is practical to do. In many cases, powers that are currently held in Brussels could perfectly well be devolved back to the member states, or even down from the member states to regional or local authorities, to exercise without any detrimental impact on the functioning of the European Union. That is what we want to see happening.

**The Chairman:** Given that the REFIT programme is already in place, for example, and First Vice-President Timmermans is going around looking for these kinds of changes, and given, as you said, that this is not a private British agenda—a lot of member states agree—what is the value added of the negotiation process? Would this have happened anyway now, albeit that it did not happen in the past, or do you think there is a positive virtue in putting it through the lens of the negotiations now reaching their conclusion in Brussels?

**Philip Hammond MP:** First of all, we do not think that it is entirely a coincidence that the Commission is proactively engaging with some of these agendas. This is an agenda that the UK has pushed very hard. It is an agenda that I think the Commission early on and to its credit decided that it wanted to embrace, partly at least in response to the pressure from the

UK to address these areas. But there is also no doubt in my mind that the economic recession has caused a rethink in a number of European Union countries that perhaps would have said in 2006-07 that the most important thing for them was protecting the European social model but are now saying that the most important thing for them is creating economic growth and jobs and protecting standards of living in their countries.

What we are adding here is the bit that Lord Borwick quoted from the Prime Minister about baking this into the DNA of the European Union. It is not enough that one Commission comes along that has a certain agenda. It is not enough that we have the good fortune to have Frans Timmermans, who is a thoroughly sensible person as First Vice-President of the Commission. We need to institutionalise this agenda so that ensuring the European Union's continued competitiveness in the global economy becomes a principal, if not the principal, driving force and work programme of future Commissions. We are looking here to institutionalise a process, and this runs as a theme across these negotiations. We talked earlier about the yellow card process. This Commission said at its inception that it would respect yellow cards delivered by national parliaments, which is very good, but that is not enough. We do not need this to be at the discretion of an individual Commission; we need it to be a standing institutional arrangement for the European Union, Commission after Commission, whatever the personal views and preferences of the individual Commissioners or Presidents of the Commission.

**The Chairman:** To summarise in a sentence, you need to ensure that the Commission both gets it and keeps on getting it.

**Philip Hammond MP:** Yes, we need to bake it into the DNA of the institution.

**The Chairman:** Lord Mawson has a quick point on that. I ask for a bit of restraint on the part of my colleagues, but please go ahead.

**Lord Mawson:** The sub-committee that I sit on is looking at the whole question of digital platforms, and one is beginning to get a sense of how the internet is becoming a defining principle of our age, which has massive implications for the need for innovation. In the middle of all this, there is a challenge to the very practicalities of the institutions of government, in Europe and elsewhere, about how you make sure you have the Civil Service and the skills in the system that deal with the modern world as it is, because if these things are going to happen, how do we ensure that the practical skills are there? When I listen to some of the discussion on digital platforms, there is lots of talk with lawyers but not actually many people on board who have the real business and innovation skills in the system to know how

to deal with the modern world that we are all now entering. How do you deal with that practicality?

**Philip Hammond MP:** Making the European Union economy more open to innovation is one of the big challenges, and it is a multifaceted challenge: it is about the European Union being willing to act quickly and effectively to change regulations where regulations are standing in the way of innovation; it is about ensuring that small business, because that is where most of the innovation takes place, has a clear voice on European Union regulation and legislation; and it is about making sure that in the way we operate at national level, at European Union level, at every level that we are focused on the need to sweep away restrictions that prevent that innovation process. That includes things like reform of capital markets to make it possible for innovative businesses to raise funding in the European Union in the way they do in the United States. We in the UK can be proud that we are much better at this than almost anywhere else in the European Union, but not so proud that we are much worse at it than the United States. We have to try to draw on the model that works in the United States and adapt it for European Union conditions to ensure that the European Union is one of the great centres of innovation for the digital age. If I may say so, one of the things that the European Union would lose if it was unwise enough to allow the British people to exit would be its greatest powerhouse of business innovation.

**The Chairman:** Lord Caithness, a quick supplementary.

**Earl of Caithness:** Could you write to us please, following your answer to Lord Borwick, on how you plan to control the European Parliament? You mentioned the Commission, but if you could write to us about controlling the excesses of the Parliament, that would be helpful.

**Philip Hammond MP:** I do not think I said anything about controlling the Parliament. I said that we recognise that the Parliament will play an important role in this process, and we have engaged with it accordingly.

