

# Arguments against European centralisation

European Foundation Working Paper number 7

*by Allister Heath*<sup>1</sup>

8 April 2001

This short briefing paper is intended to provide some background information on a handful of issues relating to European integration and to the gradual creation of a centralised EU government. I address briefly the following four topics:

1. The rise of QMV and why this is bad for Britain
2. The introduction of socialist legislation under false pretences as part of the “single market”.
3. The costs of the CAP
4. EU protectionism

## Part 1: The rise and rise of QMV

Although QMV has proved of some use in promoting economic liberalism in a few areas of public policy, the rise and rise of QMV has little to do with free trade. The standard justification for its massive extension in the last fifteen years or so is that the national veto “is not compatible with the single market” in an increasingly large and diverse EU. It seems in reality that the “single market” has come – quite conveniently, from Brussels’ perspective – to be understood as including virtually every aspect of EU business. The removal of barriers to trade and obstacles to the free movement of people – laudable aims in themselves, and to what the British thought they had signed up – has become a convenient excuse to centralise more and more powers at EU level.<sup>2</sup> Here is a rough estimate of the gradual erosion of the right of veto:

Vetoes abolished:<sup>3</sup>

- 38 at Rome
- 37 in the Single European Act
- 41 at Maastricht
- 19 at Amsterdam
- 43 at Nice

There are other estimates (for example, official Conservative Party estimates for Amsterdam and Nice) but we believe that those reproduced here are the most accurate.

---

<sup>1</sup> Allister Heath is Head of Research at the European Foundation and Executive Editor of the *European Journal*. He can be reached at [allister\\_heath@yahoo.co.uk](mailto:allister_heath@yahoo.co.uk)

<sup>2</sup> The remainder of this first section draws heavily on a forthcoming publication on Nice by Bill Cash, MP.

<sup>3</sup> Lee Rotherham (2001), *Nice Unravelling: assessing the French Presidency documents*, Southend-on-Sea: Conservatives Against a Federal Europe. The figures Rotherham uses are partly drawn from House of Commons research.

The best estimate is that approximately 90% of all decisions taken by the Council of Ministers are now done by Qualified Majority Voting rather than by unanimity. Ironically, one of the only areas where extending QMV would actually be in Britain's interests is agriculture, but of course the French Presidency put paid to that.<sup>4</sup> (See also section III of this paper.)

## Why QMV is wrong

Writing in *The Times*<sup>5</sup>, Robin Cook and Menzies Campbell said “Negotiating concessions are described in hysterical terms while real achievements are ignored or taken for granted. Take qualified majority voting (QMV). This is routinely portrayed by Eurosceptics as a threat and any move in that direction as a surrender by Britain. The facts tell a different story. In 1998-99 there were 85 QMV votes in the Council of Ministers. Britain was outvoted or abstained five times – fewer than either France or Germany. But there were 80 occasions on which measures backed by Britain were agreed because of QMV – measures that would otherwise have been blocked by someone's veto... Any idea of extending QMV in areas in the British interest is rejected by some Tories who approved a much more significant extension of QMV in the Single European Act and Maastricht treaty.” Messrs Cook's and Campbell's argument was made a few weeks after similar statistical research by *The Times* into the relative impact of Qualified Majority Voting on Britain and other EU countries<sup>6</sup>. *The Times* found that Britain had been forced to go along with EU measures which it opposed only 24 times in since 1996. Not surprisingly, this argument is fundamentally flawed and displays a poor understanding of the way voting in the Council of Ministers is organised. The system used is very informal by the standards of democratic accountability we are used to in the UK.

## Voting in the Council of Ministers

This section attempts to understand how often the UK is outvoted in QMV in the Council of Ministers and tries to shed some light how many occasions the UK supported a QMV measure to which there was opposition from elsewhere in the EU.

The problem is that the Council does not always record formal votes, and when there is an indication that Member States intend to reject the proposal (in COREPER i.e. the Committee of Permanent Representatives<sup>7</sup>; or in the Council itself, for example), to

---

<sup>4</sup> For a detailed analysis of why extending QMV would actually help in the one area of agriculture, and why French President Jacques Chirac's policy is understandable, see Matthew Elliott and Allister Heath (2000) “The failure of CAP reform: a public choice analysis”, *Economic Affairs* 20(2): 42-48, available online at <http://www.iea.org/economicaffairs/pdfs/ea202/ea202elliott.pdf> (accessed 6 April 2001)

<sup>5</sup> Robin Cook and Menzies Campbell, Our chance to see eye to eye on Europe, *The Times*, 3 January 2001. Available at <http://www.thetimes.co.uk/article/0..248-61361.00.html> (accessed 6 April 2001).

