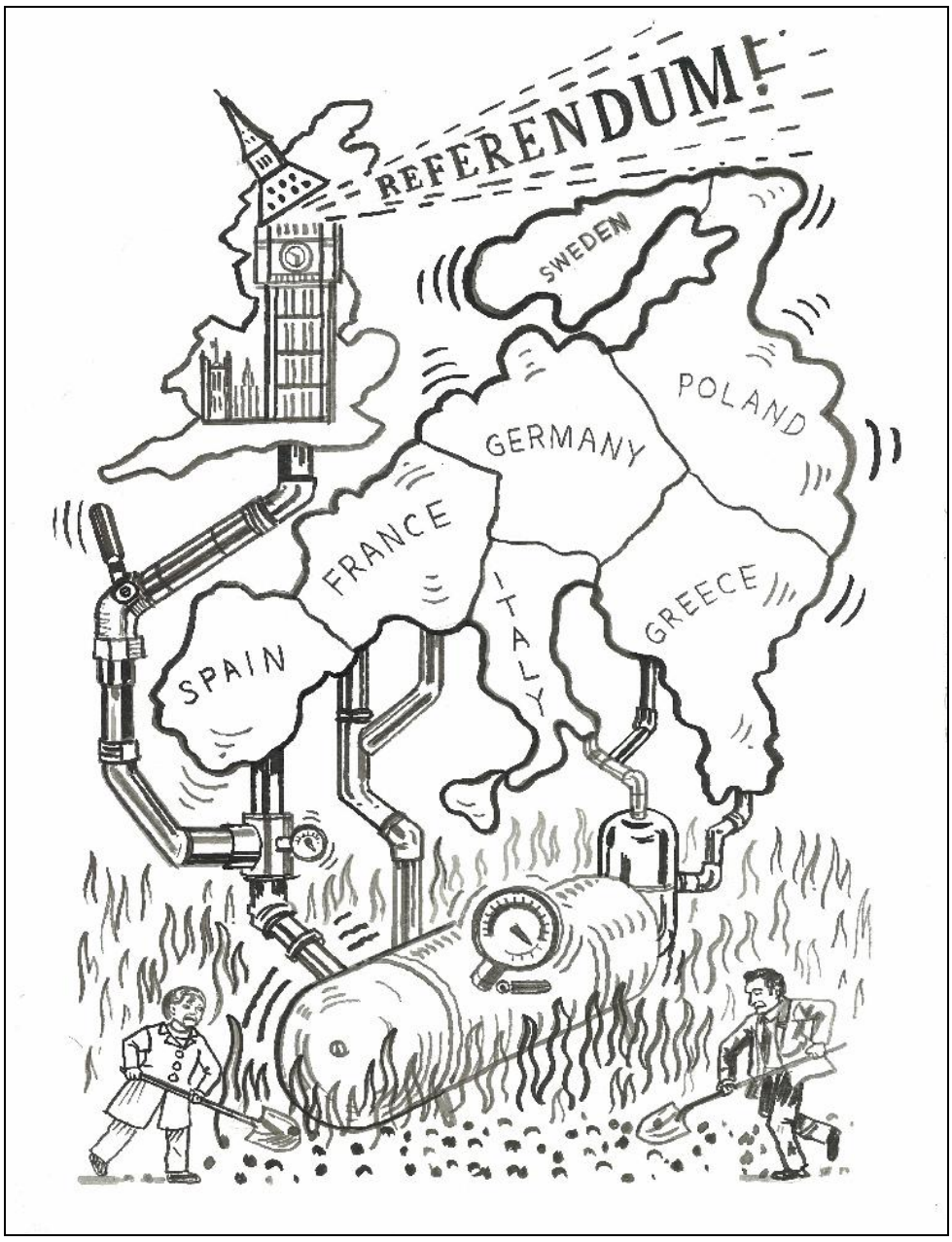
Bill Cash MP

“It’s the EU, Stupid”



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Summary

This pamphlet sets out why in the national interest we really cannot go on with 'this kind of European Union'. It examines how we must change our relationship with Europe and draws upon important comparisons between the European Free Trade Association (of which the UK was a founding member) and the then Common Market. The pamphlet then shows why Britain must be freed from the Eurozone failures and Euro-bailouts and released from the European Union-wide binds of European economic and employment regulation – the ever increasing burdens on our business community. We must renegotiate the Lisbon and the European Treaties. This means decoupling Britain from undemocratic EU institutions and procedures which are no longer working and no longer workable. The pamphlet then deals with the threat to Britain's independent foreign and defence policy, NATO and the diplomatic corps and refounding Britain's global vocation. The role of Germany in the European Union is also examined. There is an unacceptable imbalance in the Union in favour of a predominant Germany. The pamphlet then returns to the key questions over jurisdiction: on the need to decouple Parliament and the Courts from the European Court of Justice, overriding the Charter of Fundamental Rights, bypassing the European Convention on Human Rights and the repatriation of criminal law. Before examining the threat of direct taxation, it looks at the overarching issue of the sovereignty of the United Kingdom Parliament and reconfirming the right of Westminster to override the European Communities Act 1972. The pamphlet ends with calling for the necessary public Referendum on the European Union and drawing essential conclusions.

This pamphlet represents my current views on the problems presented by the European Union and current Coalition Government decisions. There is no doubt that in the national interest a Referendum either to leave the European Union or to renegotiate, determined by a simple majority of the electorate as a whole, is now essential. Preparing this pamphlet has been a team effort. The general framework and direction is based on my analysis drawn from 25 years of dealing with this subject, up to the moment of publication. Those parts of the pamphlet dealing with the legal and human rights issues have been assembled by Margarida Vasconcelos, and the economic and political parts by Paola del Bigio. I am grateful to Adam Dant for producing the cartoon appearing on the front cover. This pamphlet is published to coincide with the conference held in Westminster Hall on 5th September.

"It's the EU, Stupid"

Introduction

"England has saved herself by her exertions, and will, as I trust, save Europe by her example." – William Pitt, Guildhall, 1805

The clear and present danger … fiscal union

The EU is a compression chamber which is now reaching a dangerous level – the only solution is for the United Kingdom to hold a Referendum, as recommended in this pamphlet. This would release the democratic safety valve – as the cartoon demonstrates! I am writing this pamphlet as the Franco-German summit at the Elysee Palace of 16 August confirmed a step towards greater fiscal union of the Eurozone countries, following the economic collapse of bankrupt Eurozone countries in the economic crisis. The German Chancellor, Angela Merkel, and French President, Nicolas Sarkozy, vowed to defend the failing single currency project and form "a real economic government" for the Eurozone formed by an Economic Council of Heads of State and Government. This includes the proposal to elect a "stable" president for that purpose for two-and-a-half years beginning with Herman Van Rompuy (the current President of the European Council). On top of all this there are proposed draconian common tax policies for Germany and France, including a socialist-style financial transaction tax and a joint corporate tax rate by 2013 and the too-little-too-late deficit limiting laws. Now it is time for the Coalition Government to wake up to the dangers that this grave step to full fiscal union poses to the UK's national interest.

