

THE EUROPEAN JOURNAL

THE JOURNAL OF THE EUROPEAN FOUNDATION



Peter Osborne

A Thousand Days of Blair in Europe

&

*Sir Michael Graydon, John Bercow, MP,
Angela Knight and Martin Callanan, MEP*

SPECIAL REPORT: THE CASE FOR RENEGOTIATION

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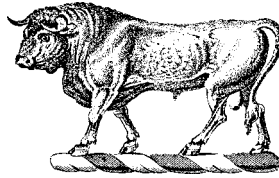
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The Intergovernmental Conference 2000 – Action Now

READERS of the *Journal* will find in this issue my arguments in favour of a policy for the Renegotiation, at the IGC this year, of the Treaty on European Union. My arguments expand the points made in my pamphlet for the last Conservative Party Conference, *Britain and Europe – Challenging Questions for Tony Blair*, Kenneth Clarke and Michael Heseltine.

Much has happened since publication of that pamphlet within the Conservative Party, the Government, and within the European Union as a whole – not to mention the CBI, the European Central Bank, the Britain in Europe campaign, and the opinion polls.

The Conservative Party has a new Shadow Foreign Secretary, Francis Maude, and a new Shadow Chancellor of the Exchequer, Michael Portillo. Just exactly what this will mean in practical terms we shall no doubt discover, but it is to be hoped that it will lead to a clearer policy on Europe as we approach the next Intergovernmental Conference due to be concluded this December. Many in the Party think they were bounced by the unexpected announcement that the Bank of England would remain independent given their grave concern that Labour legislation was tailor made to fit in with the Central Bank provisions in the Maastricht Treaty.

It is quite likely that the new Treaty will not have been endorsed by Parliament before an early General Election which will be dominated by the European issue. There is even a strong likelihood that the Prime Minister will choose some point or other on which to disagree with the array of federalist propositions which the negotiations will inevitably throw up, so that he can cast himself in the spurious role of Defender of Britain and steal a late march on (if not the clothes of) the Conservative Party as he did before the last Election. Blair's need to pull such a stunt is heightened by opinion polls showing that the Eurorealist case is now supported by 69% of the electorate. Whatever Tony Blair may be, he is nobody's fool.

The tragedy is that, despite such polls, there remains no convergence between strong messages by William Hague on Europe and the Party's prospects at the next General Election which, despite the slogan, 'In Europe, but not run by Europe', still languish below 30%. Opinion polls are not everything, of course, but the gap between the Party's minority support and the Eurorealist majority in the country is a matter of great concern given that the European issue resonates so strongly. Substance, not mere message, is required. The European election results may be encouraging but the turnout was so low that it would be unwise to revel in them. Similarly, the local government elections are not conclusive evidence of a sufficient shift in voter behaviour.

What is unquestionable is that Europe *matters* to people: they know it is vital to the national interest, their future, and to their daily lives – whether it manifests itself in over-regulation, ERM, farming, the beef ban, fisheries, fraud, the collapse of the European Commission, defence issues and NATO, proportional representation, protectionism, public services, pensions, tax harmonisation, or whatever. Public hostility to aspects of European integration such as these could yet be decisive if it is harnessed to a policy of renegotiation.

The Conservative Party is the only party which can deliver a political programme across the board on Europe which makes it

imperative that it connects the European issue to the domestic policies of the nation and thereby saves our democracy.

Bill Clinton's only memorably statement – "It's the economy, stupid" – is Tony Blair's best card. There is no denying that the economy is doing well, with low inflation and low unemployment. Yet the case needs urgently to be made that our economic success is linked to being out of the ERM and EMU and to our global trading and inward investment levels which, despite noises off, are doing better than ever as we diverge more and more from the continental economies. American investors know this, and that is why their investment in us has increased 90% this last year alone.

No wonder Wim Duisenberg accepts that we are simply not going to converge with the sclerotic, protectionist, centralised policies of our continental neighbours now or in the future. No wonder too that even the CBI has opted out of the debate on the single currency: because they know that Tony Blair, whatever his inclinations, dares not enter it (hence the disarray of the Britain in Europe campaign – discrediting its fellow travellers in the Conservative Party). Gordon Brown's five economic tests cannot be fulfilled.

And there is a 'constitutional bar'. Further European integration means the end of our Westminster democracy. To preserve it we have to win the Referendum and do everything to ensure that the Conservative Party wins the next General Election – and that includes the Conservative leadership, bringing me to a crucial point regarding the Intergovernmental Conference in December.

The proposals of the IGC, with their progeny in the Maastricht and Amsterdam Treaties, must be opposed root and branch. We already know that the European Commission, in cahoots with federalist Member States, is bent on deeper and deeper integration and the abolition of the veto. The objectionable doctrine of flexibility contained in Amsterdam is firmly on the integrationist agenda and now there are even proposals to abolish the veto attached to it. Despite what John Maples, the former Shadow Foreign Secretary, may have said or thought in his CPS speech, Prodi could not be clearer when he insisted that European government is here to stay.

The Conservative Party must prepare amendments to the whole Treaty on European Union and campaign now to explain what has been (wrongly) conceded to date and why it must be renegotiated – irrespective of the slight but irrelevant humiliation of admitting that signing Maastricht was wrong. It was Maastricht after all which rooted Amsterdam and 'flexibility' and which created the framework of European government – as distinct from European trade.

Forget the *acquis*, reinforce the sinews and the will, kill 'flexibility', remember Peel, and appeal to the voter. Campaign and Win.

Bill Cash, February 2000

I would like to remind readers of the European Foundation's new video *The European Millennium Debate*, as advertised on the back page of this issue. Please support the Foundation by purchasing and publicising this unique analysis of European integration.

I'm Backing Britain

by John Bercow, MP

THE PRIME MINISTER decided long ago that he was determined to scrap the pound and join the euro as soon as he thought he could get away with it. Some people might say, "If that's a confidence trick, it isn't very effective because it hasn't conned me, and it hasn't conned my colleagues." The intended victims are not Conservative activists, political journalists or hardened sceptics about the euro, but the British people.

That is why the Government have erected an elaborate smokescreen of spurious economic tests, contradictory ministerial statements, perplexing front groups, misleading Government advertising, deceitful lobby briefings and diversionary attacks on alleged xenophobes. Those are all part and parcel of a deliberate strategy by the Government to close down any serious debate about the most important economic and political issue that has confronted this country since our accession to the European Economic Community – or rather, the Common Market – in 1973.

That is why we hear so much of the supposed – I use that word advisedly – five economic tests. Surely by now we must be aware that none of those tests is objective, none is measurable and none is capable of independent assessment. There are not five economic tests that the country has to pass before joining the euro. For the Prime Minister there is only one, electoral, test: whether a majority of the British people can be bamboozled and brainwashed into ditching the pound and joining the euro.

In the short term, that does not look likely. The most recent poll, commissioned by my colleague Dr Julian Lewis and undertaken by ICM, asked, "Do you think that Britain should replace the pound with the single European currency?" It was a very straight, fair and unspun question. The answer: 64 per cent. said 'No' and 27 per cent. said 'Yes'. That is a notable improvement on the 56 per cent. opposition and 32 per cent. support recorded in an exactly comparable poll 12 months previously.

So, it would appear that the Government are losing ground. There is reason for optimism, but, for those of us who are sceptical about this dangerous enterprise, there is no excuse for complacency. None of us should underestimate the sheer determination of the Prime Minister

ultimately to get his own way. Let us make no mistake, the Prime Minister is hell-bent on dragging Britain into the euro, with a cost that he will not calculate, for a benefit that he cannot quantify and at a risk to the self-government of the British people that he dare not admit.

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Why is there reason to be anxious about such a prospect? There are three reasons. The first is that entry to the euro automatically entails a huge arrogation of powers from this country to the institution of the European Central Bank. That bank is charged, legally by treaty, as right hon. and hon. Members know, with the operation of monetary policy in euroland and the setting of the European interest rate.

We need at least to reflect on the composition of the ECB's governing council. It comprises three Germans, two Dutchmen, two Finns, two Frenchmen, two Italians, two Spaniards, a Belgian, an Irishman, a Luxembourger and a Portuguese. What do they all have in common? They have in common – I say this, as my hon. Friends will understand, not pejoratively but as a statement of legal fact – no responsibility to promote or safeguard the interests of the British economy. Rather they are charged with responsibility for the pursuit of the European economic interest, as they, subjectively, in their best judgment, perceive it.

No one should underestimate the power of those gentlemen or ladies. For, under article 108 of the Treaty of Amsterdam – the treaty so foolishly signed by the Government – the central bank is exhorted, no, obliged, not to seek or take instruction

from any outside body about the conduct of monetary policy or the establishment of interest rates.

Moreover, the treaty goes on significantly and ominously to add:

"governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the ECB or of the national central banks in the performance of their tasks."

We should recognise that, if we were to enter the European single currency, the cost of mortgages and the price of business borrowing, to name but two subjects – subjects with which one would have thought democratically elected members of the British legislature could legitimately preoccupy themselves – would henceforth be determined permanently by people whom we did not elect, whom we could not remove and whom it would be illegal to seek to persuade of our point of view. That is not democracy; that is the antithesis of democracy.

IT IS CRITICAL to convey to the British public that the argument about whether we join the euro is not some minor technical debate about an instrument, a device or a means by which to facilitate an easier life for tourists or a saving of half a per cent on the gross domestic product for business men as they face transaction costs. The treaty-makers of Maastricht did not incur mass unpopularity in their own countries and endure the agony of pushing it through their respective Parliaments for that purpose. They did nothing of the kind. They did it because wider objectives were at stake.

The second concern about entry into EMU is the prospect of tax harmonisation – a point made continually by Conservative Members. History shows very clearly that currency unions, to be sustained, almost invariably have required the existence of a central authority making fiscal disbursements. In the United States, where there is very substantial labour mobility – some 7 million people each year move from one state to another to obtain work – 30 per cent. of the cost of regional economic downturns typically is borne by fiscal transfers from federal funds. Those transfers are possible because of the existence of a central tax authority.

Labour mobility in the EU is much lower. Long ago, the MacDougall report for the European Commission calculated that monetary unions typically require 20 per cent. of GDP to be disbursed from the centre, and that an absolute minimum of 5 to 7 per cent. of GDP would be required to be disbursed from central funds within euroland in order for the single currency project to be sustained.

The European Union is already involved in indirect taxation and in taxation of business and savings. The danger, and the overwhelming likelihood, must be that, once the single currency is up and running, the EU – eventually if not immediately but as sure as night follows day – will seek to arrogate to itself the powers of taxation and expenditure. That would be in accord with the wishes of the European Parliament which, in seeking to raise its status from flyweight to heavyweight, has already called for a direct relationship between European institutions and the European taxpayer.

The third reason for disquiet about early entry into EMU is that, as I hinted earlier, it is about politics, not economics. It is only we British who, in our peculiar and rather stubborn fashion, persist in debating this matter as though it were mainly about economics. On the continent, politicians and bankers do not merely admit to but positively rejoice in the political motivation behind the European single currency project.

The House need not take that just from me, estimable and upright member of the community though I try to be on behalf of my Buckingham constituents. The House should take it from those who know.

For example, Dr Otmar Issing, former Bundesbank president, has said that there is no example in history of a lasting monetary union that was not linked to one state. Willem Duisenberg, president of the European central bank, has said that EMU is, and was always meant to be, a stepping stone on the way to a united Europe.

Gerhard Schröder has noted that the risks will remain, especially if the bold step that led to a single currency is not followed by further bold steps towards political integration.

Finally, Romano Prodi, President of the European Commission, has said that the euro can only lead to closer and closer integration of countries' economic policies. Alarmingly, he went on to add, in a somewhat threatening tone, that that would demand that member states gave up more sovereignty.

Some trusting souls among Labour MPs may say, "Those are just the high-falutin' pronouncements beloved of the continental statesman. We should read into them no great significance for their practical effect."

Anyone so naive as to think that should note the remarks of someone closer to home – former Irish Prime Minister John Bruton. He has said that political unity of purpose will be crucial if the euro is to work, and that member states will not be able to dine *à la carte* at the European table any more. Mr Bruton maintained that Europe must develop political institutions with sufficient democratic legitimacy to demand sacrifices of Europe's peoples and to mobilise them in a common cause.

Is it not a sad commentary on our affairs that we need to turn for guidance on these matters to the wise pronouncements of the Eritrean ambassador to the United States? I do not know his name. If I did, I am not certain that I would be able to pronounce it, but I pay tribute to that wise gentleman. His country had been through a bloody war with Ethiopia. It came to mint its own currency, and that gentleman said that an independent nation with its own policies needs its own currency to implement its decisions. That distinguished ambassador should probably be made an honorary member of the British Conservative party. How wise he was.

To those who say that there is no alternative, that the euro is inevitable, and

that Britain will have to go into it, I say that that is a counsel of despair and it is intellectually dishonest. If they want to argue the case, let them do so openly, but let them not pretend that there is something automatic and inevitable about British participation. There is not.

To be effective, a single currency zone requires the existence of a common identity, a common purpose and a common willingness to make equal sacrifices to achieve that purpose. None of those conditions currently applies to this country in relation to euroland. The power of self-government, the right to hire and fire our rulers, and the capacity freely to shape our own destiny as an independent nation are inalienable birthrights of every Briton. They should not be traded in for a mess of potage, otherwise known as a back-row seat at a show called 'The Heart of Europe'.

Even under this Government, Britain has achievements of which to be proud. We are the fourth largest economy in the world. We are the second biggest overseas investor, with £1,666 million worth of assets invested overseas, 78 per cent. of which is outside the European Union. We are the third most attractive location for inward investment, after the United States and China. Even under the depredations of the Government, we have thriving industries in oil, telecommunications, civil engineering and financial services.

This country can be and should be an independent nation. The future is bright; the future is global. The success of this country in the future depends not on artificial constructs such as the European single currency, but rather on the capability, the determination and the energy of our leaders, our businesses and our work force.

John Bercow is the Conservative MP for Buckingham and a member of the UK Advisory Board. He is the Shadow Spokesman on Education and Employment.

... news in brief

"German foreign trade profits from euro"

Incredible though it may seem, the euro has turned out to be a great boon for Germany's export industry. Who would ever have predicted such a thing? November 1999 was the best month on record for German exports, thanks – according to the *Handelsblatt* – to the weak euro. Exports have now risen by 16.8% compared to the same period last year. This is the third month running when German exports have risen. Industrialists agree that the weak euro has helped offset the high level of German wage costs. [*Handelsblatt*, 12th January 2000]

France still gives animal feed to cows

According to a report by European Commission health inspectors, France continues to feed its cows with forbidden animal feed. The report also criticises farmers for failing to report cases of mad cow disease. The leader of the French Farmers' Confederation, the anti-free trade firebrand, José Bové, has attacked the French government for blaming everything on British beef "while the real sources of mad cow disease remain unchecked". He added that the government was in hock to the big agro-industrial companies and that they were calling the tune. [*Liberation*, 7th February 2000]

A Thousand Days of Blair in Europe

by Peter Osborne



BEFORE THE LAST ELECTION New Labour used to contrast its own sense of common purpose on Europe with the hopeless Tory divisions on the subject. Their claim carried some conviction. It no longer does today, The Labour Party may not be split on Europe the way the Tories were. But the Labour Party does not count for that much these days. Crucially, the tiny circle of men and women around Tony Blair are at odds over the proper government posture on Europe and the euro. It is a split that operates at a number of levels.