<sup>6</sup> “Where Britain paid the price for losing EU veto”, Martin Fletcher, *The Times*, 18 November 2000. Available at [www.thetimes.co.uk/article/0..2-37830.00.html](http://www.thetimes.co.uk/article/0..2-37830.00.html) (accessed 6 April 2001)

<sup>7</sup> COREPER is one of those mysterious albeit important institutions that are so typical of the EU. Every member state maintains an embassy-like Permanent Representation in Brussels. The UK delegation consists in around forty staff plus a number of assistants. Approximately half the Representation comes from the FCO and the remainder come from other ministries. COREPER is officially responsible for going through and preparing the work of the Council and basically

the extent that it might not be adopted, the Council will often continue discussion until there is a greater degree of certainty on the adoption of the measure. The act will then be adopted without a formal vote being taken. In other words, the system is rigged to favour positive outcomes, invalidating Robin Cook's argument. The academic Martin Westlake describes the informal voting system as follows:

For the most part, despite the provisions of the Single European Act and the Maastricht Treaty, the decline of the Luxembourg Compromise, and the introduction into the Council's rules of procedure of the possibility for the Commission or any Member State to propose that a vote should be called, the Council does *not* vote, in the formal sense of raising hands or stating positions. There are a number of reasons for this. The most important is the Council's traditional working method. In the case of 'A points' (that is, points where complete agreement has been reached at COREPER level and no further discussion is required), the President simply notes that they have been adopted. A large number of proposals can be adopted, in this way, by one sentence from the Chairman. ... In the case of 'B points', where further discussion is required, the Presidency will know exactly what the outstanding points are and what the various Member States' positions are on them. He will know what is required to achieve an appropriate majority and, just as important, what is politically appropriate to the situation. For example, on relatively minor issues Member States may not mind a decision going against them. On larger issues the Presidency may prefer to engage in further talks to find a suitable compromise that would bring a Member State on board. However, at some stage the Presidency will decide that he has enough Member States on board, that he has done all that he can for those that remain outside the majority consensus, that it would not be politically inappropriate to move to a decision and that, therefore, the time is ripe to take that decision. That decision may then be taken by the simple expedient of the President noting that the required majority has been achieved. Should nobody object, the proposal is deemed adopted, without there having been recourse to a formal vote. Because the Council's voting behaviour has until recently been entirely confidential, no general statistics are available, but it is thought that the bulk of the Council's legislative work is expedited in this way.

... it is relatively rare for the Council to vote formally. However, this does not mean that the calculation of majorities is unimportant. The Presidency and the Commission both spend calculating how a necessary majority could be constructed. The fact that a vote is not taken does not mean that a required majority does not exist, but that it was not put to the test in a vote. The Member States' representatives know when they are in a minority position and could be outvoted. Any further negotiation once a required majority has been established will be the result of a magnanimous Presidency's determination to go 'that extra mile' and bring on board as many Member States as possible, or they may flow from the realization that further compromise or concession is possible. In both cases, the Presidency's action is based on the Council's fundamental consensual urge ... Nevertheless, the existence, or potential existence, of an appropriate majority is always at the back of the President's mind.<sup>8</sup>

It is therefore difficult and highly inaccurate to give figures for voting records, where formal votes only represent a minority of the decisions taken in the Council or of those that are made public. However, we have compiled the following figures over a twelve-month period from December 1999 to November 2000, using information

---

performing whatever tasks are assigned to it by the Council. Just to complicate matters even further, there are really two COREPERs: COREPER 2, which is more important, and COREPER 1 staffed by more junior personnel. COREPER 2 is basically concerned with the Foreign Ministers and with ECOFIN. For more information on COREPER see for example Neill Nugent (1999) *The Government and Politics of the European Union*. London: Macmillan.