So what will Eurozone fiscal union and economic governance do for the Eurozone itself, for the European Union and for the United Kingdom?

It is apparent that not only the Government but a number of others believe that it is in the interests of the Eurozone, the EU itself and the United Kingdom to promote the idea of fiscal union and economic governance of the Eurozone, led by Germany and France. This is a dangerous gamble – the balance of judgement for which must be thrown against the project, certainly for the UK, just as the opt-outs at Maastricht did not prevent the creation of European government, which has failed, with damaging consequences for the United Kingdom. There are a number of reasons why fiscal union will not work either for the Eurozone or for the United Kingdom.

The claim that there is a "remorseless logic" avoids the fact that it is the deep-rooted causes of the structure of the Treaties and the attempt to create unity out of diversity, with overregulation and employment laws, which actively prevent growth and therefore prosperity and employment. Apart from

Germany there is no evidence of growth in the Eurozone and Germany itself is insisting on conditions which would have to be complied with but given the state of the other European countries the evidence is that it will not succeed.

The sovereign debt countries of many of the Eurozone Member States' including the original PIGS and now including Italy is evidence enough. There is no prospect of them retrieving the situation without growth but this will only come with the repeal of the employment laws, redundancy laws, the social laws and other impediments to increasing the prosperity to small and medium sized businesses. There is therefore a certainty that the Eurozone will not be a trading entity and therefore our own stability will not be enhanced by their fiscal union and economic governance. There will be further debt-crises which will be followed by the need for further bailouts but there will be no money to pay for them and Germany's conditions will not be met – this is a chaotic fiscal union within the Eurozone and it would be better to recognise this immediately as a matter of realistic "remorseless logic". Furthermore, when the implosion comes there will be even greater probability of the rise of the Far Right because the electorate will simply not put up with the burdens they would be expected to carry under such a debt/transfer union.

As far as the United Kingdom is concerned, the solidarity in relation to the Single Market within the Eurozone would lead to the Eurozone countries who are part of the fiscal union voting together, as Professor Roland Vaubel of Mannheim University has indicated the prospect of raising rival costs and "regulatory collusion" would do immense damage to our ability to compete and the Single Market itself would be in disarray. Apart from that, the United Kingdom's trade deficit with the rest of Europe has increased by £40 billion in one year alone and a Eurozone with fiscal union would be even worse.

There is an Alice in Wonderland fantasy around that the idea of a fiscal union would be a possible runner or in any rate, a short term fix but unfortunately this judgement overlooks the fact that it is doomed to failure and we would be better off keeping ahead of the curve by avoiding the inevitable implosion and sitting down with those from other Member States or those who are prepared to discuss with us the want to avoid the implosion. The idea we would be able to discuss opt-outs ignores the fact that we are now enmeshed in European government, but with two Europes, now built on sand. In order to remedy the situation we would need so many opt-outs, not only in terms of social and employment laws but also in relation to home affairs and justice, arrest warrants, immigration, energy (which through the Renewable Obligations will destroy the British landscape), the City of London and the whole overregulation of British business which must be repealed.

Adopting the idea of agreeing to, let alone promoting, fiscal union is short-termism at its worst and also pandering to the determination of France and Germany to maintain the political will of the union, which will lead to the predominance of Germany which in turn will be faced with monumental difficulties in the struggle to maintain an unworkable Eurozone. We are told that these proposals would be put into effect under Article 136, which involves a Treaty, but under Section 4 of the European Union Act we would be denied a Referendum, and told that it would not affect us and only affect the Eurozone – this is a dangerous fiction.

Furthermore, the justification for the Coalition Government is said to be the reduction of the deficit. This will not be reduced without growth where 50% or our trading is with a moribund Europe, and bearing in mind our trade deficit we carry with the rest of Europe. The Coalition Agreement is said to determine our European policy – according to the question I put to the Prime Minister – and it is the Liberal Democrats who have put an end to renegotiation and repatriation of powers. This is a dead-end policy. This will be made even worse if we acquiesce in the creation of fiscal union because the Eurozone will not only fail to grow, it will implode. The rise of the Far Right is a serious prospect as the electorate of Germany and elsewhere begin to react accordingly.

There is a further concern that Maastricht itself lies at the root of European governance and which gravely exacerbated the dangers of the move to political and economic union. The acceptance by the Conservative government of Maastricht and now of Lisbon, leaving aside the smaller Treaties of Nice and Amsterdam have created a political problem embedded in the Coalition Agreement which significantly departs from the principles of Conservative policy. After all, the Conservative Party was united against Lisbon and for a referendum. The current arguments in favour of fiscal union appear to be seeking to justify the acceptance of both Maastricht and Lisbon when Maastricht is a self-evident failure and Lisbon was rightly opposed by the Conservative opposition in every respect.

It is a major strategic failure to claim that the policy of the Coalition is to reduce the deficit when so much of the policy that is needed to achieve this cannot be sustained without having a clear and definitive policy of disentangling our relationship with the European Union without dealing with the problems which it presents to the UK, let alone the EU itself. We are being marched into the black hole of economic chaos. There are those in Germany such as Hans-Olaf Henkel, former head of the Federation of German Industries (BDI) (“Having been an early supporter of the euro, I now consider my engagement to be the biggest professional mistake I ever made …”), who understand the dangers of all this for Germany and those such as Michael

Sturmer who have been issuing warnings about the Maastricht Treaty and the current economic and political chaos which has evolved. They clearly do not want a fiscal union because Hans-Olaf Henkel, for example, is arguing for "Austria, Finland, Germany and the Netherlands to leave the eurozone and create a new currency leaving the euro where it is", because they know that Germany is facing an ever-escalating stream of further financial commitments, including the impossibility of bailing out Spain and Italy, let alone the PIGS. There simply isn't the money to do it.

We are at a cross roads and we are taking the wrong turn by endorsing fiscal union and creating two Europes without renegotiating Europe, without renegotiating the Treaties and without creating an association of nation states – an EFTA-plus – led by the United Kingdom, which is turning a vision of Europe into chaos.

Allowing Eurozone Member States to go ahead towards fiscal union and economic governance creates two Europes, to which the United Kingdom would remain bound by Treaty and law, though they are built on sand. It will have profound economic, political and constitutional consequences for UK vital national interests. This will fundamentally change the UK's relationship with the whole of the European Union, not only our relationship with the Eurozone. We must have a Referendum in the light of such a profound change in our political relationship with Europe. The Franco-German summit joint letter states "The aforementioned proposals should be implemented in such a way as to serve the cohesion of the European Union as a whole." It therefore fundamentally affects the UK. It also sets out how it will be achieved: under Article 136 and enhanced cooperation i.e. by Treaty without a Referendum but by Act of Parliament. Enhanced cooperation is being misused.

These new proposals would create a critical mass and an unlevel playing field with existing massive overregulation. We are talking about a two-tier low-growth area already showing signs of inertia which makes a nonsense of Britain's ability to grow on the back of European growth. We have to start trading vigorously and independently with the rest of the world and our strategic economic and foreign policy to be geared to these objectives. After all in the 18th and 19th Centuries, we did this with enormous success and in a global economic world, the opportunities are there to be taken but not if we are hamstrung by a simple trade policy dictated by the EU.