**The Chairman:** This Parliament will need to control itself this afternoon, because we have about 15 minutes left of your time.

**Philip Hammond MP:** I will, of course, write to you.

**The Chairman:** Thank you. I just ask my colleagues to be as crisp as they can and, indeed, we will understand the Foreign Secretary's answers in the same way.

**Q177 Lord Green of Hurstpierpoint:** Foreign Secretary, could we ask you to elaborate on the thinking behind the focus on Britain's obligation to work towards ever closer union? You might say that we have to some extent covered the points already, but I would be grateful if you could explore whether this is seen as something that is primarily symbolic, although not

unimportant, or whether it is also seen as having an implication for jurisprudence and therefore has a practical effect? If it is primarily symbolic, is that because the phrase “ever closer union” of peoples gets automatically translated into “ever closer political union”, and because of that translation we need to worry about what it says? Finally, do we still need to worry about it, given what the second half of the sentence says about decisions being taken “as close to the citizen as possible ... in accordance with the principle of subsidiarity”?

**Philip Hammond MP:** I could respond to the Chairman’s exhortation by saying yes to that question. You are exactly right, of course: it is an important, symbolic statement, because whatever the actual words in the preamble to the treaty say, the phrase “ever closer union” has come to symbolise what I think most people in this country think of as a ratchet effect: that it is a one-way mechanism, a treadmill on which you have to keep running. That has been many people’s experience of the European Union: that it feels as though no sooner is one step taken than the next step is embarked upon. That is not the kind of world that most people want to live in; they want to feel that the institutional structure around their lives is reasonably stable, that they understand it, and that they can plan to work within it. But it also has a relevance to European jurisprudence and, as I am sure Lord Green will know, the European Court of Justice has previously referred to the spirit of the treaties in its ruling, and it is clear that the principle of closer political union is seen as part of the spirit of the treaties. That might be right for some; it is not right for Britain, and we need to be able to make explicitly clear that Britain is not going down that route of closer political union and cannot be dragged into closer political union. By making that explicit, we will allow the British people to focus on the practical issues relating to the economic aspects of the Union, which we think, frankly, are the most important aspects.

**Lord Green of Hurstpierpoint:** I guess it could be argued, Foreign Secretary, that if this is the correct resonance of that phrase in the preamble, and therefore creates the problem in the British mind, then given everything else that we have been saying about the importance of openness and flexibility for the Union as a whole and not just for Britain, this might need addressing in the interests of the EU as a whole and not just as a piece of British exceptionalism.

**Philip Hammond MP:** Yes, and while it is tempting to say, “Come on, what’s in a phrase in the preamble?”, I think the answer is that quite a lot of discussion has taken place about this, and there are definitely some individuals, perhaps some member states, who feel very strongly about this. So it is not just symbolic; it is very important symbolically, and for us it will send a very clear and strong message that the European Union has understood that its future has to

be about driving jobs, growth and living standards, rather than just some abstract notion of ever closer union.

**The Chairman:** Again, Foreign Secretary, you are presumably looking for something further in this case than the European Council conclusions of 2014. You want to build on that, but you want an additional reassurance.

**Philip Hammond MP:** Yes, that is definitely language heading in the right direction, but it is not robust enough.

**Q178 Lord Jay of Ewelme:** There has been lots of noise around recently, on the BBC and in the *Sunday Times* and elsewhere, about a plan after the renegotiation to change domestic law to make it clear that Parliament is sovereign and that UK courts cannot be bound by, for example, the EU Charter of Fundamental Rights. The *Sunday Times* suggests that Michael Gove, borrowing ideas from Boris Johnson, has been asked to come up with some kind of masterplan to put this into effect. Can we expect a Michael Gove masterplan to be unveiled on the startled world in this way?

**Philip Hammond MP:** I do not know how startled the world should be. Since we made a commitment in our election manifesto to pursue the Bill of Rights, I think that the world should be expecting it in due course. It is indeed the Justice Secretary who is charged with taking this agenda forward—but it is a complex agenda, and it is going to need some very careful consideration across government and beyond. Of course, the EU Charter of Fundamental Rights, we are clear, does not create any new rights in the UK, unless they are provided for in domestic law. The wider issues about the ECHR and how it interacts with our own constitutional arrangements, the observations that have been made about how the constitutional arrangements of some other EU countries—notably Germany—seem to have an interesting interaction with their EU obligations, are all interesting and important points that the review that is being carried out by the Justice Secretary will want to cover. But this is not fundamentally an EU issue; the ECHR and the Council of Europe are quite separate, of course, from the European Union.