<sup>8</sup> Martin Westlake, *The Council of the European Union*, 1999, pp. 87-88.

from the “transparency” section of the Council of Ministers website.<sup>9</sup> In the footnotes I describe the proposed legislation and subject matter in each instance where there was a registered rejection or an abstention. I should add that these are approximate figures and that we are only providing the data to demonstrate once and for all just how misleading Robin Cook and Menzies Campbell’s figures really are.

<b>Month/year</b>	<b>Legislative texts adopted<sup>10</sup></b>	<b>Votes against and abstentions</b>
December 1999	67	UK and Germany abstained; Portugal against <sup>11</sup> Portugal abstained <sup>12</sup> Belgium against <sup>13</sup> Netherlands against, UK abstained <sup>14</sup>

<b>Month/year</b>	<b>Legislative Texts adopted</b>	<b>Votes against and abstentions</b>
		Italy against <sup>15</sup> France against <sup>16</sup> France against <sup>17</sup> Denmark against <sup>18</sup> Spain against <sup>19</sup>
January 2000	22	Denmark against <sup>20</sup>
February	27	
March	34	Germany and Austria against <sup>21</sup>

<sup>9</sup> <http://www.europa.eu.int/>.

<sup>10</sup> Including Council/Council & EP Regulations, Directives, Decisions; excluding Council Common Positions, Opinions, Resolutions, Recommendations and Joint Actions.

<sup>11</sup> Council Regulation amending Regulation (EC) No. 1251/99 establishing a support system for producers of certain arable crops.

<sup>12</sup> Council Regulation laying down certain control measures applicable in the area covered by the Convention on future multilateral cooperation in the north-east Atlantic fisheries.

<sup>13</sup> Council Regulations fixing for the 2000 fishing year: guide prices for certain fishery products in Annexes I and II to Regulation (EEC) No. 3759/92; Community producer price for fishery products in Annex III of same.

<sup>14</sup> Council Regulation laying down detailed rules and arrangements regarding Community structural assistance in the fisheries sector.

<sup>15</sup> Council Regulation amending Regulation (EC) No. 745/99 opening and providing for the administration of autonomous Community tariff quotas for certain fishery products.

<sup>16</sup> Council Regulation fixing for 2000 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required and amending Regulation (EC) No. 66/98.

<sup>17</sup> Council Regulation providing for the general rules for a compulsory beef labelling system.

<sup>18</sup> Council Directive on the marketing of forest reproductive material.

<sup>19</sup> Council Decision on the improvement of information on the Council’s legislative activities and the public register of Council documents

<sup>20</sup> Council Decision amending Decision 76/228/ECSC on the granting of daily subsistence allowances and refunds of travel expenses to members of the Consultative Committee of the European Coal and Steel Community.

			Denmark, Finland, Netherlands abstained <sup>22</sup> Germany against <sup>23</sup>
April	17		Netherlands against <sup>24</sup> Belgium, Denmark, UK abstained <sup>25</sup> Denmark against <sup>26</sup>
May	33		Belgium against <sup>27</sup>
<b>Month/year</b>	<b>Legislative Texts adopted</b>		<b>Votes against or abstentions</b>
June	40		Greece against <sup>28</sup> Sweden, UK against <sup>29</sup>
July	31		Italy against <sup>30</sup>
August/September	38		Austria against, Belgium abstained <sup>31</sup>
October	24	-	
November	45		France against <sup>32</sup>

<sup>21</sup> Council Decision designating a specific institute responsible for establishing the criteria necessary for standardising the serological tests to monitor the effectiveness of rabies vaccines.

<sup>22</sup> Council Decision concerning aid granted in Italy by RIBS S. p. A. in accordance with the provisions of national law No. 700 of 19 December 1983 on the restructuring of the sugar beet sector.

<sup>23</sup> Council Regulation on closer dialogue with the fishing sector and groups affected by the common fisheries policy.

<sup>24</sup> EP/Council Decision establishing the 'Youth' Community action programme.

<sup>25</sup> Council Regulation supplementing Annex to Commission Regulation (EC) No. 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Regulation (EEC) No. 2081/92.

<sup>26</sup> Council Regulation on information measures relating to the common agricultural policy.

<sup>27</sup> EP/Council Directive relating to cocoa and chocolate products intended for human consumption.