A new Treaty will be required to achieve these objectives but regardless of how they achieve fiscal union, a Referendum is now essential. It is therefore the British people who will save their Parliament.

This latest step hallmarks the failure of UK foreign policy for decades. The letter from the German Chancellor and the French President to Van Rompuy following the Franco-German summit of 16 August ultimately involves elements of EU-wide policy which those acquainted with foreign policy and EU-policy making will observe is deliberate. They threw in the push for the EU-wide common consolidated corporation tax harmonisation, knowing perfectly well that it would be rejected because it is by unanimous vote and that the UK Parliament would never accept it. What this amounts to is that, with that rejection, the UK leadership would be left agreeing to an EU Treaty or enhanced cooperation without a Referendum because they have evaded this under Section 4 of the European Union Act – despite my attempts to remove this provision and the commentary on it by the European Scrutiny Committee – where they claim or assert that such a Treaty applies only to the Eurozone.

The proposals for European economic government require a Referendum because the whole package involves a fundamental change in the relationship of the United Kingdom to the European Union. Thus, Cameron and Osborne will claim a victory asserting that they have repudiated the single currency and that the "remorseless logic" of the Eurozone policies leads to Eurozone fiscal union and economic government. Such a victory would be pyrrhic indeed – it would give the appearance of resolution, but in the words of Winston Churchill, the Government "… go on in strange paradox, decided only to be undecided, resolved to be irresolute, adamant for drift, solid for fluidity, all-powerful to be impotent." Indeed, as I warned Michael Heseltine at the time of his bid for the Conservative leadership election – what is the point of being Prime Minister of nothing?

The Coalition Government are acquiescing in ever deepening European integration. At Prime Minister's Questions on 24 November last year I asked the Prime Minister to "… explain why at every turn-the City of London, the investigation order, economic governance of Europe and the stabilisation mechanism – the coalition Government under his premiership are acquiescing in more European integration, not less? And there is no repatriation of powers." [1] As I stated to the Chancellor on 11 August, during the emergency parliamentary session, even Edward Heath would have vetoed, let alone called for, such a fiscal union of the other Member States. This surrender is nothing short of appeasement.

It is impossible to conceive against this background that the creation of a critical mass of a fiscal union and other coordinated policy making within the Eurozone will do anything but irretrievably damage the United Kingdom – nor

[1] HC Deb, 24 November 2010, c260.

will it stabilise the European Union, as the riots and protests, the PIGS crisis, the failed Lisbon agenda, the overregulation, the low-growth and the breaking of the rules constantly shows. Nor will the fiscal union prevent further bailouts which will create a deeper black hole, triggering German insistence on compliance with the conditions they are imposing. When this does not work then there will be political upheaval in Germany, as they seek to control the Eurozone, followed by total implosion. The reason this will happen is because the fundamental structural problems in the EU as a whole and the Eurozone of overregulation and uncompetitiveness in so many of the Member States and therefore excessive public expenditure without growth means that the conditions, as with the Stability and Growth Pact, are part of the Eurofantasy. The Prime Minister and the Chancellor of the Exchequer's fatal acquiescence is an act of appeasement to the Euro-integrationists. There is no reciprocal advantage to the United Kingdom whatsoever.

The announcement to the House of Commons by the Chancellor of the Exchequer on Thursday 11th August [2] – which he slipped in whilst attention was riveted on the UK riots, during the emergency parliamentary session – that the Prime Minister has urged France and Germany to accelerate fiscal union in the Eurozone, is both historic and disastrous.

The Chancellor, replying to my objection to his statement on 11th August, argued that "The remorseless logic of monetary union leads towards fiscal union, and that was one of the reasons that I opposed joining the single currency. However, it is now in our interests to allow that to happen more in the Eurozone, because it is in our absolute national economic interest that the Eurozone is more stable. It is clear that that means that they need to have more fiscal powers to reduce instability. That means, of course, that Britain must fight hard to ensure that its interests are represented and that we are not part of this fiscal integration." The Chancellor has completely missed the point. Fiscal integration of the Eurozone would have the most profound impact upon the United Kingdom.

There has clearly been no attempt to discuss or consult on all this in Parliament or any of its committees or the British people. Nor has there been any attempt to obtain any reciprocal advantage to the United Kingdom such as renegotiation of the Treaties or the repatriation of social and employment legislation or any other powers, which are needed for UK growth.

It is impossible to conceive against this background that the creation of a critical mass of a fiscal union and other coordinated policy making within the

[2] HC Deb, 11 August 2011, c1106.

Eurozone will do anything but irretrievably damage the United Kingdom – nor will it stabilise the European Union.

The Coalition Government's policy is based on a dangerous doctrine, as I put it to the Prime Minister after the Chancellor of the Exchequer's statement on 11 August. There is no reciprocal advantage to the United Kingdom whatsoever.

A Referendum for the United Kingdom voters is indeed now a matter of "remorseless logic" and the question which must be put, given that the status quo is untenable, must be whether by a simple majority the British people decide either to leave the European Union altogether or to renegotiate all the existing Treaties and to form a trading arrangement with political cooperation but no more.

But it will only be the British people who can and will do this with the help of those of goodwill who are prepared to follow this through. We saved the UK and Europe through two World Wars. Now we have the greatest economic crisis that Europe and the UK has faced in generations and a breakdown in our own society. The cause of the economic crisis (not the symptoms, such as Greece, Portugal, Spain, Ireland, Italy, etc) is the construction of an undemocratic and unworkable European Union, most recently through the enactment of the Lisbon Treaty, but stemming from the unrealistic aspirations for political union provided in the Maastricht Treaty. This created European government and which set the course for a greater Germany, both peaceful but unacceptably dominant at the same time.

We only have to look, as this pamphlet does, at the impossible trade balance, between 2009 and 2010 – which has risen by as much as £40bn in one year against us [3] – and the fact that the fiscal union dominated by Germany and which the Government has conceded, will massively increase this trade deficit, destroying British businesses and British jobs. Such treatment will be obvious to those concerned for what happened with the Bombardier plant in Derby, through the misuse and the machinations of the Public Procurement Directive.

As this pamphlet demonstrates, it is also about the massive unemployment generated by "employment" regulations which destroys small businesses and people's lives, the transfers of power over UK financial services and the City of London – meaning that it is no longer only small businesses that are being cut off but the wilful acquiescence of conceding jurisdiction to the EU over the

[3] Office for National Statistics. Balance of Payments, 1st quarter 2011, 28 June 2011: http://www.statistics.gov.uk/pdfdir/bop0611.pdf

City of London as well. For a mammoth 1 trillion Euro budget, the British taxpayer is now being asked to increase our already substantial contribution by £1.4 billion every year for the next seven years until it reaches £23.1 billion. European overregulation has cost us £124 billion from 1998 until last year, meaning that EU regulation in the past eleven years has cost every UK household an average of £4,912. [4] Think of how much money we could spend on schools, hospital, defence and the wellbeing of our own people rather than bailing out failed European states, much of which is their own fault and the rest is the fault of the failed European project which has passed laws which prevent growth. With 50% of our trading with the European Union as a whole, we are trading with a bankrupt, low-growth Europe – the only exception being Germany. At the same time we allow our basic industries and utilities to be bought up by Germany and French companies (which they do not reciprocate) repatriating their profits at the taxpayer's expense in the pursuit of so called European obligations and gaining control over our energy. This cannot be allowed to continue. There is no room for argument about the status quo.