Within the Downing Street policy unit the euro-sceptic case is presented by Derek Scott, the Prime Minister's softly spoken adviser on economics. Scott occupies the same invidious position that Sir Alan Walters did under Margaret Thatcher. It is a tribute to his discretion and self-effacement that he remains in post after nearly three years of government: a period when relations between No. 10 and No. 11 have been every bit as stormy as during the Thatcher/Lawson years. The Pro-European argument is made by Roger Liddell, a man of charm and high intellect and a close ally of Peter Mandelson.

At the cabinet level the Foreign Secretary Robin Cook and the Chancellor Gordon

Brown are embroiled in a permanent, semi-public dispute about Government policy towards the euro. This argument, though well-known, is perhaps not as important as the debate which is going on within the tiny group of friends and associates which surround the Prime Minister.

"The real divide, the one that really matters" says one New Labour insider, "is between Peter Mandelson on the one hand and Philip Gould and Alastair Campbell on the other. The problem is that Peter is away in Ireland and his voice is not heard as much as before. Alastair and Philip are on the ground all the time."

The underlying difference between Mandelson and the Gould/Campbell axis is in no way comparable to the profound ideological rift that ripped out the the heart of the Tory Party in the pre-1997 period. But this near-family clash between the Prime Minister's closest friends and advisers matters almost as much in practice. For it has left the government's euro policy curiously shapeless. All three of them can properly be described as pro-European. But Mandelson pro-europeanism veers towards the visionary, while Campbell's and Gould's is more hard-headed and pragmatic. Despite his sinuous appearance, Mandelson

is a politician with beliefs. Campbell and Gould have beliefs too: but as far as they are concerned no belief is as strong as that Labour must win the next election at all costs.

The exile of Peter Mandelson in his Irish satrapy in recent months could hardly be more significant. The field has thus been left clear for the pragmatists Campbell and Gould. Campbell's responsibility is press management: when he was appointed to his job in 1994 he masterminded the historic transformation in the relationship between the Labour Party and Rupert Murdoch which culminated in the Sun endorsement for the government at the last election. The ferocious hostility of the Murdoch Press to the euro is as strong as ever: this is a factor which can only weigh heavily in Campbell's mind.

Gould is, in his area, as formidable as Campbell. In the United States he would be called a political consultant. He is the soothsayer who studies the chicken entrails for the general before he marches into battle, then delivers his verdict. Only these days the political soothsayers do not slaughter chickens: they listen to focus groups – a process contemptuously described by John Maynard Keynes as "discovering what

average opinion believes average opinion to be". So far Gould's melancholy task has been to inform his leader that the omens in Europe could hardly be more inauspicious.

Campbell/Gould are influential enough in and of themselves to have been able to stay the Prime Minister's hand on Europe. But in conjunction with Chancellor Gordon Brown they have been more formidable still. The conversion of the Chancellor to the euro-cautious camp over the past two years has been one of the most hilarious progresses in modern politics. Before the last election he was the leading pro-European in the shadow cabinet, so committed to the project that he tried to prevent the New Labour General Election commitment to holding a referendum on the euro. A number of factors lie behind Brown's change of heart: political calculation, a low desire to ingratiate himself with Murdoch, high-minded conviction, the whisperings of his Harvard-educated economic adviser Ed Balls, a visceral hatred for Foreign Secretary Robin Cook – and much else besides. As with Campbell and Gould it would be preposterous to describe the Chancellor as anti-European. But his time at the Treasury has convinced him of the benefit of the long game.

Tony Blair is often described as the 'most pro-European Prime Minister since Edward Heath'. This might even be true. He has certainly often insisted the necessity of placing Britain "at the heart of Europe." And when he won the 1997 election he set about doing so, with an enthusiasm bordering on naivety which brought back memories of a fresh-faced John Major in 1990/91. On the other hand, under the influence of the Gould/Campbell axis, he has been careful to avoid using what his aides call "political capital" in order to press the case for the euro. This pathological caution sends the Prime Minister's europhile supporters into frenzies of despair. Roy Jenkins, a mentor and friend of the Prime Minister, went into print in the *Independent* on February 9 to express sorrow about "the worst week for British European enthusiasts since Harold Wilson switched the Labour Party in 1971 against the policy of British entry he had espoused in government".

It is perfectly likely that this despair will worsen. For not merely has the euro been kicked – for the time being – into the long grass. A new problem looms in the shape of the IGC which is due to come to a conclusion at Nice this December. Downing Street professes to believe that this latest

treaty renegotiation is not a cause for alarm, claiming that it will do no more than make the necessary adjustments for expansion of the union. This may be far too sanguine. The message from Brussels at present is entirely different, suggesting that the IGC will pose a radical challenge to the existing relationship between member states and the union. If that turns out to be the case, then Tony Blair may well find himself posed with the same delicate questions about sovereignty and allegiance which caused John Major such vexation at Maastricht. It is almost inconceivable that the Prime Minister would be ready to award fresh powers to Brussels next December, just months before the expected date of the General Election. Tony Blair may indeed be the most pro-European Prime Minister since Edward Heath. It is nevertheless possible that tactical convenience and the pragmatic urging of his closest advisers will cause him to masquerade as a euro-sceptic hero, fighting for the rights of nation states, as this year drags on.

Peter Osborne is Political Columnist of the Express. His book, Alastair Campbell: New Labour and the Rise of the Media Class was published by Aurum Press late last year.

... news in brief

Greece prepares to abolish drachma

The Greek government has announced early elections on 9th April in order to be able to prepare the country better for abolishing the national currency and adopting the euro. Once again, in other words, the democratic process is manipulated for the purposes of European policy. The prime minister, Costas Simitis, says the government must be "strong" to "restructure" the economy – i.e. sell off state companies, sack a lot of workers and cut social security benefit. [*Le Monde*, 8th February 2000]

Deeper still and deeper

The Italian president, Carlo Ciampi, has said that the EU needs to be even more integrated than it is already before it can expand to integrate new members. Such integration is, he says, likely to be driven by monetary union. "Common responsibility for the European currency will also engender a common decision-making instance for the European economy. It is unthinkable to have a European central bank but not a common leadership for the European economy. If there is no counterweight to the ECB in European economic policy, then we will be left with the incomplete construction which we have today... However, even if the building is not finished it is still true that monetary union is part of a supranational constitution... It is our task for the future to work with the appropriate means for the transfer of traditional elements of national sovereignty to the European level."

Ciampi goes on to say that the way forward is through the doctrine of concentric circles. The EU is to form the "hard core" of these circles, with the post-communist countries orbiting in dutiful expectancy around it. The focal point of all this? "In the centre of our vision of the future

stands the European constitution. This goal corresponds to the goals of Italian politics. The European Charter of Human Rights, which defined essential elements of European citizenship, is a decisive reference point for this." He naturally concludes that if Europe is enlarged before all this is achieved, then the goal will be put in jeopardy. "It is therefore the duty of those countries which already belong to the EU to encourage the concept of supranationalism." Ciampi refers warmly to the statement of his German counterpart, Federal President Johannes Rau, that Europe needed "a short, understandable constitution which explains to the peoples the aims and structures of the federation." [*Frankfurter Allgemeine Zeitung*, 8th February 2000] God forbid such a constitution might come from the people instead of being drawn up to explain things to them!

More killing in Mitrovica

More violence has erupted in the Northern Kosovan town of Mitrovica, divided by a river between Serbs and Albanians. The Western media has treated the matter with its customary bias. The violence started when Albanians fired an anti-tank mortar at a UN-protected bus carrying Serbs. Two Serbs were killed and three were wounded. The media did not report this. But when Albanians were killed by Serbs, the reporting started up again. These were not, of course, excused as "revenge killings" (the usual epithet applied to ethnic cleansing of Serbs by Albanians) but as just another example of innate Serb violence. In the ensuing street battles, Kfor troops used tear gas and stun grenades to repulse an attack by Albanians under KLA command. Even now the media reports that "There are hardly any more Albanians in the Serb part of town any more", even though there has not been a single Serb in the Albanian part of town since June. [*Die Welt*, 7th February 2000]

A Credible European Defence

Sir Michael Graydon finds that talk of a common foreign and security policy is, at this stage, rhetoric which remains way ahead of reality.

IT IS HARD to think of anything that has not been said about the European Security and Defence Identity. The need for the European nations of NATO to 'clean up their act' has been around for as long as I can remember.

Throughout much of the cold war period, the calls from Washington and, indeed, from NATO's International Staff for the Europeans to do more came regularly and, in the case of many nations, was entirely justified- contrast US defence expenditure of nearly 6% with some Europeans less than 3%. In this time, too, there emerged a recognition, not always a welcome one, that a European forum which could, *inter alia*, advocate and perhaps co-ordinate improved defence spending amongst its members would probably be to the advantage of NATO. Whilst the WEU was never liked by the Americans, it was tolerated latterly. When I was Assistant Chief of Staff Policy at SHAPE I remember arranging for a senior WEU official to visit the US Chief of Staff, albeit quietly and by the back door!

Against this background, it is hardly surprising that a decade on from the ending of the cold war, a period in which major reductions in defence spending by all nations have taken place, once again, Americans are calling for the Europeans to do better. The Gulf, Bosnia, Kosovo, have all shown major limitations in Europe's military capabilities. To use the vernacular, 'we talk a better game than we play'.

So, if a European rapid deployment force were to be formed which could actually deploy, and rapidly, to any part of Europe and outside if it were in our interests to do so, it would surely represent a significant improvement over where we are today. And if efforts to move Europe towards this goal are most likely to come from the French and British, hence St Malo, then this is to be welcomed as far as it goes. Whilst there may be other agendas, the formation of such a body operating within NATO or if need be with the support of NATO, is not in my view misconceived.

The trouble with the concept, as many have commented, is that if it is to be anything other than another piece of political rhetoric, it will need paying for. As Charles Powell has put it "They like the

sound of a European Force." It will need not just money for the deployment aspect, although that in itself is demonstrably lacking and will be costly, but it will also need significant investment to ensure that the Force can actually fight when it has been deployed.

**In the cold war period,
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In the cold war period, European Armies were structured, by and large, to conduct traditional defensive warfare. This was hardly surprising given the nature of the threat. Despite NATO's best efforts to reconfigure its forces to cope with "multi-facetted and multi-directional challenges" few nations have faced up to what this means in terms of equipment and training. In the United Kingdom, we have made a start with what is required but rapidly deployable we are not, and we are well ahead of most of the others. Such capabilities will not be provided with an average European defence expenditure of 2.2% and reducing, where value for money is simply not achieved and where conscription is still relied upon in a number of cases.

But, think further, a Force deployed to the flanks of NATO or beyond, must envisage some serious fighting. This is not blue beret peace-keeping which is often difficult enough. Governments are unlikely to tolerate the body bags arising from premature close contact fighting; there are other ways to conduct a conflict and the proper employment of all resources demands Information and Intelligence of the highest order, and it demands Command, Control and Communication systems which work. Land operations must be conducted under conditions of air superiority at a minimum, more likely air supremacy. And when unleashed, the land forces must be capable of rapid mobility

with immediate access to accurate and convincing firepower.

At present, the vast majority of these requirements is provided by the US. The inescapable conclusion arising from the current defence capabilities of the European nations, is that either the Force will be deployed under the American umbrella which makes suggestions of a European independence rather foolish, or it will not be deployed at all because the risks would be too high. It seems to me, therefore, that the pursuit of a Common Security and Foreign Policy can only take place with any seriousness against a background which acknowledges the state of much of European Defence.

The United Kingdom can, and I am sure does, continue to consult and inform the United States as to what it is trying to do to improve the European contribution to collective security. When we formed the Franco-British European Air Group, which has been a successful means of improving our abilities to operate together, we were able to do this without fuelling US suspicions by sensible liaison. And it was so, too, with the European Air Chiefs forum. It is a role that the UK and in particular its armed forces is uniquely able to perform.

The sensible way ahead therefore, is to work closely with the US in drawing together European aspirations for defence whilst encouraging our Continental allies to meet their obligations for collective security more honestly; but if we wish to be taken seriously in America rather than be listened to with rising incredulity, then Europe had better 'clean up its act' on defence spending. Rather than Headline Goals, a real commitment to contribute extra funds to an International Heavy Lift Transport fleet and an Airborne Stand-off Radar capability might confound the sceptics. Until then, the rhetoric will remain way ahead of the reality.

Sir Michael Graydon is a former RAF Air Chief Marshal.

RESEARCH ROUNDUP

Delors Speaks Out Over Enlargement

Interviewed in *Le Monde* last month Jacques Delors, President of the European Commission 1985–95, described the twelve states attempting to join the European Union as heralding the deterioration of a political project into “a great single market”.†

In a rare interview, Mr Delors again championed his vision of a two-speed Europe in which an inner-core could draft a new treaty establishing a “federation of nation states”.

Described in Brussels as the Enhanced Co-operation Initiative (known in the UK as ‘flexibility’ or, as the Major Government had it, ‘variable geometry’), Mr Delors’ plan was formally adopted by the European Commission on the 24th of January. Commission officials placed the institutional changes required under the plan on the agenda of the Intergovernmental Conference (IGC) in Portugal.

Keith Vaz, the Government’s Europe Minister, attempted to play down the placing of the Enhanced Co-operation Initiative on the IGC agenda. “No one is passionately in favour of this,” commented Vaz. As if in proof, he added: “the French, in any case, would not support it.”

Flatly contradicting Vaz, France’s Socialist Government last month endorsed the Enhanced Co-Operation Initiative on flexibility – chiefly because it is being championed by Delors, one of their favorites. As the *Telegraph* pointed out on the 15th February, President Chirac has also now committed himself to the idea.

† Cyprus, the Czech Republic, Estonia, Hungary, Poland, and Slovenia began EU accession negotiations in 1998. Bulgaria, Latvia, Lithuania, Malta, Romania, and Slovakia begin negotiations this month. Turkey was awarded preliminary candidate status at the Helsinki Summit in December, 1999.

Survey Data

Consultancy firm AT Kearney released a survey of the world’s biggest companies on the 24th of January showing that the UK is second only to the US as the most popular inward investment location. The survey showed that the UK has become an even

UK Contributions

New figures released by HM Treasury reveal the UK to have made a net contribution to the EU of £2.5 billion in 1999. Down almost 45% from £4.6 billion in 1998, the figure is a return to the amount contributed in 1996 (£2.4 billion).

By category, the biggest falls in UK contributions came in the form of VAT abatements (down from -£1.4 billion in

1998 to -£3.2 billion in 1999) and in VAT and Fourth Resource payments (down from £874 million in 1998 to -£32 million in 1999). Fourth Resource payments are contributions by EU member states based upon their relative Gross National Products. (The Union is forbidden from financing itself through borrowing and so it uses Fourth Resource payments to make up any shortfalls from the revenue it receives from other sources.)