<sup>28</sup> EP/Council Directive on the taking up, pursuit and prudential supervision of the business of electronic money institutions.

<sup>29</sup> Council Regulation fixing certain sugar prices and the standard quality of beet for the 2000/2001 marketing year.

<sup>30</sup> Council Regulation amending Regulation (EEC) No. 3508/92 establishing an integrated administration and control system for certain Community aid schemes.

<sup>31</sup> Council Regulation amending Annex 4 to Protocol No. 9 to the 1994 Act of Accession and Commission Regulation (EC) No. 3298/94 with regard to the system of ecopoints for heavy goods vehicles transiting through Austria.

<sup>32</sup> Council Regulation establishing additional technical measures for the recovery of the stock of cod in the Irish Sea.

## **Part II: The single market – socialism through the back door?**

### EC Legislation and Legal Base Disputes

There are a number of examples of EC legislation adopted under what I believe should be called ‘false pretences’, in other words adopted under a disputed legal base. The disputes are solely about whether or not a power has been included in one of the treaties – they are not about whether or not a particular article or provision *should* have been included.

In other words, the disputes are – at least in theory – not about normative issues but are about matters of fact: whether or not the UK has surrendered a particular power and so whether or not directives based on that power are legal or not. Unfortunately, this would be to assume away the whole problem of legal activism: politicised judges that deliberately distort Treaties to advance their own interests and ideology. In the case of the European question, this means increasing the powers of the EU and diminishing the importance of nation-states. At the end of the day, the (rhetorical) question is: who guards the guardians?

The Commission proposes legislation based on what they claim is a relevant Treaty Article or Articles. This determines which legislative procedures apply. The Commission’s Legal Service decides on the Treaty base. This is usually considered straightforward and uncontroversial by europhiles, but is sometimes queried by the EP or by a Member State during consideration in Council. Unfortunately, it is impossible for outsiders to track disputes over Treaty base in the Commission and difficult during the later stages. The Government may indicate its objection to a proposed Treaty base in its Explanatory Memoranda to the European Scrutiny Committee, but it would be impossible to track these without spending huge amounts of time sifting through material.

Once legislation is adopted, those countries to which it applies must implement it. The legal base may be challenged, however, via an action under Article 173 at the Court of Justice (ECJ). This is what the Conservative Government did, unfortunately unsuccessfully, in the case of the Working Time Directive.

### EC directives

I’ve chosen to concentrate on a couple of examples from the employment field where it is alleged that the wrong Treaty base has been used, or that the subsidiarity principle has been breached.

The *Working Time Directive* is the obvious example of a directive adopted despite considerable controversy over its Treaty base. The current controversy surrounding the *Proposed Directive on Informing and Consulting Employees* revolves around the issue of subsidiarity, although the Treaty base has also been questioned.

### *Working Time Directive*<sup>33</sup>

On 12 November 1996, the ECJ rejected the UK Government's challenge to the *Working Time Directive*, adopted on 23 November 1993 and due to be implemented in all Member States by 23 November 1996.<sup>34</sup> The Directive was adopted using the Qualified Majority (QMV) procedure under Article 118A of the EC Treaty (health and safety). The UK argued that working time was not a health and safety issue, and that a different article requiring unanimity should have been used (basically because of John Major's opt-out from the Social Chapter). But the ECJ interpreted the scope of the Article ludicrously broadly to cover all matters relating to the physical, mental and social well-being of workers in their working environment.

Article 118A of the Treaty of Rome, as amended by the Single European Act, is reproduced below:

1. Member States shall pay particular attention to encouraging improvements, especially in the working environment, as regards the health and safety of workers, and shall set as their objective the harmonization of conditions in this area, while maintaining the improvements made.

2. In order to help achieve the objective laid down in the first paragraph, the Council, acting by a qualified majority on a proposal from the Commission, in cooperation with the European Parliament and after consulting the Economic and Social Committee, shall adopt, by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States.

Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

3. The provisions adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing more stringent measures for the protection of working conditions compatible with this Treaty.