Crises from Maastricht to Lisbon

"Having been an early supporter of the euro, I now consider my engagement to be the biggest professional mistake I ever made. … Second, the "one-size-fits-all" euro has turned out to be a "one-size-fits-none" currency. … Third, instead of uniting Europe, the euro increases friction." – Hans-Olaf Henkel, former head of the Federation of German Industries (BDI) who has joined about 50 other business leaders in a legal challenge at Germany's Constitutional Court against the Greece rescue package, 30 August 2011, Financial Times

In *Visions of Europe* (August, 1993) in the chapter "A Brave New Europe", [5] I quoted from Edward Gibbon's *Decline and Fall of the Roman Empire*:

> "The division of Europe into a number of independent states, connected, however, with each other by the general resemblance of religion, language and manners, is productive of the most beneficial consequences to the liberty of mankind."

Modern readers would do well to read Gibbon. I said there were "two Europes" and this is confirmed by the Franco-German statement of 16 August. I asked in 1993:

[4] Stephen Booth (Ed.), Sarah Gaskell & Mats Persson. 'Still out of control? Measuring eleven years of EU regulation', Open Europe, June 2010 (Second edition).
[5] In 'Visions of Europe'. Duckworth, 1993.

> "What is it to be European? We Europeans live geographically in historically sovereign countries on a Continent in which, to a greater or lesser extent, we share or have so far shared a Christian culture, which glorified in its diversity and talented competition from the Renaissance to the nineteenth century.
> "But there us another Europe. A Europe which has fallen prey to a European internationalism which owes its dark origins to a forbidding and atavistic concept of the *Volk* which, at its worst, has spawned racism and fascism."

The tragic events in Norway earlier this year were an extreme example of the worst kind of tragedy, which I also indicated in that same essay in 1993 would emerge from the failure of the Maastricht Treaty and which "owes more to the dangerous 'Conservatism' known to the authoritarian, even racist, tradition elsewhere in Europe."

I went on to state in relation to the then European debates over Maastricht:

> "It is this fundamental contradiction between promise and performance which is undermining the Community and therefore the Community as a whole which is falling into a pit of corrosive contradictions… Maastricht … once ratified, can only be unravelled by unanimous requirement, which is to say the least impossible, or, when monetary union collapses (as did the Exchange Rate Mechanism) there is widespread chaos with massive political and commercial instability throughout Europe."

Given the situation in Greece, Ireland and Portugal, along with crises in Italy and Spain, we now face that instability. Britain not only has a fundamentally new political and economic danger to deal with but the likelihood of a better Britain within a better Europe no longer remains possible within the framework of the current European Union. We must seek to renegotiate that position to build a better Britain and offer an alternative. This is not about 'Europe' in general – it is about the larger failure of the European Union, a matter on which Eurorealists have been proved right. And why should those of us who now by common consent clearly got it right, over Maastricht, Amsterdam, Nice, not to mention the ERM, now be judged likely to have got it wrong, based, as their views are on political and economic principles and democracy and fair competitiveness?

The real problem common to the EU but also to the United States is a lack of decisiveness and leadership in the face of the failure of the nostrums which have determined much of global policy since 1945. This is apparent not only

in Germany where Angela Merkel is being severely criticised by those such as Michael Sturmer but also in France and even in America. In Europe, there is a serious danger that the Far Right will emerge out of this lack of decision. The established order, certainly in the EU, has failed and has been broken on the back of unaffordable dreams and visions of a new European order. The leaders have been locked in by the Treaties that they and the predecessors have made, including Lisbon, but at the expense that understanding the true basis of free trade and democracy is freedom of choice and comparative advantage both in the economic and the political marketplace. The stock market and the Dow Jones have nosedived and there are fears of a double-dip recession evoking fears of the 1930s, as I predicted in Visions of Europe in 1993.

The Coalition: renegotiation and Referendum required

The British people must be given the right to decide – even though Parliament under the Coalition will try to prevent this, with the stranglehold that the Liberal Democrats have over Britain's European policy. The question in a nutshell we must now put to the British people is – 'Do you want to leave the European Union or renegotiate our relationship?' This Referendum campaign must start immediately, in the next few months. On 27 June, I called on David Cameron in the House to lead Britain and Europe out of the existing mess that the Treaties have created. [6] He did not. The situation is now worse.

In this pamphlet, I am calling upon David Cameron to go to the next Summit and set out an agenda for renegotiation of all the Treaties and to make it clear that there will be a UK Referendum for the proposals for economic governance of the Eurozone and fiscal union. When, as may be reasonably expected this is refused, he must call on those members of the European Union who are rebuffed to make a new Treaty in the form of a new European free trade area within an association of nation states. In Churchill's words, "associated but not absorbed." David Cameron must insist at the same time on the deregulation and repeal of European legislation at Westminster, overriding European law-making in this field, as he promised in his speech to the Centre for Policy Studies in 2005, describing the move as "imperative".[7]

The fundamental question therefore that Britain needs to ask herself is – does this European system work in her own national interests? Successive governments have relied on inadequate negotiations rather than admit the

[6] HC Deb, 27 June 2011, c620.

[7] David Cameron. Creating wealth and eliminating poverty: At home and abroad. London: Centre for Policy Studies, 2005. (See: http://www.cps.org.uk/cps_catalog/CPS_assets/111_ProductPreviewFile.pdf).

system isn't working in Britain's national interest. There are many areas of British policy making in which Parliament and the devolved bodies are forbidden from legislating under the terms of the Treaties and many more in which the EU has an increasingly powerful influence. Areas such as taxation policy, criminal law, industrial subsidies, healthcare, agriculture, renewable energy policy, destroying the landscape not to mention fisheries policies are adversely affected by EU policies.

More recently, the creation of the posts of High Representative of the Union for Foreign Affairs and Security Policy and the post of President of the European Council in addition to the creation of a European External Action Service means that the United Kingdom's global trade and foreign policy position will increasingly be negotiated by the EU as a whole. Impending European tax harmonization is a further danger, as it is designed to fulfil the aspiration of creating a European power structure through an even greater surrender of economic power. It is the responsibility of the current Government to be open with the British people about alternative trading arrangements to the EU. We must adopt a European Free Trade Association-plus as the basis for a competitive Britain in a workable Europe.