United Kingdom contributions to and public sector receipts from the Community Budget, 1996–99, in millions of pounds sterling.

GROSS CONTRIBUTIONS	1996	1997	1998	1999
Agriculture & sugar levies	250	316	301	326
Customs duties	1,957	1,800	1,641	1,377
VAT Own Resources before Abatement	4,442	3,647	3,758	3,921
Fourth Resource Payments	2,489	2,674	3,516	4,431
VAT & Fourth Resource Adjustments	-4	-446	874	-32
UK Abatement of VAT	2,412	-1,733	-1,378	-3,171
Total Contributions	6,721	6,258	8,712	6,852
PUBLIC SECTOR RECEIPTS				
EAGGF Guarantee	2,898	3,169	2,908	2,506
EAGGF Guidance	31	57	56	104
European Regional Development Fund	620	812	357	852
European Social Fund	804	616	783	798
Other receipts	20	7	11	46
Total Receipts	4,373	4,661	4,115	4,365
NET CONTRIBUTIONS	2,348	1,597	4,597	2,486

Notes: (1) For all years figures reflect payments made during the year, not payments in respect of particular budgets. (2) The figures for the contribution of agriculture and sugar levies, and custom duties, in 1999 are based upon UK projections of sterling payments to be made during the year. (3) The figures for 1999 are forecasts. (4) – Because of rounding the column totals do not necessarily equal the sum of the individual items.

more attractive investment location than it was last year, despite doubts over Economic and Monetary Union.

Kearney’s survey contradicts the *Financial Times*’ report of the 25th of January in which it is claimed that Komatsu, the Japanese excavator manufacturer, may quit the UK if the Government continues to equivocate on the euro.

The *Guardian*’s ICM poll last month recorded its highest ever figure, 63%, against joining the Single Currency. 25% of the 1,155 adults surveyed at random in the telephone poll were in favour of joining, with 11% undecided. Female respondents were on average more hostile to the euro than male respondents: 64% of women opposing membership (22% in favour) compared with 62% of men (29% in favour).

56% of Labour Party supporters were also against joining the Single Currency, with just 33% in favour. The Liberal Democrats (the parliamentary branch of

whom are amongst the euro’s most vocal supporters) divided 57% to 34% against scrapping the pound.

Released on the 31st of January, a second ICM poll commissioned by Radio 4’s *Today* programme recorded an even higher figure against EMU: 69%. 34% of respondents favoured the UK’s outright withdrawal from the EU, with 53% in favour of continued membership and 13% not giving an answer.

CoE Reprimands Russia

The Speaker of the Council of Europe has formally begun the process of excluding the Russian Federation over its military campaign in Chechnya. The Council is charging Russia with breaching its protocol requiring members to resolve their internal disputes peacefully.

Having only gained access to the Council in 1996 expulsion would be a blow to Russia’s prestige, though it would have little material consequence.

Governor George W. Bush also spoke out last month against Russia's campaign in Chechnya, stating that it may be time to re-examine loans to the Federation. Bush's comments follow the decision of Russia's Acting President Vladimir Putin to increase defence expenditure by 50% this year, having already raised military procurement to a record 30% of total defence spending. The decision comes despite Russia owing more than £70 billion in foreign debt.

Putin's defence policy includes support for a new generation of multiple-entry missile (Merv) capable of penetrating the most sophisticated anti-missile defence systems yet envisaged. Given that Bush has made the construction of an anti-missile system central to his presidential campaign, Putin's defence ambitions fuel mistrust between the very men most likely to become president of their respective countries.

eu.com

Erkki Liikanen, the European Commissioner responsible for information technology, is applying to the Internet Corporation for Assigned Names and Numbers (ICANN) for a European Union 'top-level' Internet domain, elevating the Union on the Internet to the status of a country.

Abbreviations of country names form suffixes to Internet addresses denoting their top-level domain, such as 'fr' for France. The Commission has applied for 'eu'. The US was the first country to make widespread use of the Internet and for this reason its sites lack a top-level domain suffix, ending instead with just a domain type such as '.com' (company), '.org' (organisation), or '.gov' (government). The ICANN is the organisation responsible for regulating the provision and use of top-level domains.

Speaking on BBC1's *Question Time* on the 3rd of February, Robin Cook denied that the Commission was applying for its own Internet domain. Cook's denial was contradicted, though, by Erkki Liikanen who, commenting in the *Wall Street Journal Europe* on the same day, admitted that "[t]he Commission has set the ball rolling" on the issue.

Were Liikanen successful in his application, the EU would become the first non-state entity to be allocated a top-level domain by the ICANN. The matter is not just one of nomenclature, for having its own top-level domain would afford the EU

certain powers to regulate all of the sites registered with it.

Despite the most sought after Internet addresses being those which lack a top-level domain suffix (such as www.europeanfoundation.org), the allocation of a top-level domain to the European Union would confer great status upon an organisation already possessed of its own flag and anthem.

Confused by the Internet?

The Internet is analogous to a sophisticated form of Teletext, but on a computer and not a television. Part of its sophistication is that it can communicate pictures, music, and film as well as text. Its present sophistication is a long way from its mundane beginnings as a secure means of transferring files from one computer to another within the American defence establishment. 'Sites' on the Internet are indexed for convenience by textual address strings that typically take the following form: 'www.acme.co.uk' - where 'www.' denotes World Wide Web (the 'page' format invented by Britain's Tim Berners-Lee); 'acme' denotes a company name; '.co' denotes company; and '.uk' denotes, of course, the United Kingdom. Were 'Acme' an organisation and not a company, it would have '.org' and not '.co' as a suffix; were it a government agency or department, its would have '.gov'. Competition for the pithiest addresses is fierce, and for this reason many users prize US-registered sites - lacking, as they do, a country suffix and ending simply '.com', '.org', or '.gov'.

No-Go in Tokyo

Having travelled halfway around the world to attend a summit of central bankers and finance ministers in Tokyo, the presidents of the French, German, and Italian central banks found themselves excluded from the main lunch meeting.

The Japanese hosts of the event, held on the 22nd of January, informed the three presidents that as they were no longer able to influence the interest or exchange rates of their respective currencies, they would have to stay outside the confidential luncheon. The three presidents dined instead outside the lunchroom on sandwiches as their counterparts filed passed.

The only Europeans admitted were Eddie George of the Bank of England, Wim Duisenberg of the European Central Bank, and Pina Moura of the Portuguese Finance Ministry. Messrs George and Duisenberg were admitted in their own right, but Mr

Moura was admitted only in his capacity as president of the euro-11 group—and even then only on condition that he remain silent.

The French, German, and Italian bank presidents preside over what are known in financial circles as 'legacy currencies'—mere sub-units of the euro. As such, they are no longer welcome at top-level international discussions dealing with market sensitive information.

The three presidents can console themselves, though, with the fact that Messrs Brown and George have been denied even observer status at meetings of the euro-11 group, the body charged with overseeing the European Single Currency.

Joint EU-NAFTA Membership Not an Option

New research has revealed that the unlikely prospect of the UK joining the North American Free Trade Area (Nafta) whilst remaining a member of the European Union is in fact impossible.

The principal barrier to joint membership stems from the fact that Nafta and the EU are legally incongruent organisations. Nafta is a free trade area the basic obligation of which is to abolish in four stages customs duties upon goods originating in other Nafta states, a project to be completed by 1 January 2008 subject to certain qualifications. Nafta membership does not require states to allow the free circulation of goods originating from non-Nafta states, however.

The EU, on the other hand, is a customs union as well as a free trade area. As such, EU members must agree to common rules, including tariffs, on the circulation of goods from outside as well as inside its boundaries. Affording Nafta states privileged access to UK markets would contravene this basic requirement, prompting penalties under Article 10 of the Treaty on European Union. Article 10 states member states "shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty."

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Why Europe Must Embrace E-Commerce

by David Hawkins

THE EUROPEAN COMMISSION, in the guise of President Prodi have announced the launch of a seemingly ambitious plan to launch the EU on the path to e-commerce success. The *e-Europe* initiative, published in December and to be discussed at the Special European Council in Lisbon in March is meant as the principal guiding light for the future of electronic commerce, and in particular business to business electronic commerce, in the EU. It comprises three broad parts:

- Bringing every citizen, every home and school, every business and administration, into the digital age and online.
- Creating a digitally literate Europe, supported by an entrepreneurial culture ready to finance and develop new ideas
- Ensuring the whole process is socially inclusive, builds consumer trust and strengthens social cohesion

Given the sluggish growth of industrial output in Europe in the previous decade and the structural inflationary pressures e-commerce may very well be embraced by the Commission as the panacea for the Union's problems. The opportunities for increased employment would be well received. As President Prodi remarked at the press conference to launch the 10 point plan:

"the eEurope Initiative is intended to help overcome these challenges and thereby accelerate the modernisation of the European economy, with a positive impact on employment, growth, productivity and social cohesion."

But what are the chances of success, and how far can the Commission prepare, with reference to previous initiatives and present draft legislation, a statutory foundation which will encourage "eEurope?", and encourage it in time. I will take as my first point that whilst the US powers ahead in e-business, the Draft Directive on Certain Legal Aspects of E-Commerce which will set out the legal requirements for such commerce in the EU has yet to receive its Second Reading in Parliament, whilst the Directive relating to electronic signatures was only agreed upon at the last Internal Market meeting in December. Added to the fact that the Direct Marketing Directive, the Copyright Directive and proposals relating

to computer software have all yet to be agreed upon, we already find ourselves agreeing with Phillip Virgo, Director-General of EURIM (European Information Market) who wrote recently that with the welter of legislation pouring from the Commission, the main concern was to make sure that there were no contradictions or anomalies in the *actualité*, let alone in the strategy for information society promotion. National Governments meanwhile have moved ahead more rapidly.

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What the Commission isolates as the threat to the growth of e-commerce (ignoring the torrent of legislation that has emanated) includes expensive and slow access to the Internet, an insufficiently digitally literate on-line population, the lack of a dynamic, entrepreneurial, service orientated culture and a public sector which is not playing a sufficiently active role in enabling the development of new applications and services.

I would argue that these concerns are nothing new (taking the development of the internet as 'evolution' rather than 'revolution') and that they already follow on (or indeed trail) initiatives introduced at national level by member states. In the UK for instance, despite the confusion concerning the e-commerce bill and the role of key escrow, the government has announced greater access to the internet for the 'socially excluded' whilst crucially OFTEL has continued to put pressure on BT to significantly reduce prices for internet access. Following last years report by the Performance and Innovation Unit, *e-commerce@its.best.uk*, procurement schemes and the construction of the government secure extranet are leading the way for the UK to becoming "the best environment in the world for e-commerce".

It is often a given, undisputed fact that telecomm liberalisation in the EU, and in particular the previous agreement on a common wireless standard across Europe has positioned member states at the bottom of a rapidly upward moving escalator ready to take them to the next level of the internet 'revolution'. But is this really the case? Can the Commission lead on this area?

Reform began in 1987 with the publication of the Green Paper on the Development of the Common Market for Telecommunication Services and Equipment, and its greatest achievement has been the single standard for mobile telephony which will be utilised later this year to give portable internet access and e-commerce abilities allowing mobile e-commerce transactions. With the rise of G3 and the Wireless Application Protocol, Europe is genuinely ahead of the USA with its fractured market, divided as it is through competing wireless standards. Still, this lack of a common code has not stopped the American information explosion, and the economic boom that has accompanied it.

The key, then to this American boom, and where the Commission is right (but too late – do they really expect all member states to be unbundled by the end of 2000?) to concentrate on Prodi's initiative is this: internet access in the US is far cheaper than Europe, free in many cases. Local loop unbundling has continued apace, whilst in Europe former and present state monopolies have defended their positions. For Europe and the Single Market it is all very well having mobile technology which can offer e-mail and basic internet access (far more limited than that available from a home PC and initially just as expensive), the important issue for Europe at the moment is to have cheap access to the home and tougher competition laws. Without competition in this vital area cheap access the European internet revolution will be an impossible dream. In the UK, BT is still the dominant provider of services to residential customers (with 85% of market share). It is surely the job of national regulators and Governments to initiate changes from the bottom, dealing with a concern that quite literally comes straight into peoples homes.

In all fairness to the Commission, the 1999 Communications Review, published last November, recognised that the market

was still fragmented, prices were still high and that the presence of the incumbent operator was a major block to local loop unbundling. Some success.

The Single Market Strategy published at the end of last year states that the e-europe initiative will:

“create an appropriate regulatory environment; restrict regulation to a minimum necessary to offer legal certainty to service providers; provide consumers with a high level of protection and simple low cost redress mechanisms and to prevent the use of the Internet as a vehicle for criminal activity.”

The greatest contribution that could be made from Brussels, and to steal an expression from the Cabinet Office, would be to institute a more ‘joined up’ approach to policy making. For although e-commerce has grown in Europe over the last few years, the threat of over-regulation, specifically regarding the exposure of e-business to legal liability in all member states of the EU could result in a serious decline in confidence on the part of ISP’s (internet Service Providers).

Within the Electronic Signatures Directive, and the Directive setting out the legal guidelines governing e-commerce, the principle of ‘origin’ is firmly made. Thus companies could only be sued at their place of domain. Exposing small business to 15 different judicial systems is clearly fraught with dangers but this has not stopped the Commission planning to extend the jurisdiction of the Brussels Convention so that non-UK citizens could sue a foreign based ISP in the UK. At a recent conference held by the Consumer Affairs Directorate at the UK Dti to discuss the proposed extension business made their opposition to the adoption of Article 15 quite clear.

In order to allow e-commerce to grow, and thus for the benefits of Prodi’s initiative to have any real meaning, a sound legal base for e-commerce must be constituted which allows for consumer protection but does not impose further burdens on business. The creation of the scheme of self-regulation for Trusted Service Providers instituted by the European Forum for Electronic Business, led by the UK based Alliance for Electronic Business (which is also setting up the domestic UK T-scheme)

offers consumers the knowledge that their rights will be protected if there exists a secure hallmark. The need for further political interference is removed. If you don’t see the hallmark – don’t buy on-line!

Can European policy makers keep up with the ‘internet revolution’? A ten point plan is all well and good, but until more competition is introduced into the telecommunications market, monopolists will continue to prevent faster and cheaper internet access which will stall the acceleration of e-commerce into the future. What we need are tougher competition laws, not necessarily further regulations. Member states have pioneered e-commerce legislation – they should be allowed to continue with their particularistic schemes. As previous attempts have shown, centrally guided plans are built upon an inherently unstable premise.

David Hawkins is a public affairs consultant.