**Q179 Baroness Armstrong of Hill Top:** There is speculation about what will happen if the British public vote to leave the European Union, but I cannot recall the Government saying anything about that. Can you take us through whether there is any thinking, and what that thinking might be, on the timescales and legal issues and what processes there might be? Some people have talked about Norway and its experiences. Where do the Government sit with all that?

**Philip Hammond MP:** We have said that although the referendum is not legally binding, it will be politically binding—and if there is a referendum decision that Britain should exit, we will serve a notice under Article 50 of the treaty of Rome and begin the process of negotiating exit arrangements. That is uncharted territory, because no country has done it before. Various people talk about the Norwegian and Swiss model. We should not delude ourselves: Norway and Switzerland are important but tiny economies, and in Norway's case a very unusual economy in that it has an extraordinarily high GDP per capita based on its good fortune to be sitting on a sea of gas. Both countries pay a very high price to retain access to the European single market. Indeed, both countries are required to comply with all EU regulations, including regulations on freedom of movement, establishment and settlement and to make a financial contribution to the European Union equivalent to that which they would have had to make if they were member states. I imagine that those who are arguing for Britain to leave the European Union are not arguing for Britain to do so and to carry on paying the sub and being bound by all the regulations, restrictions and free movement principles. So they would not recommend the Swiss or Norwegian models, I am sure. It is impossible to know what kind of arrangements could or could not be negotiated, were an Article 50 notice to be served. We are in the realms of pure speculation at that point. What I can say is that this will not be an immediate and probably not a quick process. For that reason, the Government have not found it necessary to do any contingency work in this area. We would expect there to be a period of years, certainly, during which these discussions would take place and any arrangements that needed to be made could be put in place.

**Q180 The Chairman:** Thank you, Foreign Secretary. We are beginning to work towards the close of this session. At the end, we will offer you a transcript for any corrections—and I shall make a verbal one now on your behalf, because you said Article 50 of the treaty of Rome, when I think that you meant the Lisbon treaty.

I have one final question on behalf of the Committee, and it is partly an impression. It was clear to us from a number of discussions with representatives of other member states and around the way in our travels that there was a fairly warm welcome to the Prime Minister's references in his November Chatham House speech to the changed global environment. Some of that, as we all know to our distress, is not welcome—terrorism, for example. But it is a risky world out there, and particularly welcomed were his references to the growing security threats facing European countries, and European Union countries. I noticed that the Prime Minister picked up some of those themes again in his speech in Davos recently. As Foreign Secretary, will you make the case that it is in the United Kingdom's vital national interest to

continue to work closely with European Union partners in responding to these challenges together?

**Philip Hammond MP:** The UK enjoys probably an unrivalled web of networks, if you can have a web of networks. We are a permanent member of the Security Council, a member of NATO, a member of the European Union and the Commonwealth, and we use all those organisations to the full in furtherance of our national interests and the pursuit of our national security. There are undoubtedly areas where the European Union adds weight to our ability to operate. For example, as Russia has developed an asymmetric approach to warfare and strategic challenge, so the European Union has discovered the power of economic sanctions; that is a competence that the European Union holds, not the individual member states. It is clear that, used properly and consistently, the power to impose economic sanctions by a bloc that represents 25% of the world's GDP is a powerful tool, short of military action but well ahead of words of exhortation. The European Union has shown its value in being seen to be a relatively neutral partner and not aligned with one of the great power blocs—for example, in the Iranian nuclear talks, where the EU played a very important role. The Iranians would not have got where they did, I think, if it had not been for the EU's ability to facilitate. The EU also has a role to play in complex stabilisation situations where it is not just about some kind of military or peacekeeping intervention; it is also about delivering good governance, capacity building and post-conflict reconciliation, along with reconstruction and development assistance—what the EU calls the comprehensive approach. We very much advocate the European Union building on this particular area of expertise, where we think it has a niche capability that complements very well what NATO does in high-end war fighting. We are very keen to avoid duplication and very keen to encourage complementarity.

**The Chairman:** Thank you for that insight and, more generally, for your time this afternoon and for the thoughtfulness of your answers, which is greatly appreciated. We look forward to encouraging you to come again perhaps on a future occasion. It has been very valuable to us and we are very grateful.