For a Government caught within the European Union jigsaw puzzle and seeking to achieve a reduction in the budget deficit, this goal must be carried through within every aspect of policy and not merely where it suits the Conservative Party or the Coalition Government. This strategic governing objective must apply as much to our domestic situation as it does in respect of the failing European project. There are young people throughout Britain and throughout European Union who cannot get jobs because companies will not take them on, largely as a result of European employment regulations. It is ultimately because the deficit in the economy and the need for a reasonable public sector cannot be achieved without reasonable tax revenues from private enterprise. Yet, private enterprise and the small business community are being strangled by European burdens on business – hence, no growth and the deficit gets worse. As I wrote in my letter to the *Daily Telegraph* on 28 July 2011*:*

> *"There is no deficit reduction without growth. Domestically, growth has to come from private enterprise productivity, and externally, from exports outweighing imports. Both sources of growth are being sacrificed on the altar of European policy and legislation.*
>
> *"As to the external sources, our EU trade balance is a disaster. Last year, the trade deficit was £53.4 billion, up from £14 billion in 2009. The current account last year with the rest of the world stood at a £7.1 billion surplus. This speaks for itself. As to domestic sources, 50 per*

cent of our business regulation comes from the EU. This is strangling our domestic growth and costs at least five per cent of GDP.

"We must have a renegotiation of our relationship with the European Union. This must include repatriation of powers and EU legislation must be overridden by Westminster where necessary.

"The Lib Dems are the obstruction to this. We must also refuse to sign any Treaty tying ourselves to a German-dominated fiscal union with which we have such a massive trade deficit. We should hold a referendum to let the British people speak for themselves." [8]

The obvious failures within the Eurozone mean that Britain must reject the very notion of a fiscal union for the Eurozone. The very notion of a Treaty for a fiscal union within the Eurozone is contrary to our own national interests. Any such Treaty proposed by France and Germany must be vetoed by the Government because it would tie Britain in to a system which would merely exacerbate by its own failure the massive trade deficit between ourselves and the other 26 Member States. Any such fiscal union within the Treaty framework, within which 50% of our trade depends, would be disastrous for our own economic growth because just as the Lisbon agenda failed so will the 2020 strategy and with it our own economic prospects of growth. Imagine in 1972 or at the time of the Referendum in 1975 the Government and Parliament and the British public had been told that the European deal was that there would be a hard core fiscal union involving and led by France and Germany but we would be bound to it by Treaty on the periphery. The dangers of the creation of Britain being put on the periphery were well understood at the time of the creation of EFTA and subsequently I mentioned this in 1990 as part of German strategy as the European Community moved forward. Not even Edward Heath would have agreed this.

This is the time for the British government to take the lead in renegotiating the Treaties to bring the European Union down to reality. This is also the time for it to create an environment in which the individual countries of EFTA-plus, where it suits them, and with the USA, the Commonwealth and other parts of the world, can cooperate to create effective competitiveness. As Philip Stephens pointed out in his recent article in the *Financial Times* (24 June 2011) [9] the new powers with which Europe must now compete have never

[8] Bill Cash, 'Regulations from Europe hamper the growth of Britain's businesses', *Daily Telegraph*, Letter, 28 July 2011.

[9] Philip Stephens. 'Europe's return to Westphalia', *Financial Times*, 24 June 2011.

been much convinced by the Union's postmodernism. Jealous of their sovereignty, the Chinas, Indias, Brazils much prefer a "Westphalian" system, intended as a system which marked the birth of the doctrine of state sovereignty, rather than the supranational authority model born out of the Treaty of Rome.

Political will must replace acquiescence in a failing Europe

All this requires leadership and political will based on principle, not a policy of acquiescence in a failing system. We need to start a process of reinvention now towards a new association of nation states providing European trade with political cooperation by developing a global strategy for the EU in a technologically-led world that will be increasingly governed by a G2 of US and China, as opposed to an unworkable ever-closer European economic governance. We are already witnessing with the collapse of the peripheral countries, and now Italy and Spain. The alternative will be to slide further and deeper into undemocratic chaos and disorder, as we Eurorealists have consistently maintained. The answer to Europe is not to create a German dominated based power structure for the whole continent but to revive and consolidate democracy in each of Europe's nation states and enable each to compete internationally and with one another. European integration undermines national democracy and national parliaments.

As the economic crisis has unfolded, governments across the continent have failed to see that Brussels is the problem rather than the solution or that the global centre of gravity is shifting ever faster towards the emerging nations.

The currently failing Britain in a failed Europe, deluged with laws and constitutional arrangements via the European Communities Act 1972, has a monumental practical effect on the daily lives of the British people. According to the Taxpayers' Alliance, the EU costs £2,000 for each man, woman and child. [10] The European Union, and its legal system, as provided for under the Treaties and the role of the European Court of Justice (ECJ) have a significant impact on our daily lives.

According to a House of Commons Library Research Paper on 13 October 2010, "The British Government estimated that around 50% of UK legislation with a significant economic impact originates from EU legislation." [11] That

[10] Craig, D. & Elliott, M. 'The Great European Rip-off*:* How the Corrupt, Wasteful EU is Taking Control of Our Lives'. London: Random House, 2009.

[11] Vaughne Miller. 'How much legislation comes from Europe?', House of Commons Library, Research Paper 10/62, 13 October 2010.

paper also points out that as soon as EU Regulations are adopted they become part of national law so their qualitative effect can be deeper.

On immigration, there has been some recent attention paid to the latest immigration statistics released, showing net migration for 2010 at 239,000, 21% higher on last year – on which Sir Andrew Green of MigrationWatch said: "These figures lay bare the legacy of the Labour government with immigration last year close to a quarter of a million, the second highest ever. The coalition government will have to face down some vested interests if they are to get anywhere near their target of tens of thousands." That of course is true – as are the necessary interests of the Coalition Government to begin facing down the European Union's interference in this area, particularly in the light of the Lisbon Treaty's complete commitment to a common immigration policy.

It is astonishing in fact how much the daily lives of the British people are impacted by European law. The Treaties cover aspects of governance such as external action, foreign and security policy, security and defence policy, citizenship, internal market, agriculture, fisheries, free movement, border checks, asylum and immigration, climate change, civil and criminal and police matters, justice and home affairs, transport, competition, tax, economic and monetary policy, employment and social policy, public health, consumer protection, industry, the environment, energy and energy prices, commercial policy and financial provisions, space policy, humanitarian aid, culture, tourism, education, civil protection. The list is endless. All these areas are regulated within a framework of European Union law within the jurisdiction of the Court of Justice of the EU undermining parliamentary sovereignty in the United Kingdom.