The UK Government sought annulment of the Directive on four grounds, the most important of which was that Article 118A was not an appropriate legal base for the adoption of a directive on the organization of working time.<sup>35</sup> It argued quite reasonably that directives adopted under Article 118A must have "a genuine objective link between health and safety, on the one hand, and the situation to be regulated, on the other". However, neither the (arguably politically motivated) Advocate General nor the

---

<sup>33</sup> This section follows very closely the House of Commons Library Research Paper 96/106, dated 19 November 1996, on *The Working Time Directive*. The *Working Time Directive* was progressed under the provisions of the EC Treaty before it was amended to include the Social Chapter "opt-out" agreed at Maastricht.

<sup>34</sup> 93/104/EC

<sup>35</sup> The four pleas were: lack of jurisdiction/defective legal base; breach of the principle of proportionality; misuse of powers; and infringement of essential procedural requirements

European Court were swayed by this argument.<sup>36</sup> They agreed with the Council's much broader interpretation of the scope of the Article. The ECJ predictably ruled that:

There is nothing in the wording of Article 118a to indicate that the concepts of 'working environment', 'safety' and 'health' as used in that provision should, in the absence of other indications, be interpreted restrictively, and not as embracing all factors, physical or otherwise, capable of affecting the health and safety of the worker in his working environment, including in particular certain aspects of the organization of working time. On the contrary, the words 'especially in the working environment' militate in favour of a broad interpretation of the powers which Article 118a confers upon the Council for the protection of the health and safety of workers. Moreover, such an interpretation of the words 'safety' and 'health' derives support in particular from the preamble to the Constitution of the World Health Organization to which all the Member States belong. Health is there defined as a state of complete physical, mental and social well-being that does not consist only in the absence of illness or infirmity.<sup>37</sup>

The UK had also argued that there was no scientific evidence of a link between the organisation of working time and health and safety. In a particularly outrageous ruling, the ECJ decreed that, regardless of the merits of the scientific argument:

Legislative action by the Community, particularly in field of social policy, cannot be limited exclusively to circumstances where the justification for such action is scientifically demonstrated.<sup>38</sup>

The ECJ did support the UK on one point and annulled the second sentence of Article 5 which stated that the minimum weekly rest period (amounting to 35 hours) should "in principle include Sunday". The Court stated that:

The Council has failed to explain why Sunday, as a weekly rest day, is more closely connected with the health and safety of workers than any other day of the week.<sup>39</sup>

The ECJ's interpretation of Article 118A's expression "encouraging improvements, especially in the working environment, as regards the health and safety of workers", was a breathtakingly obvious example of judicial activism which should have put paid once and for all to any hope of obtaining justice from an EU-controlled court. A whole range of measures, particularly those concerned with job security, could of course be said to contribute to a worker's "physical, mental and social well-being". At the time, it was rightly feared by Eurorealists that many proposals concerned with working conditions, for example, on parental leave or equal rights for part-time workers, possibly even on pay or dismissal, could be dealt with under Article 118A and so be subject only to qualified majority voting (QMV).

---

<sup>36</sup> See, eg, Opinion of Advocate General Leger delivered on 12 March 1996, Case C-84/94, *United Kingdom v Council of the European Union* (Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time - Action for annulment), para 37

<sup>37</sup> Judgment of the Court, 12 November 1996, in Case C-84/94, *United Kingdom of Great Britain and Northern Ireland v Council of the European Union*, para 15

<sup>38</sup> *Ibid*, para 39

<sup>39</sup> *Ibid*, para 37

### ***Proposed Directive on Informing and Consulting Employees***<sup>40</sup>

On 11 November 1998, the European Commission issued a *Proposal for a Council Directive establishing a general framework for informing and consulting employees in the European Community*.<sup>41</sup> This would require Member States to ensure that undertakings with at least 50 employees established procedures for the information and consultation of their workforce.

The Labour Government is opposed to this proposal, largely because they believe it breaches the principle of subsidiarity. In a Supplementary Explanatory Memorandum (EM) on the most recent version of the proposal, issued 21 November 2000, the DTI said:

The Government is not persuaded of the need for a directive on information and consultation in companies operating only at national level, which is difficult to reconcile with subsidiarity and would cut across existing practices in member states to no benefit.

The supplementary EM also questions the Treaty base:

The Government also considers that the proposed legal base of the proposal may be inadequate, insofar as aspects of it may be more appropriate to article 137(3) of the Treaty in that they touch on the representation and collective defence of workers and employers, including co-determination, rather than information and consultation per se.