... news in brief

Axis grinds to halt

Despite the Commission’s new ambitions, one German commentator believes that the Franco–German axis has ground to a standstill. Chancellor Schröder has found hardly any common ground in the last year and a half with either Jacques Chirac or Lionel Jospin. This lack of political understanding between the countries which have traditionally acted as motor of European integration is apparently having a negative effect on the Prodi commission. Although Prodi started his mandate with considerable élan, various policy failures and above all his (retracted) invitation to Colonel Gaddafi have been perceived as blunders. His enlargement plans and his plans for a Europe-wide food authority have run into the sand. Unlike Santer, continues the commentator, Prodi is a man who takes risks. But then he fails to find support for them. Even high-profile national initiatives, like the Franco–British defence agreement signed in St Malo, do not seem to be followed through. [*Handelsblatt*, 9th February 2000]

Schröder cuts taxes

The left-wing government in Germany has announced a range of tax-cutting measures. The top rate of income tax is to be reduced from 53% to 45%. Corporate tax is to be cut to 25% and other high taxes are to be cut, including ones which will permit banks and insurance companies to sell their shares in other companies without being punished fiscally. It is expected that this measure will lead to significant modifications in the so-called Rhenish model of capitalism, based on large direct ownership by banks of Germany’s major companies.

In France, meanwhile, the Socialist government of Lionel Jospin is enjoying a surplus in tax receipts. The Finance Minister, Christian Sautter, has announced that the revenue from tax now exceeds 32 billion francs (£ 3.2 bn) and that, because government spending is lower than

predicted, the budget deficit should be smaller than the target for this year. It is thus also looking at possible tax cuts, for instance on the so-called “habitation tax”. [*Le Monde*, 10th February 2000]

Merkel accuses Kohl of bribery

The General Secretary of the German CDU, Angela Merkel, has accused the former Chancellor, Helmut Kohl, of blackmail. She said that he had exploited every opportunity for blackmail in order to try to extricate himself from the financial scandal within the CDU. She alleged that he had tried to blackmail his successor, Wolfgang Schäuble, over the fact that Schäuble had himself received DM 100,000 from the arms dealer, Karl-Heinz Schreiber. [*Die Welt*, 7th February 2000]

In other developments, the leader of the CDU, Wolfgang Schäuble, is being forced to admit that he held a third meeting with the arms dealer, Karlheinz Schreiber, at which DM 100,000 was handed over. When the affair first broke, Schäuble denied ever having met Schreiber at all, still less having received money from him. Now it appears that he met him quite often. [*Die Welt*, 10th February 2000]

Finally, the CDU has entered a fresh bout of agony over what to do at Helmut Kohl’s 70th birthday on 3rd April. In previous years, Kohl’s birthday parties were causes for general celebration. For months, people in the Konrad Adenauer house calculated how much champagne would be needed and dozens of party workers made plans. 3,000 people came to his party in 1995 – the whole *Prominenz*, as they say in German. Now, by contrast, the CDU cannot decide how to celebrate the former leader’s big day. A large Berlin venue had been booked and the former German president, Roman Herzog (a Kohl appointee) was due to lead the good wishes. But the venue administration is now asking worriedly whether the reservation is still required. Maybe Kohl will just celebrate at home with 1,000 or so of his closest friends in Ludwigshafen – just like old times. [*Die Welt*, 10th February 2000]

How Tax Cuts Can Be Fair, and Boost Incomes

by Keith Marsden

CAN TAX CUTS BE FAIR AND SOCIALLY equitable? That question is troubling many European governments as they face growing tax fatigue among voters. Taxpayers are prepared to fund law and order and defence services that cannot be provided effectively through private markets. Most still wish to ensure that everyone has access to basic education and health services, irrespective of means, and would like to see real improvements in the efficiency of these services. They are generally willing to pay for temporary succour and a hand-up for fellow citizens who have fallen on hard times. But they are growing tired of the work-shy and welfare cheats who abuse the social security system. They would also gladly do without much of the red tape and bureaucracy that unduly complicates their lives, and swallows up too much of their hard earned incomes. And many believe that it's unfair that they have to pay for public services they don't need or value. They want the freedom to select from competing suppliers, not be dependent on state monopolies.

Political leaders are aware of the shift in public attitudes towards the role of the state, but they face resistance to change from special interest groups. Most European governments keep their voters in the dark about who are the real 'winners' and 'losers' from their current tax and spending policies. The European Ombudsman has complained about undue secrecy in this field, to no avail. And an adequate accounting framework to help in the planning of reforms is often lacking. Britain is an exception, however. Each year its Office for National Statistics (ONS) reports on how the distribution of income amongst households has been modified by the tax/benefit system. The analysis only allocates those taxes and benefits that can be reasonably attributed to households. Therefore some government revenue and expenditure are not covered, such as revenue from corporation tax and expenditure on defence and public order. However, the taxes and benefits allocated amounted to 63% and 56% respectively of general government expenditure which totalled over £315 billion in 1997. The salient findings are presented below, and some policy reforms suggested.

Income Redistribution

In 1997–98, the first year of New Labour government, the 'original' income from employment and other private sources of the top fifth of households ranked by 'equivalised' disposable income (adjusted to take account of the size and composition of households) was 19 times the average of the bottom fifth. Taxes and benefits reduced this inequality so that the corresponding ratio for 'final' income (after all transfers to and from the state) was four to one. In 1987, in the middle of Tory rule and when ONS introduced the current methodology which allows subsequent trends to be shown on a consistent basis, income distribution was even more equal. The ratio of the final income of the top 20% to the bottom 20% was then 3.7 to one. Yet in a recent pamphlet, *Europe: The Third Way / Die Neue Mitte*, Tony Blair and Gerhard Schroder declared that "the past two decades of neo-liberal *laissez-faire* are over". In reality, both Conservative and Labour governments in Britain have used the tax/benefit system aggressively in the pursuit of social equity goals.

Poverty Reduction

The average annual final income of the poorest 20% of households has risen to £8,430 in 1997–98 from £4,820 in 1987 in current prices. This represents a real (inflation adjusted) increase of 22%, indicating a significant reduction in absolute poverty. However, social activists often talk about 'relative' poverty, and take 50% of average household income as the demarcation line. This could be an ever receding target. But the ONS data show that most, if not all, 'non-retired' households (which account for 74.5% of all households) are above this line. The final income of the bottom fifth of these households was 53.6% of the average for all households (£17,700). Relative poverty appears to affect retired persons mostly. The bottom fifth of retired households had final incomes amounting to just 36.5% of the national average for all households in 1997–98, and up to sixty per cent were estimated to be below the relative poverty line. However, the data probably exaggerate the number of persons affected because no estimates are made of imputed income from owner occupied housing. Yet the study shows that 81% of the poorest

decile of retired households owned their dwellings outright, and more than half of those ranked in the bottom 60% did so. But even ignoring this fact, poverty among retired households could be easily removed. A transfer to this group of an additional £4.2 billion in benefits – just 1.3% of total government expenditure in 1997–98 – would suffice to bring them above the poverty line.

Tax Burdens and Benefit Gains

The tax payments included in the study totalled £203.8 billion in 1997–98. This was 42.2% of the 'original' income household members received from employment and other private sources (such as investment and occupational pensions). The richest 20% of households paid 41.4% of these taxes, compared to 16.4% by the poorest 40%. Retired households contributed just 11%, mostly in the form of indirect taxes on goods and services. The pattern for benefits is the converse. The bottom 40% on the income scale were allocated 58.7% of total benefits while the top 20% received 10.1%. Retired households, most of whom were included in the bottom 40% of all households, got 33.9%. A large share of the benefits also went to younger persons who were not employed, either involuntarily or from choice. 16% of the 'chief economic supporters' within the poorest 20% of non-retired households were unemployed – that is, without jobs but seeking work. But a massive additional 45% were 'unoccupied'. This equivocal status was not a barrier to state aid. This income group received cash benefits averaging £4,744 per household, and a further £4,330 in benefits in kind (mainly education and health services).

Another important fact is that all groups receive benefits from one hand of government while paying taxes to the other. This involves duplicative administrative transactions that have high economic costs. The richest 20% of non-retired households paid out £68.4 billion in taxes and got back £9.8 billion in benefits, resulting in a net transfer of £58.6. On the other hand, the bottom 40% of all households received benefits worth £83.3 billion, but still had to fork out £33.4 billion in taxes. There must surely be a more efficient way of redistributing income.

Suggested Reforms

IN THE LIGHT OF THESE FINDINGS, some radical reforms should be contemplated. First, a tax credit of up to 80% of the cost of standard benefits could be given to those willing to opt out of the state system. This could apply to any field of government action except defence, law and order and general public administration. This would leave citizens free to choose their suppliers of alternative services, or become more self-reliant. The more affluent would still be required to contribute to the support of the less well off via a 'social cohesion levy' equivalent to their net tax payments. And the 20% or more retained from opt-out programmes could be used to improve government services for their remaining clients, and to boost the incomes of the poorest pensioners. If 30% of households exercised this option for education and health services alone, government expenditure would drop by £18.7 billion. A matching tax cut would bring the tax/GDP

ratio down by 2.3 percentage points, without considering the rise in incomes and GDP resulting from other reforms.

Second, more effective 'sticks' and 'carrots' could be applied to persuade the 'unoccupied' to take paid work, and to encourage employers to hire them. The instruments might include shorter periods of payment of job-seeker allowances, cutting off welfare benefits to people who refuse available jobs, and tax credits for those employers and individuals that respond. If half the economically inactive adults aged under 65 were induced and/or helped to find jobs, and gained 50% of current average earnings, total household income would increase by £18.1 billion. Savings on the benefits side could reach £12 billion – 3.8% of total government spending.

The end result of such reforms would be higher employment and income levels, less poverty, more freedom, greater fairness and stronger incentives for work and innovation. That's surely not to be sniffed at

by social activists or economic liberals. The inhabitants of the Canton of Geneva in Switzerland – which has a decentralised tax system – have recently voted by a large majority in a popular referendum to reduce their taxes by 12% over a three year period (against the wishes of its centre-left controlled council). This shows the strength of opposition in a prosperous country to a bloated bureaucracy and an excessive tax burden. Shouldn't Britain and other EU countries give their taxpayers a similar break?

Keith Marsden is an economics consultant based in Geneva. He is a regular contributor to the Wall Street Journal Europe and is a member of the European Foundation International Advisory Board.

Is EMU membership good value at £100 billion?

Tony Lodge summarises the latest KPMG report which estimates joining the euro would cost British industry £100 billion, or £34 million for every UK company

JOINING THE EURO would cost British industry £100 billion, according to a highly detailed 30 page report from City firm KPMG Consulting. The startling financial impact of the possible changeover emerged in KPMG's fourth annual research report on the issue of economic and monetary union.

Primarily, the report points out that equipping British companies with the technology to switch from the pound to the failing euro would cost £34 million for every firm with more than 500 employees and a staggering £100 billion overall. The figure represents more than 10 per cent of the wealth the economy creates in a year.

In the December *Journal* an article headed 'The Cost of Joining EMU: £9bn p.a. or 1% of GDP' focused on Bank of England Working Paper 102 which claimed correlation or the lack of correlation between major economies in Euroland would cost the UK 1 per cent to KPMG's 10 per cent. This would be due to Britain's

close and consistent economic correlation with the United States.

It now appears that the Bank of England report substantially underestimated the true cost of British membership. Whilst

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basing many conclusions around the correlation argument, the report's authors clearly failed to analyse the physical implications of membership on British industry.

This latest contribution to the debate of the likely costs of EMU membership comes

on the back of the CBI's decision to stop promoting British membership of EMU until the Prime Minister "gives a lead", in the words of Director-General Digby Jones. By giving a lead, Jones makes clear that this means calling the referendum.

KPMG have provided a clear assessment of the likely costs of any move by HM Government to join the single currency. It must also be noted that the Chairman of KPMG Consulting, Colin Sharman, is treasurer of Britain in Europe, the campaign organisation set up to bolster and increase support amongst the British public for EMU.

A full copy of the KPMG report Europe's Response to EMU – Fourth Annual Research Report is available at www.kpmg.co.uk

Tony Lodge is Editor of the European Journal.

Renegotiation

European trade without European government

by Bill Cash, MP

Europe is the one big issue on which the majority of voters are on the side of the Opposition. The single European state that is being created is being created now. The next election, which had seemed such a formality, could be the most important for a generation.

Lord Rees-Mogg, 10th January, 2000.

THE European Union's major elements – its internal administration; Single Currency; and its Common Fisheries, Agricultural, and Foreign & Security policies – have one thing in common: they are not working. Renegotiating the treaty base of these and other failing elements of the EU is the urgent task of every pro-European. The United Kingdom especially has a vital interest in renegotiating the Maastricht and Amsterdam treaties out of which this federal, undemocratic Europe Union has grown.

Renegotiation: Not Withdrawal

Ever-finer distinctions between European co-operation and outright European government have, post-Amsterdam, disappeared. Other than withdrawal (an option which, whilst increasingly popular, I do not support as an objective) renegotiation is the only sensible alternative to acquiescence in the face of this development.

All treaties are renegotiations of existing ones, yet the present trend has been in only one direction: toward European government by way of a common currency, citizenship, flag, anthem, frontier, defence, and supreme court. We can and must do more to alter this direction.

The Conservative Party did not seriously oppose Amsterdam. Only one amendment to the Treaty came back from the Lords, when the Conservative majority there should have made many. Lack of opposition to Amsterdam stemmed from the fact that it was rooted in Maastricht – a treaty the Party did so much to force through.

To those arguing that renegotiation would fail, I say that we will not know until and unless we try. It is unlikely that, as some have claimed, our European partners would sooner see us withdraw from the Union than agree to its renegotiation. EU states export c. £170 billion per year to the UK, a volume of trade that they could not easily

jeopardise – and even supposing they wished to, WTO rules bar outright trade barriers.

Further, we should not assume that our EU partners do not themselves have cause to renegotiate: might not France and Germany, for example, wish to reclaim control over food safety? Might not Belgium, given their recent actions, wish to dilute the Schengen Agreement on open borders?

Renegotiation: Possible

It is axiomatic that amendments to the Treaties can be presented to an Intergovernmental Conference (IGC). The matter is thus one of intention, persuasion, and of finding common cause on the part of the party advocating change.

Whilst there are serious difficulties posed by the doctrine of the *acquis communautaire* and by Section 2 of the European Communities Act 1972, refusal to attempt renegotiation is the counsel of despair. The price of not renegotiating is escalating day-by-day, paid in the coin of our own democracy. The situation created by the extension of Qualified Majority Voting (the scrapping of the national veto) presents a particularly grave threat, as it moves the EU into the sphere of European Government. As Romano Prodi put it in the *Independent* on the 4th of February:

European government is a clear expression I still use. You need time, but step by step the European Commission takes a political decision and behaves like a growing government.

The 1971 White Paper held that abandoning the veto would “imperil the very fabric of the Community”. Indeed, if Member States are to coexist harmoniously, they must retain and, given the Amsterdam and Maastricht treaties, in some cases repatriate control over matters effecting vitally their national interests. Reaffirmation and

retention of the veto, irrespective of enlargement, must for this reason be central to renegotiation – particularly given Prodi's speech to the European Parliament on the 1st of December in which he stated that:

[a]s long as the veto exists, the EU will be like a soldier trying to march with a ball and chain around one leg. Unanimity means either complete paralysis or reducing everything to the lowest common denominator. It is simply a non-starter in today's world.