Britain: a global free-trading nation

Redressing the trade deficit within the EU

The quest for a better Britain in a truly reformed Europe depends upon Westminster's ability to think and act globally, rejecting the European isolationism of successive British Governments. Britain must not be locked into a framework of the European Union by signing a Treaty including economic government and fiscal union of the Eurozone. Recent figures suggest that the net cost of Britain being locked into this overarching European Union framework amounts to 10% of GDP, equivalent to £139 billion in 2009, which, when compared to the Sterling value of UK goods to the EU of £129 billion for the same year, indicates a net contribution or hidden tax

to the EU of £15bn in taxpayers' money, just for the privilege of belonging to the Single Market. [12]

The Government must redress our balance of trade. Our balance of payments deficit with Germany was £12 billion in 2009. Between 1999 and 2009 we achieved a total deficit of £5 billion between the other 26 EU Member States and ourselves, but accrued a total surplus of £11 billion with the rest of the world (see table below). More recently, the case has become even clearer: in 2010, the current account deficit with the EU was -£53.4 billion, up by £40 billion in one year, and the surplus with the rest of the world was £7.1 billion.[13]

UK imports from outside the EU are increasing significantly faster, especially from the new emerging economies. At least 50-70% of all new regulations originate from the EU. They are strangling British businesses with anti-innovative and non-competitive policies. [14] The EU's economic underperformance compared to the rest of the world is to be attributed to excessive EU regulation (Conseil d'Analyse Economique) and the infiltration of special interest groups in the EU decision-making process has resulted in the entire Union system being managed at odds with the views of the majority of EU citizens. An examination of our UK Balance of Payments suggests a strong deterioration in the United Kingdom's current account deficit vis a vis the Eurozone in the last decade.

The EU is in long-term structural demographic and economic decline. Given the pattern of UK global trade, the Eurorealist view is that British trading and commercial interests no longer coincide with the development of European Union institutions along direct-taxation and low-growth lines, and on that basis it is in her national interest to reclaim her sovereignty and create interlocking networks of free trade agreements and thereby bring forward arrangements for a free trade area – an EFTA-plus arrangement – on an intergovernmental basis through an arrangement of associated nation states.

[12] Ian Milne. 'The Single Market and British Withdrawal'. The Bruges Group, 2011.
[13] Office for National Statistics. 'Balance of Payments', 1st quarter 2011, 28 June 2011: http://www.statistics.gov.uk/pdfdir/bop0611.pdf
[14] See: Bill Cash, MP and Bill Jamieson. 'The Strangulation of Britain & British Business'. The European Foundation, 29 March 2004.

UK Balance of Payments, Current Account

£ million

	Credits (exports)			Debits (imports)			Balance	
	1999	2009	% change 1999 to 2009	1999	2009	% change 1999 to 2009	1999	2009
Austria	2,178	2,640	21%	2,348	4,033	72%	-170	-1,393
Belgium	12,940	17,389	34%	13,389	20,080	50%	-449	-2,691
Bulgaria	165	420	155%	166	539	225%	-1	-119
Cyprus	499	1,675	236%	1,068	1,512	42%	-569	163
Czech Republic	1,015	1,718	69%	839	3,813	354%	176	-2,095
Denmark	4,015	6,873	71%	3,873	6,037	56%	142	836
Estonia	70	205	193%	236	169	-28%	-166	36
Finland	2,442	3,185	30%	2,976	2,901	-3%	-534	284
France	28,209	35,840	27%	32,681	42,384	30%	-4,472	-6,544
Germany	35,025	45,639	30%	39,847	57,819	45%	-4,822	-12,180
Greece	2,900	3,480	20%	2,587	4,634	79%	313	-1,154
Hungary	872	1,532	76%	856	3,015	252%	16	-1,483
Ireland	16,463	28,733	75%	13,420	26,046	94%	3,043	2,687
Italy	15,931	17,457	10%	15,064	19,144	27%	867	-1,687
Latvia	95	205	116%	336	387	15%	-241	-182
Lithuania	115	290	152%	215	490	128%	-100	-200
Luxembourg	2,479	14,712	493%	2,762	6,227	125%	-283	8,485
Malta	295	1,060	259%	382	587	54%	-87	473
Netherlands	27,385	43,549	59%	22,785	31,415	38%	4,600	12,134
Poland	1,553	4,398	183%	1,039	6,121	489%	514	-1,723
Portugal	2,785	3,029	9%	3,077	3,531	15%	-292	-502
Romania	330	1,133	243%	366	1,080	195%	-36	53
Slovak Republic	187	671	259%	195	1,764	805%	-8	-1,093
Slovenia	222	280	26%	186	308	66%	36	-28
Spain	11,847	20,221	71%	13,438	21,204	58%	-1,591	-983
Sweden	7,120	9,971	40%	6,940	8,718	26%	180	1,253
Eurozone	161,857	239,765	48%	166,441	243,758	46%	-4,584	-3,993
as % of World total	*45%*	*42%*		*44%*	*41%*			
EU 27 (inc EU institutions and ECB)	183,984	277,014	51%	192,827	291,389	51%	-8,843	-14,375
as % of World total	*52%*	*48%*		*51%*	*49%*			
Rest of the World	172,452	300,301	74%	185,463	301,432	63%	-13,011	-1,131
as % of World total	*48%*	*52%*		*49%*	*51%*			

Source: ONS, *The Pink Book 2010*, 2010

Regaining the WTO seat

As a self-governing nation state and as a founder member of the World Trade Organisation (WTO), the world's principal forum for negotiating international trade, Britain must resume its own seat, relinquished in 1973 on joining the Common Market, and would be free to initiate trade negotiations and agreements with fast growing countries and export markets as US, China, Brazil, India (BRICS) Australia, Singapore and South Africa. Britain could still continue to trade with the EU, granted under Article 3, 8 and 50 of the Lisbon Treaty which binds the EU to "free and fair trade" with non EU countries and steer clear of the burden of EU policies and regulations.

The EFTA example: a lesson for the future

For example, Norway and Switzerland, non-EU EFTA members, who are bullied by the EU for not complying with European legislation, export far more to the EU in proportion to the size of their economies than the UK. As they enjoy the status of semi-detached members of the EU Single Market, they avoid policies such as the CAP and tax harmonization being imposed on their economies. Britain must regain control of key industries such as the City of London, the world's leading centre for international business and financial services increasingly under the EU Commission's regulatory sweeping proposals through the so called "European Banking Authority" (in particular, the Directive on Alternative Investment Fund Managers which will undermine the UK's regulatory authorities in compliance with community law). French ministers in particular, have been blatant in their hostility to the City of London. As a serious alternative to do or die (continued integration or withdrawal), a better Britain must transform the Commonwealth into a global pan European trade area with its headquarters based in London and revive its long-standing historical tradition as a successful trading nation.

I warned about the dangers of European financial regulation in a series of letters to the *Financial Times* [15] before the fateful decision by the Government to allow the City of London to become subordinate to the jurisdiction of the European Union and the Court of Justice. Each of the new financial authorities, in devising their respective rules, are and will be governed by this jurisdiction, which removes the competitive advantage which the City of London has enjoyed for generations. The EFTA arrangements and their positive success demonstrate the success of remaining outside of European political integration.

[15] Bill Cash, *Financial Times*, Letters, 'EU supervisory scheme that will be against UK's interests' (27 February) and 'Still no answer on Europe's supervision of our banks' (7 April 2009).