The proposed directive is now being progressed under Article 137(2) of the Treaty establishing the European Community, as amended by the Treaty of Amsterdam. Article 137 (1)-(3) is reproduced below. Article 137(2) is QMV and Article 137(3) is unanimity:

Article 137 (ex Article 118)

1 With a view to achieving the objectives of Article 136, the Community shall support and complement the activities of the Member States in the following fields: -

- improvement in particular of the working environment to protect workers' health and safety;
- working conditions;
- the information and consultation of workers;
- the integration of persons excluded from the labour market, without prejudice to Article 150;
- equality between men and women with regard to labour market opportunities and treatment at work.

2. To this end, the Council may adopt, by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid

---

<sup>40</sup> Further details of this proposal are contained in BTS standard note, *National Works Councils*, 27 February 2001.

<sup>41</sup> COM(1998) 612 final, 11 November 1998, [http://www.europa.eu.int/eur-lex/en/com/dat/1998/en\\_598PC0612.html](http://www.europa.eu.int/eur-lex/en/com/dat/1998/en_598PC0612.html) (accessed 7 April 2001)

imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The Council shall act in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee and the Committee of the Regions.

The Council, acting in accordance with the same procedure, may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences in order to combat social exclusion.

3. However, the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions in the following areas:

- social security and social protection of workers;
- protection of workers where their employment contract is terminated;
- representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;
- conditions of employment for third-country nationals legally residing in Community territory;
- financial contributions for promotion of employment and job-creation, without prejudice to the provisions relating to the Social Fund.

Hardly surprisingly given the ideology of its members, the European Scrutiny Committee is not totally convinced by the Government's arguments on either subsidiarity or the Treaty base. In their *Thirtieth Report* in the 1999-2000 session, they concluded:

- (1) We understand why the Government does not consider that the subsidiarity case has been met. However, as Article 2 makes clear, the Treaty has social obligations as well as economic ones, and it is arguable that some legislation of this kind is needed at Community level to balance the competitive pressures (resulting from the single market and economic and monetary union) which may otherwise induce companies to neglect employees' interests. We would be interested in the Minister's views on this wider point.
- (2) We have yet to be convinced that aspects of the proposal may be more appropriate to Article 137(3) as they touch on the representation and collective defence of workers. We do not consider that the Minister has substantiated his case.<sup>42</sup>

---

<sup>42</sup> HC 23-xxx, 1999-2000

## Part III: The disastrous CAP

### *Failure to reform*

The Berlin summit held in late March 1999 was supposed to launch the EU's Agenda 2000 programme for agriculture.<sup>43</sup> Despite nineteen months of negotiations, the summit proved a total failure and we are stuck with the CAP.

The following table compiled by the Institute of Directors is a useful summary of what is wrong with the CAP:<sup>44</sup>

<b>Stated aims of the CAP</b>	<b>Actual result</b>
To increase agricultural productivity	Yes – at a cost to the environment
To ensure a fair standard of living for the agricultural population	No – farmers incomes have declined precipitously in the UK
To stabilise markets	No – the markets have not been stable
To guarantee reasonable prices	No – not for the British farmer
To ensure reasonable prices in supplies to consumers	No – CAP's high food prices policy has penalised the consumer (And the taxpayer has been left with the bill)
To maintain the maximum number of farmers on the land and preserve rural communities	No – rural communities have not been preserved by CAP
To preserve the countryside and the environment	No – CAP has failed to preserve the environment. CAP must be about the only major policy to have been roundly criticised by environmentalists and market economists alike
To avoid the build-up of food mountains	Better than it was – but any food mountain are a symptom of failure
To maintain good international trading relations	No – CAP has been at the heart of some of the most acrimonious trade disputes – especially during the Uruguay Round.
To fulfil the 1994 GATT agreement	Hardly – the “blue box” subsidies, for example, were a fudge

### *The cost of the CAP*

Expenditure on the CAP is still rising in absolute terms. The CAP budget used to be £1.3 billion per annum in the 1968 and £3.6 billion in 1976. The figures were £7