Keith Vaz, Minister for Europe, echoed this sentiment under my questioning in the European Scrutiny Committee, admitting that the Government is prepared to abandon the veto in the (further) areas of:

- appointments to the European Court of Justice (ECJ);
- the rules and procedures of the ECJ;
- transport issues;
- languages policy; and
- appointments to the seats of institutions.

Renegotiation: Lifting our Head out of the Sand

Accepting in principle all past and present EU legislation and treaties (with the possible exception of fisheries policy) prevents us from renegotiating all of the current EU projects to which UK voters so object – not to mention all that will come out of the IGC in Portugal.

If UK voters reject the euro or if, as is more likely, joining it becomes impossible, then the UK will no longer have need of all the policies associated with it – whether tax harmonisation, the Maastricht criteria on public expenditure, or (whilst it may now be too late) the selling off of Bank of England gold reserves.

Dissociating the UK from EMU projects requires renegotiation of the treaties from which these projects derive – by whichever party is in power. Given that the

Conservative Party aims to 'save the pound', however, we especially must prepare for renegotiation by preparing specific amendments to the whole Treaty on European Union well before the next IGC in December. If we do not, we will be left with a message on Europe without substance.

The shift towards European Government has gone so far that failure to renegotiate undermines the very principles that the Party exists to promote: namely, the national interest and the self-governance of the British people. This issue transcends the fact of the Party having, collectively and individually, signed and voted for the Maastricht Treaty.

Renegotiation: of the Maastricht Criteria

Rejecting the euro means scrapping the caps on public expenditure necessitated by the Maastricht criteria. The unspoken policy of tracking the criteria, including the absurdly titled Growth and Stability Pact (GSP), has inhibited our spending decisions for too long. Whilst we have an opt-out from the Single Currency we do not, as is generally overlooked, have one from the economic rules that accompany it.

Under the GSP citizens are bound by rules that they had no hand in creating: they must not have a budget deficit greater than 3% of their GDP otherwise they must pay massive fines. (Italy exceeded 3% for most of its post-war history.) The GSP is just one of the ways in which Maastricht took power out of the hands of European electorates and trapped them within rules that amount to economic rather than democratic government.

Making the connection between Maastricht and spending caps would connect Europe to the (according to opinion polls) more voter sensitive issues of health, education, and law and order. (Indeed, NHS accountants already cite compliance with the EU Working Time Directive as the chief cause of their £200 million budget shortfall.) Highlighting such connections may even, at long last, mobilise the left against European integration, just as it has done in France and Germany where the close connection between Maastricht and public expenditure is better understood.

Conservatives need publicly to make the Europe-public expenditure connection before the Government itself gives up on the euro. For if, as is probable, the Government fails to achieve economic convergence, it would then itself claim credit for spending

funds hitherto protected by adherence to the Maastricht criteria. (This is not to argue for unnecessary public expenditure, but simply for the right to govern our own finances.)

Renegotiation: not 'Flexibility'

Described in Brussels as the 'Enhanced Co-operation Initiative', and known under the Major Government as 'variable geometry', the notion of flexibility is a Trojan horse, allowing federalising member states to open-up the ground onto which they eventually force less enthusiastic ones.

Witness the Schengen Agreement on open borders: once an optional item, the Amsterdam Treaty holds that it "must be accepted in full by all [new member] States." The Treaty also uses language that assumes the UK will one day adopt Schengen, talking about 'when' rather than 'if' we join.

Like subsidiarity, flexibility is by no means a new doctrine, going back, as it does, to the origins of the European Community and later to the 'concentric circles' plan of the 1980s. The doctrine has even been used by the Commission to describe EMU, with all of its economic rigidities, as "the best form of flexibility yet devised." The truth is that flexibility would create a centre of gravity for certain countries to dominate the Union, rendering peripheral members mere clients, economically and politically, of the nations at the centre.

An example of this phenomenon is the euro-11 group established to oversee the Single Currency. With non-euro members barred even from observing its meetings, the group was described by its chief architect, Dominique Strauss Khan, as an "economic government for Europe". Having established such exclusive inner cliques, federalising member states such as France and Germany use them as a ratchet on other, more cautious members (in the case of the euro-11, on the countries outside euroland).

As well as a ratchet for further integration, the idea of an inner core of EU members appeals to those, such as Jacques Delors, who see it as a form of drawbridge. Having denounced enlargement as the "deterioration" of a political project into "a great single market", Delors backs flexibility as a means of protecting federalising and expensive projects from the threats posed to them by enlargement. For, under a two-speed system, it is possible that the EU's more generous projects such as the

Common Agricultural Policy (CAP) could remain the preserve of an inner core, staving off the massive extra cost of extending them to the poorer nations of Eastern Europe.

Those interested in genuinely restructuring wasteful projects such as CAP should for this reason reject flexibility in favour of thoroughgoing reform, and thereby tackle rather than postpone the solving of the EU's inherent problems. (See the text of my Adjournment Debate on this issue, 29 January 1997.)

For this reason, and because it goes to the heart of Conservative policy on Europe, the promotion of flexibility is a matter of deep concern. I have written to the Shadow Foreign Secretary, Francis Maude, asking him to explain his position on the doctrine.

Opposition attacks on the proposals of the IGC will ring hollow indeed if a core item on its agenda, the Enhanced Co-operation Initiative, is based upon a principle that the Party supports – a principle we did not reject in the House of Lords when considering Amsterdam.

This question needs to be cleared up. I have therefore tabled an Early Day Motion calling on the Government and the House to renegotiate the provisions in the Amsterdam Treaty dealing with flexibility – rejecting them and, of course, the proposal of the Commission to abolish the veto in respect of this issue.

Playing down the placing of flexibility on the IGC agenda, Keith Vaz claimed that "no one is passionately in favour of this", adding "the French, in any case, would not support it." Vaz and his government have clearly lost touch with reality. France's socialist government now endorses the Enhanced Co-operation Initiative on flexibility, chiefly because the idea is being championed by one of their favourites, Jacques Delors. (See EF Research Unit Briefing, page 8.) As the *Telegraph* pointed out on the 15th February, President Chirac has also recently committed himself to the idea.

In his piece in *The Times* on the 15th February, John Maples implores the Party "to move from [his version of] 'flexibility' to 'renegotiation'". Anyone believing that the French, and in particular Jacques Delors, would endorse a doctrine allowing for *less* integration in Europe is seriously misguided.

Unfortunately, the likelihood is that the Maples doctrine of so-called flexibility will, as an ingredient of this or a future IGC, have become part of the *acquis communautaire*

by the time that the Conservatives are returned to power – presenting the UK with yet another *fait accompli* on further European integration.

Renegotiation: in the National Interest

Maples and others were happy to have the last Party Conference believe that they endorsed a policy or renegotiation. As I pointed out in my pamphlet at the time, however, in fact endorsed no such thing. Having now denounced renegotiation, Maples is conceding that his earlier use of the term to describe Party policy on Europe was mere sophistry.

Yet only by arguing for radical renegotiation can we deal with all of these issues and close the gap between the 69% Eurorealist majority in Britain and the Conservative Party's own 30% minority. Renegotiation would not, as its critics claim, consign the Party to a 'rump of extremists', if we place the issue of Europe in its proper democratic perspective – arguing for the right to determine our own public expenditure priorities without reference to

Maastricht. We do not want unnecessary public expenditure, rather to govern ourselves.

Most importantly, perhaps, linking Europe to health, education, and other more politically sensitive issues would complicate the political terrain upon which Labour must counterattack us, lifting the issue out of a false left-right dichotomy and into the realm of the national interest.

Renegotiation as a policy would be an act of statesmanship worthy of the great traditions of the Conservative Party. We are faced with Metternich problems that require Churchillian solutions. It is a combination of judgement, willpower, and electoral support (the one thing we do have in our favour on this issue) that is required to push such a solution forward. If these are not forthcoming, or if other parties steal our clothes, we will slip further and deeper into the morass. Words and messages alone will not do.

Defeatists may argue that appeasement and acquiescence have, over the years, locked us into the *acquis communautaire* from which there is now no escape. Yet they

are wrong. Accepting that we have already allowed the European project to go too far requires us now to put our country and our democracy first by going to the country at the next election on a clear, unambiguous platform of renegotiation.

Specifically renegotiation is needed as a minimum on such issues as EMU, CFSP, justice and home affairs, borders, immigration and asylum, flexibility, and the governmental functions that are being brought within the jurisdiction of the ECJ. These matters are all causing great difficulties for the other member states as well as for the UK. We must precipitate a real debate at summit level and call the European Union's bluff, forcing member states to answer to their own electorates for its failures.

Co-operate and debate we can; submit, never.

Bill Cash is Conservative MP for Stone and Chairman of the European Foundation.

The Gobbledegook Goes On...

by John Tate

ONE MIGHT THINK THAT THE LAWS, regulations, and treaties of the European Union would be drafted in such a way as to be clear to the hundreds of millions of people to whom they apply. As many readers of this journal will know, however, one would be wrong in this thought.

Much EU business is actually written up in impenetrable code, meaningless to all but a handful of bureaucrats and lawyers in Brussels. An example is the text below, taken from Annex III to the communiqué 'Guidelines for Reform'.

The General Affairs Council's central responsibility for general horizontal issues, including overall policy co-ordination, means it will have to manage an increasingly external and internal agenda, dealing with major multidisciplinary and interpillar dossiers. Effectively handing all aspects of its work by better agenda management and suitable Member State representation is essential if the General Affairs Council is to continue to play its role in assuring overall co-ordination and policy consistency and in preparing European Council meetings.

For Euro-federalists, the beauty of impenetrable language is that it can be made to mean whatever they want it to mean. Depending on one's audience, such text may be described as either innocuous and, of all things, 'common sense' (typical of the British Government's line) or it may be described as setting out another stepping stone toward European government (the line often taken by Italian Prime Ministers, for example).

A recent exemplar of Euro-gobbledegook was the report released in January by Neil Kinnock, Vice-President of the European Commission, setting out 'A Code of Conduct for Good Administration'. No sooner do you begin to understand "Activity Based Management" than the report explains it as "a policy-driven SPP framework" – not to be confused with "Integrated Resource Management Systems" into which "Activity Based Budget methodology will be integrated."

Even *The Economist* admitted to being flummoxed by the report, paraphrasing it thus:

A strengthening of financial management will rely in part on the "quasi-abolition of central ex-ante visa controls". Some advisors are being "eliminated from organigrammes" [sic.]. There will also be a "Transparency of Personnel Policy"; translucent personnel will presumably be offered generous severance terms. Perhaps the commission could prepare a "Non-Paper" explaining why.

The Economist goes on to suggest that the whole report be reduced to three lines:

"Do not give jobs to your relations.

If you must give jobs to your relations, make sure they do not steal anything.

No dentists."

(Sadly, *The Economist* fails to point out the contradiction of Kinnock denouncing nepotism.)

The victims of EU sophistry are the citizens of Europe. Ignorant of the true content of the laws made in their name, EU citizens are reliant instead on the spin that their various leaders chose to put upon them.

John Tate is Head of Research at the European Foundation.

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Can the EU be Flexible Enough?

by Martin Callanan, MEP

FOR INTEGRATIONISTS, marching towards the federal dream, 1999 was a year which commenced with the euphoric launch of the euro, and which recently culminated in the last European summit of the year in Helsinki, paving the way for enlargement to embrace the first seven applicant countries. The destabilising blow to public confidence in the European Union, served by the mass resignation of the Santer Commission this year, has been utilised by federalists headed by the new Prodi Commission, to promote much needed reform, greater transparency and to endeavour to restore faith in the European institutions and the European integration process. In theory all well and good. But how much has been achieved in reality? After more than forty years of integration and the completion of the Single Market, we find ourselves hurtling towards economic and monetary union and enlargement to the East, towards a wider, deeper union. But before blindly pursuing this wider, deeper idea, we should take time to reflect, to reassess, to ask ourselves, where is Europe now? What lies in store for Britain if the current Prodi Commission drags us down the federalist road?

It is my firm belief that Europe is heading in the wrong direction. The original aim of the EU to secure peace and economic prosperity in Europe on the basis of incremental change has been pushed aside by a much broader political agenda, which lays the foundations for the creation of a European superstate. We stand meekly by as national sovereignty is steadily eroded and the power of member states to decide upon key areas of national interest is infringed upon by European law. And how exactly does this facilitate economic growth and stability in Europe? How does it help to improve Europe's position in the global market? The short answer is that it doesn't. Europe is far from competitive in the global market. The euro at the time of writing twelve months after its launch has reached virtual parity with the dollar, small and medium sized businesses are to face increasing taxation and, compared to the United States, innovative activity is low, unemployment is high and the labour market inflexible. Looking across the Atlantic to the US provides a salutary lesson for the EU. The US has seen the creation of some 20

million jobs over the last 10 years, while unemployment is at a 30 year low of 4.1%.

We should be promoting a new kind of Europe; one based on the principles of free trade, deregulation and an enlarged and outward looking competitive Europe. Furthermore, it should be a Europe that enables the individual member states to choose which policies they adopt according to the benefits that will ensue. A flexible Europe should embrace the different views on the future of European integration where member states can remain in Europe without being run by Europe.

Flexibility as a model for European integration

Conservative attitudes on Europe can probably best be summarised as to stay in Europe, reform Europe from within and make the best from it. In my view this will not be possible if we are forced towards political union, which EMU and the subsequent shift of power to the centre implies. The answer is a more flexible basis for EU membership, a flexibility clause that would allow countries to opt out of certain EU laws that are not essential to Europe's open and free market. I recognise that every member state must accept the rights and responsibilities of the single market and the core elements of an open free-trading competitive Europe. But at the same time, outside those core areas, there should be a provision to allow countries not to participate in new legislative actions at a European level which they wish to handle at a national level. In practice, this would mean that all member states would, as is currently the case, be bound by EU decisions on the Single Market, the customs union, external trade policy and on competition policy. The flexibility clause would, for example, apply to existing and future legislation on social and employment policy, tax harmonisation, regional and industrial policy.

As William Hague has pointed out, the effect of the flexibility clause would not be to block some countries from going ahead with new legislation if they wished to do so. But it would stop much non-essential new legislation being forced on any country against its will. It is, however, a very different vision and a very different Europe that we see unfolding before us. The Europe that is

being prescribed by the President of the Commission, Romano Prodi, is a centralised federal superstate that seeks to supplant independent national governments. The Amsterdam Treaty does provide for limited flexibility, and the opt-outs from the single currency provide another example of how member states can regulate to a certain extent the rate at which they adopt overarching European legislation. But the examples of the federalist agencies are all too evident.

It is interesting to speculate upon the extent to which the UK will have to compromise its position on the future of Europe under the next Conservative government. It is doubtful whether the UK's current relationship with the EU is tenable, assuming the Conservatives were to come to power and pursue a flexibility clause and all that it entails. We would presumably decline to accept the route to monetary union, taken by most, and potentially all, other member states. We would then ultimately have to re-assess the basis upon which we remain within the union.