UK and the EFTA foundations

A useful benchmark and orientation for future UK policy comes from the proposals of the UK Government when it became a founding member of the European Free Trade Association (EFTA) in May 1960, along with Austria, Denmark, Norway, Portugal, Sweden and Switzerland. During its negotiations between 1957-1958 for a free trade area in what became EFTA, the United Kingdom Government refused "…to recognise the existence of any political element in the proposed arrangements which was the only consistent strand in British policy." [16] In the Government's view, it should only be a free trade association, not a customs union. There must be limited harmonisation or coordination of internal economic and social policies which would allow the United Kingdom to operate its own trade policy and arrangements on tariffs with the Commonwealth. It would be mainly intergovernmental with a very limited departure from decision-making by unanimity. It would have links with the then Common Market of six members. The French, under General de Gaulle, opposed almost every element of that arrangement. There was not much in the way of parliamentary debate on the EFTA negotiations in March 1958. However, in the Government White Paper of February 1957 on 'A European Free Trade Area – United Kingdom Memorandum to the Organisation for European Economic Co-operation' (the OEEC) as the EC is being set up, it provides "substantial reasons why the United Kingdom could not become a member of such a Union", opposing the customs and economic union on principle and "Her Majesty's Government could not contemplate entering arrangements which would in principle make it impossible for the United Kingdom to treat imports from the Commonwealth at least as favourably as those from Europe." The Government maintained along with members of an OEEC Working Party that in such a free trade area, as opposed to the EC, that "they would be free to keep their own separate and different tariffs in imports from outside the Area." The United Kingdom pushed for such a free trade area with "as many countries in Europe as possible" and aimed to remove barriers to trade over a significant proportion of world trade. This is the kind of EFTA-plus arrangement that we should now be returning to (given the failure of the EC/EU) whilst taking account of the changed relationship between the United Kingdom and the Commonwealth itself but building on its continuing value and commitment.

[16] George Schopflin, 'EFTA: The Other Europe', *International Affairs*, 40 (4), 1964, pp.674-684.

The then Government in that earlier White Paper characterised the EFTA arrangement as significantly distinguishable from the development of a Common Market as follows:

"Her Majesty's Government's concept of the Free Trade Area differs in some important respects from that of the Customs and Economic Union now contemplated by the Messina Powers. The arrangements proposed for the Customs and Economic Union involve far-reaching provisions for economic integration and harmonisation of financial and social policies, and for mutual assistance in the financing of investment. … Her Majesty's Government envisage the Free Trade Area, on the other hand, as a concept related primarily to the removal of restrictions on trade such as tariffs and quotas."

The Government then did however recognise the benefit of "co-operation" – rather than the convergence and harmonisation advocated by European federalists, which it rightly opposed. How ironic that the then President of the Board of Trade, Sir David Eccles should have said in June 1957 before the EFTA and EC creation of the Treaty of Rome that:

"When the experts explain to us the Treaty of Rome in terms of economics we see beyond the tariffs and the quotas, for we know that Europe is feeling its way to something much more fundamental than the exchange of goods and money. But granted that European solidarity and peace is the purpose of the Treaty of Rome, how illusory might this be if the result were to divide Europe! On the inside the Six Powers who have signed the Treaty; on the outside those other European Powers who, though they have been slower to support the movement of integration, are none the less profoundly affected by it." [17] This of course is where we are now – in 2011!

And so our time has come: division and a two-tier Europe. It is no surprise then that on 9 July 1957, the then UK Prime Minister, Harold Macmillan said of the ratification of the Treaty of Rome, "We believe that there is a real danger that in trying to create unity in Europe, new divisions may follow." [18] As if that were not enough, UK Paymaster-General, Reginald Maudling, who was responsible for Britain's part in much of the negotiations for EFTA, said in February 1959:

[17] David Eccles. 'Address on the importance of the establishment of a free trade area in Europe'. The Board of Trade Journal, June 1957, No 3150, p.1390.
[18] Harold Macmillan. PM statement. 9 July 1957: 'Commonwealth survey, A record of United Kingdom and Commonwealth Affairs', No. 15, Vol. 3, 23 July 1957.

"In the first place, the Common Market powers, by themselves, might pursue policies of what is called an inward-looking, protective and restrictionist nature. … Secondly, the development of the Treaty of the Rome, unaccompanied by wider association, is, in the view of many countries concerned, liable to lead to a division of Europe between the six countries and the eleven, and that division, we feel, could not fail in the long run to have tragic consequences, not only economic but political." [19]

'Division' and 'tragic consequences' indeed. I could not agree more. Maudling added in that debate, "…we must understand that there is no general public support in this country for the idea of political federation with Europe. Quite apart from its implications for the Commonwealth, I do not believe there is any body of support for it."

If only, those in the Coalition Government today, responsible for serious decisions in the national interest, were equally candid and statesmanlike in pursuing our national interests.

Switzerland: European and sceptical

We have Switzerland as a good example of a European but 'sceptical' country – like Iceland, Liechtenstein and Norway – existing outside European Union arrangements and sitting within the EFTA, but tragically, it has been bullied and threatened by the EU for the steps it has taken to remain outside those political arrangements. They are now being gravely affected by the European Union and the situation is growing worse. In December 2010, the Council of the European Union issued the document, 'Council Conclusions on EU relations with EFTA countries' [20] where they effectively issued an ultimatum to the EFTA countries saying that they will reassess their relationship between the EU and EFTA in 2 years. Despite recognising Switzerland as a major trading and investment partner, it goes on to express concerns for a lack of efficient arrangements for taking over the EU acquis, legal uncertainty for authorities, company tax regimes for Switzerland, business tax practices, and a clear attempt to force Switzerland down a new path, with the Council saying it "has come to the conclusion that while the present system of bilateral agreements has worked well in the past, the key challenge for the coming years will be to go beyond that system, which has become complex and unwieldy to manage and has clearly reached its limits", then calling for surveillance and judicial enforcement methods for imposing legislation. The whole document is the equivalent of a threat. In maintaining their sovereignty,

[19] Reginald Maudling. HC Deb 30 July 1958 vol 592 cc1369-72.

[20] Council of the European Union. 'Council conclusions on EU relations with EFTA countries'. 3060th General Affairs Council meeting. Brussels, 14 December 2010.

Switzerland are being bullied and furthermore, they are not even involved in the decisions relating to the *acquis communitaire* and the ECJ decisions which will be imposed upon them.

EU vs. EFTA

Compare EU and EFTA consequences of membership. In terms of the UK being affected by regulation, EFTA has about 300 per year; the EU leads to well over 1,000. The estimated regulatory cost as a percentage of GDP under EFTA is 1.5% and through the EU is 5%. The financial costs of regulation to the UK under EFTA would come to £15bn but £50bn under the EU. The financial contributions to the EU under EFTA amount to £3.9bn but it is approximately £6bn in the EU. Under EFTA, we would retain our control over fisheries, agriculture and influence over our justice and home affairs. The employees for EFTA amount to approximately 90, as opposed to 30,000+ employees within the European Union, which the British taxpayer foots the bill for.

USA strategic repositioning on European integration and a new global Commonwealth of Nations

The policy of renegotiation has implications for the United State of America who have since 1945 consistently pressed for more European integration. This has not worked, even for the USA itself. Turning to the rest of world for strategic advantages throughout the 21st Century, America's own economic deficit with rest of world is even more compounded by its continued deficit with the EU.

One only has to look at the US balance of payments with the EU, which has been in deficit for all but 4 of the last 25 years, mainly due to a balance of trade in goods deficit. (The only years that it has been in surplus have tended to follow the two US recessions during the period).