<sup>43</sup> See Matthew Elliott and Allister Heath (2000) “The failure of CAP reform: a public choice analysis”, *Economic Affairs* 20(2): 42-48, available online at <http://www.iea.org.uk/economicaffairs/pdfs/ea202/ea202elliott.pdf> (accessed 6 April 2001)

<sup>44</sup> This table is taken from Ruth Lea (2000) CAP: a catalogue of failure. London: Institute of Directors, p 21. Available online at <http://www.iod.co.uk/cap.pdf> (accessed 7 April 2001)

billion in 1980, £12 billion in 1985, £20 billion in 1990, £30 billion in 1999 and following the failed Agenda 2000 reforms this figure is set to increase even further.<sup>45</sup> The per capita burden for every UK inhabitant is estimated at around £250 per head (this includes children) so £1000 for a traditional family of four. The *Daily Telegraph* reported on 26 November 1999 that the Labour government minister Elliot Morley had disclosed in response to parliamentary questions that the annual cost of the CAP to British consumers is about £6.7 billion and the annual cost to taxpayers around £3.4 billion, which adds up to £10.1 billion per year for the UK as a whole.<sup>46</sup>

### *Increasing agricultural protectionism*

The following table shows the evolution of the Nominal Tariff Equivalent (NTE) in agriculture over time and among different countries. The NTE is an estimate of all support measures expressed as a percentage tariff on world prices of farm products, which means that the NTE can vary because of a change in food prices as well as changes in protection. In this context, perfection is defined as a NTE of 0% whereas the EU's 82% in 1998 is outrageous and has actually been rising over the last few years. The table also shows that America protects its agriculture far less than does the EU and that New Zealand has successfully embraced free trade in agricultural products. All in all, this demonstrates how out of date the EU's increasingly protectionist agricultural policy really is.

### **Nominal tariff equivalent (%), 1956-98<sup>47</sup>**

	UK	Denmark	EU	New Zealand	USA	Japan	OECD Total
(i) 1956	32	3	16	n.a.	n.a.	n.a.	n.a.
(i) 1966	28	5	52	n.a.	n.a.	n.a.	n.a.
(ii) 1979-81	n.a.	n.a.	56	22	16	150	41
(ii) 1986-88	n.a.	n.a.	85	12	35	186	69
(ii) 1991-93	n.a.	n.a.	87	2	23	138	64
(ii) 1996-98	n.a.	n.a.	64	1	20	170	49
(iii) 1997	n.a.	n.a.	61	2	16	156	47
(iii) 1998	n.a.	n.a.	82	1	28	170	59

n.a.= not available

#### *Sources:*

- (i) Converted from Price Support Ratios 1956 and 1966 in Howarth (1971)
- (ii) Converted from Producer Subsidy Equivalents (PSEs) as reported by OECD in *Agricultural Policies, Markets, and Trends: Monitoring and Outlook* (Annual)
- (iii) OECD figures quoted in Scottish Agricultural College, *Monthly Economic Survey*, June 1999, Edinburgh, p. 10

<sup>45</sup> See Richard Howarth (2000) "The CAP: History and attempts at reform", *Economic Affairs* 20(2): 4-10, available online at <http://www.iea.org.uk/economicaffairs/pdfs/ea202/ea202howarth.pdf> (accessed 7 April 2001)

<sup>46</sup> See Howarth, op. cit.

<sup>47</sup> Taken from Table 10 p 66, Richard Howarth (2000) "Commentary" in R.W.M. Johnson (2000) "Reforming EU Farm Policy: Lessons from New Zealand", Occasional Paper 112, London: Institute of Economic Affairs.

## Part IV: EU protectionism

It is useful to remember that regional trade agreements can be divided into two rough categories: free trade agreements, such as NAFTA, and customs unions, such as the European Union.<sup>48</sup> They differ in that members of a free trade area maintain their own tariffs on goods originating from outside the area, whereas members of a customs union establish a common tariff on goods originating from non-member states. Crucially, the establishment of common external tariffs usually commits them to setting up common political and administrative institutions. This, according to many commentators, is at the root of our current problems.<sup>49</sup>