The difficulty with monetary union is that it will require harmonisation in lots of other areas, particularly taxation. Indeed, this very requirement is what makes it so attractive to federalists, who make no secret of their political rather than economic motivation. Once EMU is established, objections will quickly be raised to different indirect tax regimes in euro-zone countries. The potential for fiscal migration to avoid higher tax levels levied in one area compared with another would be viewed with alarm. Similarly, it will become untenable to maintain different corporate tax regimes. A lower rate of corporate taxation in one country will be regarded as an indirect subsidy to that country's industry. European integrationists love monetary union because it will drive Europe towards the ultimate objective: a fully federal structure.

The attempt to force the UK to introduce a withholding tax is only the first move towards tax harmonisation across Europe. It will imply a 20% levy on the interest paid on offshore savings in the EU. This would result in substantial job losses in the UK and an exodus of capital that would undermine London's bond market. Gordon Brown was recorded to have said of the decision not to

press for the withholding tax that “people are coming to recognise the very special problems that we have”. In response an article in the *Sunday Telegraph* astutely pointed out that Gordon Brown had seemingly grasped the wrong end of the stick. “The point is not that Britain has very special problems – we have the largest and most successful capital market in the EU. It is the EU that would have very special problems with the withholding tax proposal. For in every country in which such a tax has been introduced, it has triggered an exodus of capital. And the very special problem that the EU already has is that taxes across its economies are already far too high. That is the chief reason why its economic performance trails the US so lamentably.” (Bill Jamieson, *Sunday Telegraph*, 12/2/99).

Another area of tax harmonisation which will place the UK at a direct disadvantage is the Europe-wide art tax. The EU, in the pursuit of harmonisation, wants to introduce the tax to the UK and four other member states that currently don't levy it. Unsurprisingly, these countries dominate the European market with almost 70% of the trade in art and antiques and an annual turnover of £25 billion. London is the second largest market after New York and, if the tax is enforced as is likely to be the case, London will certainly lose a significant proportion of art sales to New York or Geneva.

The most recent grand design, of course, recently endorsed by the UK government and the French is the plan to create a 60,000 strong rapid reaction military force, to be launched next year. These troops will be deployed for crisis intervention and peacekeeping operations. This move heralds the creation of a European army, will seriously undermine NATO and will

have far-reaching implications for the character of the EU.

Taken together, the federalist ambitions of the Prodi Commission and his integrationist supporters, the imminent prospect of enlargement and the related institutional reforms all point to a further centralising of decision making power in the European Union. It is true to say that: “Every time they have had to choose between widening the Union and deepening it, EU leaders – including Tony Blair – have plumped for deepening. The next Inter-Governmental Conference looks set to go the same way. Instead of making the changes that would truly facilitate enlargement – such as repatriating the CAP or reforming the budget – the EU will plough ahead with its schemes for a separate EU defence organisation and a common system of criminal law. European leaders have decided that enlargement must not be allowed, in any circumstances, to distract from political union.” (*Sunday Telegraph*, 12/12/99)

Lessons for the Conservatives

Clearly, if introduced, William Hague's flexibility clause would allow current and future member states the right to determine membership along national priorities without jeopardising the most successful accomplishment of European integration to date – the single market. It would allow member states to proceed at variable speeds in a multi-track Europe. The key difference would be to allow member states the right not to participate in joint actions. A pertinent question, of course, is if under a future Conservative government the flexibility clause were to be implemented, would the clause only apply to future legislation or could it be applied in a retrospective sense to past legislation?

The reality is that the EU is unlikely to give the UK yet more competitive advantage than is already the case. If anything, the opposite is true. The goal is to remove the competitive advantage that the UK possesses and create a level European playing field, hence the proposals for tax harmonisation, the social chapter and the Working Time Directive. Furthermore, by staying outside monetary union, the UK has maintained a higher degree of flexibility and is at the same time doing extremely well without the euro. All in all the UK has managed to effect a greater degree of independence and it is therefore unlikely that the EU will allow us further concessions, which will act to strengthen the UK's current competitive position within the European market.

Where does this leave Britain in terms of European integration? William Hague has indicated that the limits of European integration have been reached. Personally, I believe they were reached some time ago. The ultimate question must be whether it is possible to slow down or redirect the European train of integration, or at least allow it to run at variable speeds without having to get off completely.

This essay was originally published by TFTM in Clear Blue Water, Commonsense and the Conservative Party. Copies can be obtained from TFTM by sending a cheque for £12.50 to 10 Oxford Gardens, London N20 9AG, www.tftm.co.uk

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... news in brief

High flyer hits turbulence

As the German Christian Democrats are being rocked to their foundations with financial scandals, the Social Democrat President of the Federal Republic of Germany, Johannes Rau, is himself coming under increasing suspicion. While the CDU is accused of running secret bank accounts, Rau is also accused of running a secret and very expensive travel budget on the costs of a bank run by the *Land* of which he used to be prime minister, the Westdeutsche Landesbank. It is alleged that he and his ministers regularly took private jets belonging to the bank and that the expenses were thus never published in the official budget of the regional government. This amounts to a system of secret accounts, especially since it is also alleged that he used these planes for party political and even private purposes. [*Die Welt*, 31st January 2000]

Wiener Blut

As Marx said, history repeats itself – the first time as tragedy, the second time as farce. For the diplomatic boycott has even affected the summit of the Viennese social whirl, the Opera Ball on 2nd March. It was to have taken place under the patronage of Portugal. But, the bilateral protests having entered into force, President Sampaio has cancelled his trip. The Lisbon Symphony Orchestra, which was already in Vienna rehearsing, has packed its bags and the orders of Madeira and *vinho verde* have been cancelled. The Austrians seem unphased by this, however. The event's organiser, the doyenne of Viennese social life, has said she will use the empty Portuguese boxes to entertain Europe's crowned heads and nobility, as in the good old days. At least this will have the advantage of redressing the imbalance of recent years between *nouveaux riches* and real princesses. [*Le Monde*, 9th February 2000]

City Thoughts in the New Millennium

*City discussions on the euro have thrown up some interesting conclusions, explains **Angela Knight**.*

I SUPPOSE the question that was on the lips of everyone when they returned to work after the New Year break was: "Were you truly bug free?". The answer is either yes or no depending upon which bug the question was referring to. Overwhelmingly the real millennium problem has proved to be flu rather than computer glitches.

On December 31 1999, when we were entering a new millennium (or not, depending on which way you count) I am not quite sure whom I felt most sorry for. Was it the thousands of City workers in their offices waiting to see whether or not a real problem was going to hit, probably as a result of a firm elsewhere in Europe or in another continent altogether not having then their preparations properly? Or was it all those people who came into central London see the River of Fire which never materialised? It was actually the Queen I felt most sorry for – she found herself uncomfortably part of the New Labour happy clappy shindig down in that Big Top in Greenwich. Unfashionably for these times, it did occur to me that perhaps we were celebrating something to do with 2000 years from the birth of Jesus Christ, so after watching the firework display with my children and father in the village where we live, we then went and lit some candles in the Church.

Putting sanctimony to one side, what is the City discussing now that we are into 2000? The first thing is undoubtedly the huge surge of interest in shares. Volumes more than doubled in November and December, with people buying shares in all sorts of companies, particularly the technology stocks. It seems that it is only necessary to call a company "something.com" or "something.co.uk" for normal judgements to be suspended and prices to go through the roof. Not surprisingly, there are worries that some of these new investors will be disappointed as they see their shares rise vertically in price only to fall again later on. Stock markets go up and down, and buying shares in a company is a long term investment and not a bet on the 2.30 at Kempton Park. Despite fluctuations, money invested in shares over the medium to long term gives a much better financial return to the investor than the same cash placed in a deposit account

with a bank or building society. One huge positive thing that the internet has done for individual investors is that it has made share buying a sexy thing to do.

HOWEVER, here is an interesting conundrum. It used to be the case that when you bought shares you were always given a share certificate. This told you how many shares you had got in the company and it was your proof of ownership. But the world changed, IT came along and now the whole of the system is based, not surprisingly, on computerised records, computerised shareholding and a computerised sharedealing settlement and clearing system. Yet as new companies come into the market they often still hand out share certificates in preference to the electronic method, even though certificates are more cumbersome and more expensive to handle, and also for the individual when they buy and sell. And the greatest offenders in distributing certificates rather than using the electronic means are, yes you've guessed it, the new internet companies!

And then there is the National Change Over Plan. While having a Khrushchev ring about it, it was in fact announced by the Chancellor and is all about the UK entry into EMU if the UK does join the single currency. Right across the financial world, planners and firms are having to commit people and resources right now to work out what it is they are going to do and how they are going to do it should the UK enter the euro. Whilst politicians debate whether or not they are in favour, as indeed does the City, and with unknown dates for the referendum whose outcome in any event is highly debatable, it does seem extraordinary that such time and effort is going now into the practical issues arising from the National Change Over Plan. But infuriatingly it has to be so. Whilst it is possible for the Prime Minister to evade holding a referendum (as the voters don't like Britain's current involvement with the EU, let alone a single currency) and to make a snap decision to announce that Britain is going in quickly, it is not possible for the practicalities, the testing, the contingency plans, the changes to bond markets, equity markets, unit trusts, OEICs, pension funds, derivative conventions, fund management

and regulation, to name just a handful, to be done at the drop of a hat. So whether the UK joins the euro or not, preparations are having to be made.

LET ME CONCLUDE by revealing a discussion that took place at one of the many drinks parties in the run up to Christmas. The pros and cons of the single currency were yet again being discussed and there are a considerable number even in the City who question the validity of the euro project, let alone the advisability of the UK taking part in it. The discussion was along these lines. Outside the big international PLCs, much of British industry does not favour joining the single currency, yet by staying out it is being hurt by the strength of the pound and the weakness of the euro. Business is finding it difficult both to export to Euroland and also finding increased competition from cheap imports in its home market. Meanwhile, the financial world which not only survives but makes money on uncertainty has many of its great leaders overtly in favour of joining the euro. This means that they give up their ability to continue to make money out of uncertainty! The conclusion that this group of party people came to was that the financial world is hugely multinational, both in terms of where it locates and those who work within it. A major UK finance house could as easily have an American, Japanese, German or French person at its head as an Englishman. This is not the case with most of British industry. Thus if you are not British, sentiment for the British currency, understanding of British history and love of British independence comes a long way down one's list of priorities and the emotional attachment to sterling does not exist. Hence we have the interesting conclusion that the only sector of industry which could possibly benefit from being part of a weak euro wants to stay out of it, whilst finance, which benefits from being out of it, does not mind going in.

Angela Knight was Economic Secretary to the Treasury 1995-97 and Conservative MP for Erewash 1992-97.

Chunnel Vision

Strasbourg – cosmopolitan home of more European institutions than you can shake a stick at

by Dr Lee Rotherham

YOUR CORRESPONDENT was fortunate enough over December to break away from the tired monotony of the Brussels bar scene and sneak a preview of Life in the New Europe.

One week in four, as aficionados of all things European will be aware, MEPs pack their trunks and say goodbye to the circus in Belgium. Belgian francs make way to French as our elected representatives jam themselves onto the same little aeroplane as Chris Patten, or share banter with the staff of Joyce Quin, fresh from a strafing in the Council of Ministers. Not that they are necessarily attending through choice, you understand. Strassers is where the voting takes place, ever since Our Tony signed the Amsterdam Treaty and institutionalised that border city as the second seat of the Imperial Senate – an arrangement, as Michael Howard pointed out at the time, that had handed the French a prize without the slightest negotiating return for Britain.

So a new palace decorates Eastern France. Cynics take comfort from the fact that at least it differs from both the local Cathedral and the EP Brussels building in not having huge chunks of it dropping out of the sky. Regular attenders at the rue Belliard can spot with amusement the odd sign encouraging visitors not to dawdle on the passerelles looking skywards, lest doom befall. Chicken Licken is in town.

At least someone takes the institution seriously. The session kicked off one bright morning with a reported terrorist threat. Local police clearly took the danger at face value, shutting down the front entrance while allowing the highly prized and irreplaceable internees to wander around in

blissful ignorance of their pending martyrdom. Reports suggest a hoax involving coal miners was involved. One would think with the amount of machinery at their disposal something more Jules Verne would have been possible to captivate the enthralled European media.

One would think with the amount of machinery at their disposal something more Jules Verne would have been possible to captivate the enthralled European media

To be fair, top of the day's menu was the state opening of the building by President Chirac, whose ritual touring [sic] of le dos towards was widely reported. If there is one thing Conservative MEPs have achieved of late, it has been acting as an energetic team of Scarlet Pimpernels. Not terribly effective in stopping La Terreur, but at least turning up at awkward moments with a flourish of the rapier and – whoosh – down fall the Gallic pants.

Chirac departed; that left two main noises.

The first, for some obscure reason, was a team of what passed for Sardinian bagpipers resplendent in national dress. One did not like to ask.

Far more significant was the budget vote, that annual raiding of the twelve star piggy

bank; the apogee of months of lobbying by the concerned Institute for European Federal Advancement which fears the money it so richly deserves will be wrenched from it to fund its arch enemy and nemesis, the Association of European Integrationists.

Billions of pounds of spondulicks were thrown around in a matter of minutes. To understand the mechanisms of what goes where requires something approaching a degree in Advanced Numismology, and a goat sacrifice. This eager beaver has two filing cabinets of accumulated wisdom on just the Particularly Awful Staff alone.

Suffice it to say that this was the first budget the new intake got to see, and it opened eyes. Jens Peter-Bonde's successor to the Europe of Nations Group made sure that the votes were not just nodded through but went on the record. That record will show a fresh degree of diligence by the new Conservative Whip, Tim Kirkhope, in finding out exactly what on earth his Party was voting for; which makes a welcome change indeed.

So, the Euro-Party has been independently reviewing the sacrosanct draft budget lines! Daring to vote against the EPP Whip! Heresy indeed. Something good did then come of the week, quite apart from the opportunity for a spot of Christmas shopping in the annual Strasbourg fair. The conscience awakes. Vive le parti conservateur libre!

Dr Lee Rotherham is co-author of the Bluffer's Guide to the EU and works in the European Parliament.

... news in brief

Is Poland waging a trade war with the EU?

Poland has stopped a shipment of Dutch flowers at its border, arguing that the transporters do not have the necessary sanitary certificate, and a national daily newspaper, "Zycie", has suggested that Poland may be waging "a silent trade war" with the EU. Last month, Poland stopped a dozen trainloads of German rye, saying the grain was of low quality. These incidents come against the background of worsening relations between Warsaw and Brussels over the question of agricultural imports: Poland is trying to stop such imports because it fears that its local producers are being destroyed by subsidised EU imports. [*Radio Free Europe Newslines*, 11th January 2000]

He who pays the pipeline ...

The Turkish president has also held discussions with his Georgian and Azeri counterparts on the construction of an oil pipeline from the Caspian Sea across Georgia and Turkey to the Southern Mediterranean Turkish port of Ceyhan. This is the route most favoured by the United States: Bill Clinton attended the ceremony at which the pipeline deal was signed by Turkey, Azerbaijan and Georgia in Istanbul in November. Georgia has been especially keen to milk the deal for all it is worth, demanding a cut in kind, subsidies, compensation for expropriated landowners and "European-standard ecological safeguards". Demirel told journalists on 15th January that Turkey had agreed to all these demands. [*Radio Free Europe Newslines*, 17th January 2000]



ONE OF THE MOST IRRITATING CLICHÉS constantly repeated is "... if the conditions are right". This refers to the five economic tests established by the Chancellor of the Exchequer, Gordon Brown, in justification of our opt-out from commitment to join EMU at inception. They are different from the four convergence criteria as set out in the Maastricht Treaty. Subject to the premise that the Government's central economic objective is to achieve high and stable levels of growth and employment, these are:

1. Are business cycles and economic structures compatible so that we could live comfortably with Euro interest rates on a permanent basis?
2. If problems emerge is there sufficient flexibility to deal with them?
3. Would joining EMU create better conditions for firms making long term decisions to invest in Britain?
4. What impact would entry into EMU have on the competitive position of the UK's financial services industry, particularly the wholesale markets?
5. In summary, will joining EMU promote higher growth, stability and lasting increase in jobs?

So far, Britain's economic cycle shows no inclination to converge with that of Europe. Thankfully not. A year ago, when the euro came into existence, the world was recovering from a recession caused by the collapse of the Asian economies in 1997/98. The US and UK economies have bounced back far more buoyantly than has Europe. Apart from a blip in 1998 and the first quarter of 1999, Britain has enjoyed solid growth since 1993. Indeed, our economy has thrived since it was forced to leave the ERM in 1992. The US economy has also been booming but is now showing signs of retrenchment because of its hugely expanded trade deficit, as reflected in the recently weakened dollar.

The first test also considers economic structures. There are many ways in which these differ from Europe. Trade patterns, oil, company finance and the housing market are the more obvious

ones. These react very significantly and immediately to external shocks and interest rate changes.

If interest rates were reduced by half to European levels, there would be a rapid expansion of our money supply, interest rate adjustments being the means by which the Bank of England's Monetary Policy Committee controls this. The result, unless offset by a sharp fall in public expenditure or a large increase in taxation, would be a huge rise in inflation, which prudent monetary policy has now brought under control.

The second test refers to flexibility to deal with shocks. A single currency inevitably means a loss of control over monetary policy. Interest and exchange rate policy, as a means of reacting to external shocks, would be centralised under the ECB. All the impact of shocks would be shifted to the product and labour markets, which would need to be even more flexible in their pricing and wage policies and in productivity. Britain's economy is already more flexible than France and Germany but membership of the single currency would require even greater flexibility.

It is largely because of this flexibility that Britain has continued to attract inward investment. Remaining outside the euro has not deterred foreign investors choosing Britain over the euro-zone, despite the relative strength of sterling against the euro.

Similarly, the financial services sector has not suffered, as had been predicted, by not being part of the euro. It has proved a myth that the new opportunities from the single currency would be easier to tap from within the euro-zone. The City is a continuing success story for the UK. Threats to this success come not from competition from euro-zone members but from EU imposed regulations such as the proposed withholding tax.

Finally, the fifth test is a sum of the first four and cannot be met if these are failed. Otmar Issing, Chief Economist of the ECB, said recently that he would welcome Britain's entry into the euro as it would add peer pressure for sound fiscal policy, the PSBR being much lower than in other euro-zone countries. More probably, Britain would find itself having to borrow more as economic growth was dragged down to European levels. Surely, convergence means that our business cycle and economic growth rates would have to fall in line with the rest of Europe and to sustain that synchronisation to be durable.

Lynette Swift

... news in brief

Inflation doubles in Euroland

The rate of price increases has risen further in Euroland. The inflation rate is now 1.7%, whereas it had been 1.5% in November and 1.4% in October. In December 1998, inflation had been 0.8%. In other words, in the year since the introduction of the euro, the inflation rate in Euroland economies has more than doubled. Ireland's inflation rate has shot up from below 2% in June 1999 to 3.9% now. [*Handelsblatt*, 27th January 2000]

France is pressing for tax harmonisation

The French government, which will take over the presidency of the European Union in the second half of 2000, supports a "rapid" abandonment of the national veto on fiscal policy, according to a statement made by the Finance Minister, Christian Sautter. The current proposal for a European directive on tax harmonisation has been successfully opposed by Luxembourg and Britain. [*Contre-courants*, 18th January 2000]

Germany is "role model" in Balkans

The co-ordinator of the Stability Pact for South-Eastern Europe, Bodo Hombach, formerly the second most powerful minister in Germany after Gerhard Schröder, has said that the federal government in Germany has now recognised that it is a role model for Stability Pact. The Stability Pact was, Hombach said, was often regarded abroad as "Germany's baby". [*Handelsblatt*, 27th January 2000]

France sees Hungary among first to join EU.

The French minister for Europe, Pierre Moscovici, visiting Hungary on 17th January, said that he has "no doubt whatsoever that Hungary will be admitted to the EU as the first country, or will be among the first group of those admitted." Both Moscovici and Hungarian Foreign Minister Janos Martonyi agreed that Budapest's planned date of accession of 1st January 2003 could serve as a goal. Moscovici noted, however, that Hungary still needed to carry out reforms in environmental protection, transport, justice, internal security, and agriculture. [*Radio Free Europe Newslines*, 18th January 2000]

Interstate Trade & Federal Regulation: Lessons from the United States

John Tate investigates a core pretext for federal regulation, the facilitation of interstate trade, by examining the experience of the US and its lessons for the EU.

THE INSTRUMENT permitting the regulation of trade between the states of the United States is the Interstate Commerce Clause of the Constitution (ICC). The ICC grants Federal Government the power to regulate trade between, but not within, the fifty states. Interpretations of the ICC by Congress and, at times, by the Supreme Court have been liberal – often even more so than the European Commission's interpretations of the 'economic harmonization' provisions in the Treaty on European Union. Interpretations of the ICC even allowed the regulation of *intrastate* activities when they have been shown to have but tenuous effects upon interstate commerce.

An instrument designed to facilitate trade between states thereby became a vehicle for torrents of federal regulation. Similarly, Brussels has used the aim of economic harmonisation to justify its regulation of everything from working hours to Italian pizza ovens.

Yet in the US at least, there has come a sea change in the Federal Government's use of its power to regulate interstate commerce. That change came in 1995 with a Supreme Court case that I shall examine in detail: *United States v. Lopez*. Chief Justice Rhenquist's ruling in *Lopez* turned upon his reasoning that, if all that is required to justify the regulation of an intrastate activity is that it is shown in some small way to effect interstate commerce, then there would exist in America the potential for completely centralised government. Rhenquist's jurisprudence contains a lesson for the EU: *power over interstate commerce should be used to facilitate trade, and not as a Trojan horse for extraneous federal regulation.*

Unites States vs Lopez

In 1995, the Federal Government intervened in the prosecution of one Alfonso Lopez under the Gun Free School Zones Act. Ordinarily, what was an intrastate offence would come under the jurisdiction of the courts of the state in which the offence occurred. Yet on this occasion, the Federal Government intervened by pointing to an extended connection with

interstate commerce that, in turn, activated its authority under the ICC. Guns in schools, Congressmen argued, damaged education. Poor education, they argued, damaged interstate trade.

Had the Supreme Court endorsed Congress' opinion on *Lopez*, the enforcement of the Gun Free School Zones Act would have become the most outlying example of the ICC being used to justify federal regulation. The decision would not, however, have lacked judicial pedigree – the US does not lack some of the hyper-regulation that we in Britain have come to associate with Brussels.

With reasoning worthy of Jacques Delors, the Supreme Court in *Daniel v. Paul* upheld Congress' use of the ICC upon the ground that some of the equipment at the fair ground to be regulated came from out of state. The tenuous application of the ICC in *Daniel* was based upon an earlier ruling that a restaurateur's discrimination against black customers could be halted because it adversely effected interstate trade in food and restaurant provisions.

Equally expansive rulings upon the application of the ICC include that upon *Mandeville Island Farms v. American Crystal Sugar Company*. Writing the majority opinion of the Court, the Chief Justice reasoned that "it is enough that the individual activity when multiplied into a general practice contains a threat to the interstate economy that requires preventative regulation." Justice Breyer invoked this reasoning in his dissent upon *Lopez* to point toward an "instance by instance" approach as opposed to a "problem by problem" approach to assessing the likely effect upon interstate commerce of a given intrastate activity. Breyer argued that the material consequence of an activity is not to be considered in isolation and that one should instead consider the cumulative effects of firearms in schools upon the flow of commerce between states.

Mandeville itself finds precedent in the Court's ruling upon *United States v. Darby Lumber Company* which held that

[t]he power of Congress over interstate commerce is not confined to the regulation of commerce among the states. It extends to

those activities intrastate which so affect interstate commerce or the exercise of the power of Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end.

Conversely, if, as Breyer insists, an action's cumulative effects are always to be considered, it is doubtful that any intrastate activity would remain beyond the purview of federal regulation (Breyer neglects in his dissent to identify any activity that might). The US would thus be left with the legal potential for completely centralised government.

Lessons for Europe

Undermined in the US by the Supreme Court's *Lopez* decision, it is Breyer's expansive view of trade regulation that continues to inform Brussels' pursuit of economic harmonisation among EU states. Yet Breyer's approach heralds not so much federalism, but outright centralism. What the EU lacks in this regard is the check upon centralisation provided in the US by the Supreme Court, whose recent rulings upon the limits of interstate trade regulation are, or should be, most instructive to Brussels.

In *Maryland v. Wirtz*, for example, the Court attempted sensibly to delineate the extent to which the Federal Government could make use of its power over interstate commerce to impose wider regulation. Ruling on *Wirtz*, the Court's majority opinion stated that "the Court has never declared that the Federal Government may use a relatively trivial impact upon commerce as an excuse for broader regulation of state or private activities." Were something of the Court's wisdom to have informed Brussels' pursuit of economic harmonisation we may have been saved meddlesome interventions concerning the milk content of chocolate, hairdressers' tea breaks, and other such trivia. In a perverse ordering of priorities, Brussels has failed to stop matters genuinely distorting interstate trade, such as government subsidies, price fixing, and non-recognition of qualifications, and instead concentrated on harmonisation – usually by way of levelling-up non-wage labour costs.

Congress' use of the Interstate Commerce Clause is analogous to Brussels' attempts to promote economic convergence amongst EU states. Facilitating trade between the states of either union could, taken to conclusion, allow the regulation of every aspect of their component states' internal affairs to the extent that they influence economic activity. The power to regulate interstate commerce should thus terminate at the periphery of the powers needed by component states in order that they remain internally self-determining within a defined sphere. The problem in the EU is, of course, that there exists no permanent, defined sphere in which states are deemed self-determining. For that reason we must push for a clarificatory treaty or, more likely, for a renegotiation of the treaties of Maastricht and Amsterdam.

In the US, *Lopez* provided the Supreme Court with an opportunity to sketch the outer limits of Congress' ability to impose regulation under the pretext of its policing interstate trade. In doing so, the Court safeguarded the principle of self-determination among states of the Union. The EU is in desperate need of its own *Lopez* if it is to retain any semblance of subsidiarity. Unfortunately, Brussels is an unlikely student of Chief Justice Rhenquist – not least because its governing ambition has been to achieve and not, like the American Constitution, to avoid the total efficacy of government.

Epilogue

Were the EU genuinely concerned with free trade and minimising extraneous regulation it would not have pursued the

harmonisation method of creating a single market in the first place. That is, rather than attempting to harmonise the quality and/or safety of products across the Union, the Single Market could instead have been based upon mutual recognition. Clearly, mutual recognition does still necessitate a degree of harmonisation, but only as an exception to a less meddlesome rule.

Conversely, harmonisation necessitates active regulation and has been used in the EU more to exclude than to include goods and services (Champagne produced in Australia, for example). Many if not most trade qualifications, meanwhile, still enjoy very little mutual recognition – such that a UK-trained teacher can not work in France.

John Tate is Head of Research at the European Foundation

... news in brief

German resentment

The German permanent representative (ambassador) to the European Union, Wilhelm Schönfelder, is in the habit of making regular trips to the offices of the President of the European Commission in order to advance the cases of German officials within the Commission who want promotion. "One has to go there often and regularly," he says, "because otherwise the impression would be given that Germany is happy with its level of representation in the Commission. We are not. With 21% of the EU's population, we have only 12.5% of the politically relevant A posts." The situation is expected to get worse for the Germans in the future. As one CDU MEP says, "The French, the British and the Italians pursue active personnel policies. Next to them we are beginners." [*Die Welt*, 20th January 2000]

All the king's horses and all the king's men

Following unremitting international pressure against the Croatian Democratic Union, which heavily lost the parliamentary elections in January, a new President of Croatia has now been elected. He has vowed to co-operate fully with the International Criminal Tribunal, with the European Union and with all other aspects of "Euro-Atlantic structures". He is Stipe Mesi, the last President of the Socialist Republic of Yugoslavia in 1991. His experience as a senior Communist and Yugoslav apparatchik will serve him well in an integrating world where, among other things, a new super Yugoslavia is being created in the form of the "Stability Pact for South-Eastern Europe." Now all that remains is to eliminate the current regime in the Federal Republic of Yugoslavia, a goal which unknown gunmen, who shot dead the Yugoslav defence minister on Monday, seem to be on their way to achieving. Mr Mesi joked, "I used to be president of one country. Now I am president of another! This is a unique case in the world. Gorbachev tried but failed." (He is wrong: Václav Havel was president of Czechoslovakia and then of the Czech Republic.) Mr Mesi has already said that he wants to see a Serbo-Croat reconciliation along the lines of the post-war Franco-German relationship. He also told a tasteless joke: "Do you know the difference between Tudjman and Miloševi? One is under ground and the other dare not leave his territory." (The joke may lose something in translation from the Croatian.) [*Le Monde*, 9th February 2000]

At any rate, the EU has done nothing to conceal its delight at the departure of the Croatian Democratic Union from power. It has ladled out the praise for the newly democratic way in which the elections were conducted, even though they were held while the old government was in power. But the result was right – that's the main thing. Unlike the Austrians, the Croats know what is wanted of their masters in Brussels. The Croats, after all, as a subject people for 1,000 years, have more practice as bending the knee to empires than the Austrians, who are historically more used to running them.

Belgrade wants to join Russian-Belarus Union

Seeking safety in numbers, the Yugoslav Foreign Minister, Zivadin Jovanovi, has repeated an earlier call for his country to join the "union" between Russia and Belarus, in an interview with a Russian paper. He said, "Yugoslavia's participation in this union is not only a positive development for the people of the three countries, but it is also a contribution to positive developments in Europe." The Yugoslav parliament, during the peak of NATO airstrikes, had voted in April to join the union. However, the treaty itself makes no mention of Yugoslavia. [*Nezavisimaya Gazeta*, 26th January 2000]

Haider accuses Austrian president of treason

Jörg Haider has attacked the role of the Austrian president on the crisis between the new government in Vienna and the EU. He claimed that Thomas Klestil had helped stir up the massive foreign reaction against the participation of the Freedom Party in the new government. He has called for official clarification of the role played by the Federal President.

It has also emerged that the Social Democrats under former Chancellor Viktor Klima themselves proposed giving the Freedom Party four seats in the new parliament, in exchange for maintaining their government in power. Haider is suing Klima in court because he has denied that such an offer was ever made. Haider alleges that the offer was made and that Klima in return would have tried to improve the international image of the Freedom Party.