### Common External Tariff

The EU's common external tariff (CET) – the core of the EU customs union – was introduced in 1957 and applied fairly universally to all goods imported from outside the (then) Community. Over time this universality has been eroded as one after another exceptions were granted. The mainly African Lome developing countries now have generally free access to the EU. Further bi-lateral reductions were negotiated with Mediterranean countries and with some of the countries of the old Eastern Europe (in a sort of pre-accession deal). The most recent case in point is that of Mexico which has recently negotiated a fascinating free-trade agreement with the EU which some believe could be used as a model for our future relationship with the EU.<sup>50</sup> Furthermore, over the years, tariff rates have been reduced as result of successive GATT Rounds and are now far lower than they once were. Indeed, the CET is probably about one-third of the level that existed when the UK joined the EC (although it remains far too high i.e. greater than zero). Estimates by GATT economists at the overall impact of tariffs pre and post GATT are shown below:

---

<sup>48</sup> For how we should renegotiate our membership of the EU and join NAFTA see Bill Cash, MP (2001) *Associated not Absorbed*. London: European Foundation.

<sup>49</sup> See Henri Lepage (2001) "Fortress Europe: why customs unions lead to economic decline", *European Journal* 8(3): 16-18 (January-February).

<sup>50</sup> See [http://www.globalbritain.org/Docs/MW/1190\\_GB-B10.htm](http://www.globalbritain.org/Docs/MW/1190_GB-B10.htm) for details. (accessed 6 April 2001)

**Developed economy tariff reductions on industrial products by individual countries (a)**  
(Million US \$ and percentages)

Participants	Imports from MFN origin	Trade Weighted tariff averages (b)		Percentage Change
		Pre-Uruguay	Post-Uruguay	
<b>Developed Countries</b>	<b>736,947</b>	<b>6.3</b>	<b>3.8</b>	<b>-40%</b>
Australia	25,152	20.1	12.2	-39%
Austria	5,768	10.5	7.1	-32%
Canada	28,429	9.0	4.8	-47%
<b>EU</b>	<b>196,801</b>	<b>5.7</b>	<b>3.6</b>	<b>-37%</b>
Finland	4,237	5.5	3.8	-31%
Iceland	334	18.2	11.5	-37%
Japan	132,907	3.9	1.7	-56%
New Zealand	4,997	23.9	11.3	-53%
<b>Norway</b>	<b>6,192</b>	<b>3.6</b>	<b>2.0</b>	<b>-44%</b>
South Africa	14,286	24.5	17.2	-30%
Sweden	10,324	4.6	3.1	-33%
<b>Switzerland</b>	<b>10,227</b>	<b>2.2</b>	<b>1.5</b>	<b>-32%</b>
United States	297,291	5.4	3.5	-35%

(a) Excluding petroleum as an industrial product

(b) Figures are import-weighted. Unweighted figures for EU are Pre-Uruguay (6.4%) and Post (3.7%) giving a change of 42%. (DTI)

Source: *The Results of the Uruguay Round, Market Access for Goods and Services, Overview GATT Nov. 1994*

As you can see following the Uruguay Round, the average standard tariff rate of the CET (excluding preferential rates and anti-dumping duties) is 3.7% using a simple average calculation, or 3.6% on a trade-weighted basis, compared with 6.4% and 5.7% before.<sup>51</sup>

GATT has of course now been wound down and replaced by the World Trade Organisation (WTO), although that organisation has so far failed to reduce tariffs, so the figures given in the table above are the most recent.

What the table hides is that the EU's reluctance to liberalise agriculture (see part III on the CAP) and its stubborn failure to understand that free trade is beneficial to all involved has been the main force holding up further liberalisation.<sup>52</sup>

## Conclusion

This working paper has briefly gone through some of the main issues relating to QMV, socialist legislation introduced via the back door, the CAP and EU protectionism. The conclusion is always the same: the European Union is an inefficient, undemocratic and unaccountable bureaucracy for whom the interests of the peoples of Europe appear only secondary. The main goal of the Commissioners, judges and MEPs seems to be self-aggrandisement and empire-building, the further centralisation of power in Brussels and the eradication of virtually all national self-government.

<sup>51</sup> Source: *The results of the Uruguay Round -market access for goods and services, Overview, GATT, Nov 1994.*

<sup>52</sup> For more information on the EU's lack of support for free trade see Daniel T. Griswold (2001) "The EU's senseless trans-Atlantic trade policy", *European Journal* 8(4): 3-4 (March)