Finally, the Bavarian and Baden-Württemberg regional governments (the former CSU, the latter CDU) have said that they will continue their own bilateral contacts with Austria in spite of the EU boycott. Edmund Stoiber, the prime minister of Bavaria, has called the EU's protest "an over-reaction". [*Frankfurter Allgemeine Zeitung*, 8th February 2000]

Sovereignty is Price of EU Admission

Maja Freundlich, Radio Croatia, February 2, 2000

ZAGREB - At the recent parliamentary elections the winning coalition based its success, among other things, on promises that Croatia will have a fast entry into 'European integration processes'. If you ask the average person in the street what they truly know about the point to this, the goals and functioning of the European Union, they will most likely not know how to respond. If you ask them about the possibility for Croatia to become a full member of that global organisation, they will know even less than was the case in the previous question. The European Union has foreseen the unification and melting into one of all its member countries. It has yet to be seen how realistic and attainable this goal is.

The carriers of European unity say that the 'outdated' concept of sovereignty has to be done away with in order to join the European Union. Those states that join are giving up their right to make their own decision - decisions in very important areas. Hence, the European Union will form a joint foreign and defence policy toward countries outside of its so-called borders. All member countries will have to follow this policy, regardless of the fact that some of them might have a difference of opinion.

The European Union also imposes complete joint determination concerning trade with 'third' countries on its members. The EU also determines customs policy and cancels all existing internal mechanisms for the protection of domestic industry. The all-encompassing liberalisation of the

market actually means that none of the member countries can actually influence their own production levels, as subventions are prohibited, as well as any kinds of developmental plans. Whoever is poor and non-competitive will increasingly continue to be poor and non-competitive, and at one point and time the European Union itself will either regulate or subsidise the country on its own, but only to regulate the internal EU market. Either that, or this poor EU member will be given, at no cost, technology and production that nobody else wants to have. You know the kind I mean - industries that are pollutants or poisonous.

The European Union is creating a joint judicial system in which they already have a 'federal' judicial hierarchy. Namely, the European Court is already above the jurisdiction of all national courts, including the Supreme Courts of individual member countries. Its verdicts are binding for all member countries. Individuals inside the Union, if dissatisfied with the decisions of the courts in their individual countries can appeal them at the European Court. Thus, national courts have been demoted to 'local courts' and the European Court has the authority as if it were the 'national' one.

The European Union is preparing itself for the introduction of European citizenship, which would de facto nullify the sovereignty of individual member countries, while residents will be able to find work wherever they please inside of these so-called European borders. Allowing them

to forget about their nationality and history. The only question is what language European residents will end up speaking? Perhaps European?

The European Union is governed by a government that was never elected, that is, the European Commission, made up of appointed clerks, politically acceptable and subservient to unnamed centres of power inside of the European bureaucracy. Even if Croatia was admitted to the European Union, do we really want to see Croatia caught up in such a bureaucratic jumble, horrifically similar to that of the former Yugoslavia, from whence we broke free? Furthermore, the European Union does not really want us as its member.

Finally, even the way it is today, the European Union is not independent. It is still in the process of confirming its identity inside of the North Atlantic Alliance, according to the architects of the EU, which will develop into a greater Euro-Atlantic forum. Here 'northern hemisphere security' will be discussed. Forced communion, in the end, will prompt the rebellion of individuals who want to preserve their personality and belonging to their own family, not melted together in a huge melting pot.

This text is a translated broadcast from Radio Croatia.

... news in brief

Germany has most expensive welfare state

Germany spends more on welfare than on any other industrialised nation, including the generous Scandinavians. State and private spending on welfare is just under 28% of GDP, above Sweden's 27%. Astonishingly, the United States' "real" spending on welfare is 24.5%, although 7.8% of this is privately funded as opposed to 0.8% in Germany. [*Die Welt*, 7th February 2000]

Judge, jury and executioner

Having refused to investigate claims that Nato may have committed war crimes during the attacks on Yugoslavia, the Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia, Carla del Ponte, has demonstrated yet again the deep links between the Tribunal and Nato by calling on the alliance to create within itself a "War Criminal Busting Unit", a special unit within Nato to "hunt" war criminals in Yugoslavia. According to del Ponte, these 'war criminal busters' would stem from a more active role of NATO, as a unit would be formed with

orders to track down and arrest individuals wanted for committing war crimes in the former Yugoslavia. Del Ponte explained that she wants the North Atlantic Alliance to step up its efforts in apprehending accused war criminals like Radovan Karadzic and Ratko Mladi. She pointed out that NATO is not currently making any particular efforts to apprehend war criminals, rather NATO only makes an arrest if they 'stumble across' such individuals. She failed to say that Nato could start looking for war criminals in the Pentagon, Brussels and Mons without going as far afield as the Balkans. [*Politiken*, 5th February, 2000]

The Final Solution

The editor of the French weekly, *Courrier international*, Alexandre Adler, has given his reaction to the entry of Haider's Freedom Party to the governing coalition. "As a Germano-Danubian Jew," he writes, "the whole activity of my reptilian lower brain is concentrated on the means by which to identify and, if possible, to eliminate physically the type of human being which Jörg Haider represents." [*Courrier international*, 3rd-9th February 2000]

Can Britain Survive?

by David Radlett

THIS MAY APPEAR TO BE A GLOOMY question for the new millennium. However, it is one that must be addressed by those who recognise that a country which no longer controls its defence, its external relations nor vast parts of its economic and taxation policies has no real right to call itself a country. The steps taken in 1999 to bring these matters within the sphere of European Community competence do not need repeating here. They are enough to show that the Treaty of Amsterdam may be the last staging post for Britain on the road to European satrapy.

THE COLLECTIVE EPITAPH of the present government may well be "When I am dead and opened, you shall find 'Brussels' lying in my heart." The question is what might a future government be able to do to reclaim Britain as a country.

The most cogent response, short of withdrawal from the whole enterprise, is to seek a fundamental re-negotiation of the terms of membership. Such re-negotiation will demand strength and teeth. Strength, because the recent excoriation of William Hague when he suggested that further treaties might not be approved shows the strength of the Heseltine-Blair axis, a kind of sad Greek chorus throwing up their hands as one in horror. Re-negotiation will require teeth, because there will be no support amongst the other 14 member states to abandon the progress so far towards the United States of Europe.

About the only thing that may make the 14 think again is the threat that Britain may, indeed, withdraw from the whole enterprise. The shock-wave from such withdrawal would threaten the whole project, and that would never do.

It is in this connection that it is disturbing to discover that many Euro-realists do not believe in the possibility of withdrawal. One leading example is Sir Teddy Taylor, who wrote in the *Guardian* that:

"I am sure that there will be many Eurosceptics who, having read this article thus far, will proclaim that such arguments are utter nonsense, that no British parliament can bind its successors, and that a decision to repeal the treaties would have a binding effect. Having spent my political life arguing against and voting against the Euro treaties, I wish that they were right and I was

wrong. However, sadly, the right to repeal is simply not there." (9th June 1999)

Sir Teddy uses Greenland to demonstrate this point, pointing out that their withdrawal was only possible through the permission of each of the Member States including the United Kingdom.

Now, Greenland may best be described as an internally self-governing part of Denmark. The association between Denmark and Greenland dates back to 1721, culminating in full integration from May 1953. Following a referendum in January 1979, Greenland attained home rule, with elections in April 1979 to the Landsting, the Greenlanders' new parliament. In the February 1982 referendum, the Greenlanders voted – albeit by a narrow margin – to withdraw from the European Community. Their withdrawal was completed by early 1985.

What was at stake here was the change in status of an integral part of one of the Member States. Greenland still sends two representatives to the Danish Folketing, and the political caste in Denmark, despite the misgivings of many of the people it purports to represent, remains committed to EC membership. It was the reverse of the move presently being discussed by the Channel Islanders, some of whom are giving inexplicable yet serious consideration to moving to full membership of the EC through their connections with the United Kingdom. It is no great surprise that Greenland required a Treaty amendment, just as the Channel Islanders will require a Treaty amendment, if they cannot be persuaded to see the error of their ways. Neither Greenland nor the Channel Islands are full actors on the international stage. It follows that the Greenland experience does not provide an authoritative precedent to a Member State seeking the way out.

Sir Teddy rightly points to the provisions of Article 312 of the Treaty of Rome ("This Treaty is concluded for an unlimited period") which appears to suggest "once in, always in." To have this effect, Article 312 must be read in conjunction with Articles 42 (2) and 56 of the Vienna Convention on the Law of Treaties 1969 (Cmnd. 4818). Article 42 (2) provides:

"The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the

application of the provisions of the treaty or of the present Convention ..."

Article 56 of the Vienna Convention provides, so far as is material:

"A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless (a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or (b) a right of denunciation or withdrawal may be implied by the nature of the treaty..."

As none of the Treaty of Rome, the Treaty of Accession nor the European Communities Act 1972 purport on their face to revoke parliamentary sovereignty, at least one party to the Treaty (the United Kingdom) might be taken to have admitted the possibility of denunciation or withdrawal. In any event, Article 312 might be interpreted as indicating nothing more than a free parking sign: no time limit, but no compulsion either.

Of greater importance, perhaps, to the survival of Britain is the statement of international law found in Article 1 of the Charter of the United Nations. This records that, *inter alia*, the purposes of the United Nations are:

"... to develop friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples ..."

The right to self-determination was further defined in Article 1 of the International Covenant on Economic, Social and Cultural Rights (1966):

"All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

This creates a conflict between norms at international law: no withdrawal set against the right to self-determination. In these circumstances, the United Kingdom Parliament may pursue whichever option is most desired. The only caveat to this proposition is that there must have been no abrogation of the power to choose as a matter of English law.

The traditional view of parliamentary sovereignty embraces Parliament's ability to reverse the European Communities Act 1972. No 1972 Act means no EC

membership. If the alternative view is taken, that the self-embracing sovereignty of Parliament means that one Parliament may bind a successor, then the question is whether the 1972 Act has the effect of altering permanently the constitutional standing of the United Kingdom Parliament. Lord Hoffman has discussed the effect of the 1972 Act in two interesting cases. In *Stoke on Trent City Council -v- B & Q Plc* [1991] he noted that:

“The EEC treaty is the supreme law of this country, taking precedence over Acts of Parliament. Our entry into the European Economic Community meant that (subject to our undoubted but probably theoretical right to withdraw from the Community altogether) Parliament surrendered its sovereign right to legislate contrary to the provisions of the Treaty on matters of social and economic policy which it regulated.”

He put flesh on the meaning of this statement in *R -v- Secretary of State for Employment, ex parte Seymour Smith* (13th March 1997). He noted that:

“Section 2(1) of the European Communities Act 1972 says: ‘All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties ... as in accordance with the Treaties are without further enactment to be given legal effect or used in the United Kingdom shall be recognised and available in law, and be enforced, allowed and followed accordingly; ...’”

That, in a nut-shell, is the extent of supremacy of EC law. It is supreme because section 2 (1) says so, bolstered by section 3, which gives legal effect to the often demented ramblings of the European Court of Justice. But what of section 2 (4), which provides in full that:

“The provision that may be made under subsection (2) above includes, subject to schedule 2 to this Act, any such provision (of any such extent) as may be made by Act of Parliament, and any enactment passed or to be passed, other than one contained in this Part of this Act, shall be construed and have effect subject to the foregoing provisions of this section but, except as may be provided by any Act passed after this Act, Schedule 2 shall have effect in connection with the powers conferred by this and the following sections of this Act to make Orders in Council and regulations.”

Taking the argument step by step, the words: “the provision that may be made under subsection (2) above includes,

subject to schedule 2 to this Act, any such provision (of any such extent) as may be made by Act of Parliament” simply confirm the method by which any Community obligation can be enacted into United Kingdom law. Subsection (2) allows for this to be done by Statutory Instrument (subject to limitations in Schedule 2 to the Act concerning, *inter alia*, proposals to impose or increase taxation or to legislate retrospectively, which must be done by Act of Parliament). In other words, subsection (4) thus far underlines that, such exceptions aside, a Statutory Instrument made under the 1972 Act will suffice to enact Community law.

Moving on to the critical words “... and any enactment passed or to be passed, other than one contained in this Part of this Act, shall be construed and have effect subject to the foregoing provisions of this section; ...” the leading constitutional experts de Smith and Brasier pose this question:

“Surely this is not a mere rule of construction, to be displaced if the Act and the regulation cannot be harmonised,” (de Smith & Brazier, *Constitutional and Administrative Law*, Penguin (6th Ed) at p 80).

In the Seymour-Smith case, Lord Hoffman suggests exactly that. It is a mere rule of construction, meaning no more than:

“... domestic legislation is to have effect subject to such European rights or restrictions ‘as in accordance with the Treaties are without further enactment to be given legal effect or used in the United Kingdom.’ In other respects, the validity of domestic legislation is unaffected.”

The de Smith and Brasier argument was that the “passed or to be passed” phrase referred to all subsequent Acts of Parliament, which must take effect subject to the 1972 Act. Lord Hoffman shows the limit to this proposition, and the closing words of the sub-section give the lie to the claim that the words have the additional effect of entrenching any of these things in the sense that the Act itself cannot be repealed:

“... but, except as may be provided by any Act passed after this Act, Schedule 2 shall have effect in connection with the powers conferred by this and the following sections of this Act to make Orders in Council and regulations.”

In other words, the power to make regulations is governed by Schedule 2, which may itself be amended. Now, either the 1972 Act is capable of amendment (and

ex hypothesi, repeal) by a subsequent Parliament or it is not. As the concluding words of subsection (4) clearly envisage that Schedule 2 can be amended, there seems to be little reason to suppose that the whole of the Act could not be so amended or repealed. Repeal is simply an extreme form of amendment.

Even if the view of Lord Hoffman, and the plainest meaning of section 2 (4) read in its entirety are not enough, the meaning of s 2 (4) is at best obscure. There is clear authority for the proposition that constitutional change cannot happen by accident or through ambiguity. In *Chorlton -v- Lings* (1868) LR 4 CP 374, it was argued that, had Parliament intended to make a ‘drastic’ change to the constitution (allowing women to vote), it “... would have said so plainly and distinctly.”

Again, in *Nairn -v- University of St Andrews* [1909] AC 147 H/L, it was held that there would have to be the most explicit of statutory language to create a change to the constitution. Lord Loreburn LC observed:

“It would require a convincing demonstration to satisfy me that Parliament intended to effect a constitutional change so momentous and far-reaching by so furtive a process.”

The judicial condemnation of making ‘drastic’ constitutional change without acting “plainly and distinctly,” or attempting to do so “by so furtive a process” is clear.

There are strong arguments to suggest that, as a matter of law, the legal position as to the sovereignty of Parliament is secure at both national and international levels. The “teeth” have not – yet – decayed beyond use. The sole question is whether the successors to the present government will have the bite to use them.

David Radlett is a Lecturer in Law at Mid Kent College of Higher and Further Education. He is a regular contributor to the Journal.

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