On growth, since the beginning of 2008, the contribution of export growth to the EU has averaged close to zero; while during the eight quarters of 2008 and 2009 it contributed an average of -0.02 of a percentage point; and in the following 5 quarters it has contributed an average of 0.03 of a percentage point. EU growth has had very little impact on US output growth.

Then look at the proportion of US trade which was with the EU – the trend in the proportion of US exports accounted for by the EU is downward, falling slightly from an average of 22% in 1998 to 21% in 2009. Since then the downward trend has accelerated from an average of 21% in 2009 to an average of 18% in the first five months of 2011.

The USA's strategic policy with the EU is out of kilter and its comparative trade with the EU has now dwindled to vanishing point.

A new global Commonwealth of Nations is required. It is clear that the EU does not benefit either the UK or the USA in its present form and, given the massive international trade deficit which the United States is running, it would be well worth considering the creation of a new international trade organisation, a NAFTA-plus, in the mutual interests of those countries who have a common interest – a new Commonwealth of mutual trade stretching from the Atlantic to Asia and the Commonwealth itself, including the United Kingdom and Ireland where there has recently been talk about joining the Commonwealth.

We should consider a new arrangement with the United States and those who wish to join. A proposed list of members could include: Britain, the US, existing EFTA countries (including Norway and Switzerland), Malta, Cyprus, Ireland, Portugal, even perhaps Italy, India, and other members of the Commonwealth such as Australia, New Zealand, Canada and include a large portion of the English-speaking world.

Government guess work on EU membership cost/benefits

A recent Freedom of Information request for the Foreign Office's research and information on the costs and benefits of EU membership, revealed an assembly of unconvincing documents including a paper on 'EU Membership and trade' and a literature review by HM Treasury, reiterating and recycling the strange and mythical figures that 3.5 million jobs are linked directly or indirectly to the UK's trade with the EU, or £25 billion of gains to the UK over the period 1992-2006 or that increased trade in Europe since the early 1980s may be responsible for around 6% higher income per capita in the UK. The paper is mere statistician's guess work, drafted on the back of an envelope, hijacked by ministers, and dressed up as a justification for Britain's EU membership. Those papers demonstrate the questionable rationale for Britain's relationship with the European Union – and how essential it is to renegotiate the Treaties underpinning our relationship, in the national interest.

The Prime Minister must instruct the Foreign Office to reverse its post-1960s European policy. Without it there will be no growth. They talk of structural reforms but with the European employment laws, there is no hope for the young people of the UK whose unemployment has just been announced at 20%. Furthermore, in Europe it is worse still, with Spain having youth unemployment of 45%, Greece 38%, Italy 28%, Portugal and Ireland 27% and France 23%. The small business community is being sacrificed on the altar of

European policy and legislation and the lack of growth means not only falling employment but is also hitting pensioners as the pension funds are undermined.

Britain free from the Euro, Eurozone failures and Euro-bailouts

From Major to Cameron – Britain still free to opt-in to Euro

"Having been an early supporter of the euro, I now consider my engagement to be the biggest professional mistake I ever made. … First, politicians broke all promises of the Maastricht treaty. … Second, the "one-size-fits-all" euro has turned out to be a "one-size-fits-none" currency. … Third, instead of uniting Europe, the euro increases friction. But it is irresponsible to maintain there is no alternative. There is." – Hans-Olaf Henkel, former head of the Federation of German Industries (BDI) who joins about 50 other business leaders in a legal challenge at Germany's Constitutional Court against the Greece rescue package, 30 August 2011, Financial Times.

The Maastricht Rebellion entrenched Eurorealism and ensured Britain maintained its opt-out from the Euro. However, neither John Major's Government, nor Tony Blair's or Gordon Brown's, ever achieved more than a mere opt-out, as they sold us out to European Government. The legislation still provides that the United Kingdom could opt-in to the Euro if the appropriate resolution was passed in the House of Commons. This must be put beyond doubt in any future renegotiations. We must also deal with the commitments that have been made exposing ourselves to Euro-bailouts and Economic Governance proposals, which whilst they are said only to relate to the Eurozone, in fact also deeply affect us an EU Member State, not to mention the rebate.

This we must do by reasserting the sovereignty of Westminster through a Sovereignty Act (see later) and leading the way into a new European Free Trade Area-plus network, governed through an intergovernmental arrangement.

As the Prime Minister admitted during his interview on 7 July with the *Spectator* magazine, "there will be opportunities for Britain to maximise what we want in terms of our engagement with Europe" and as the Eurozone will have to move towards more single economic government, he sees a great chance to renegotiate Britain's relationship with the European Union. This is all very well on the face of it, but when I put a formal question to him in Parliament asking what his objectives were and what opportunities it offered for renegotiating the treaties, he immediately ducked the question by transferring it to the Foreign Secretary who in turn ducked the question by

asking the Minister for Europe to answer it. The astonishing, but depressingly true answer came back on 18 July that this whole question was determined by the Coalition Agreement [21] – in other words by the stranglehold that the Liberal Democrats have over the whole of our European policy-making. Nick Clegg has also specifically ruled out any repatriation of powers such as those for social and employment legislation, which as I have previously mentioned, David Cameron promised in his Centre for Policy Studies speech in December 2005, and any question of renegotiation of the Treaties.

The survival of the Euro itself is in question due to its very nature which has resulted in grave imbalances within Europe. The monetary dimension of the Euro, with its "one size fits all" approach applied to such different national economies has not worked, as we argued throughout the Maastricht debates. The original misconception that the Euro would bring about stability has failed – and its consequent economic and financial distortions are now painfully evident. The Eurorealists were right – it has not worked and Britain needs to unravel the Treaties so we can pursue an EFTA-plus based network.

Eurozone: not in Britain's interest

It is essential for Britain to renegotiate our position within the framework of the European Single Market as a vital step as well as insisting on a rebate, and in ensuring our trade and economic wellbeing which is constantly eroded by a vast swathe of laws and directives such as the Social Chapter, Working Time Directive, Health and Safety and Tax harmonization emanating from Brussels. All these impose an additional burden to UK companies, businesses and the City's financial markets. This kind of political bloc is not what Britain needs in terms of her strategic commercial and geopolitical interests and the Treaties which left us in this situation must be renegotiated.

Although it has been asserted continuously recently that it is in Britain's interests to support the Eurozone and its stability in our national interest – particularly in relation to ministerial consent to the bailout exposures of Greece, Ireland and Portugal – this ignores the fact that the Eurozone crisis is not only a tragic problem in itself but in the real world they are symptoms of a deeper structural problem within the European Union. Different domestic economic outputs and cycles together with different national constitutional rules, political cultures and electoral consensus means that a further harmonization and coordination of governance and domestic policies are incompatible with an EU level economic governance and surveillance framework.

[21] HC Deb, 18 July 2011, c577W.

These deeper structural problems are the causes and reasons why the European project does not work, which throw up symptoms in individual members states such as Ireland, Portugal and Greece. They come from the lack of underlying competitiveness within the European Union and global lack of competitiveness of the Union as a whole. These in turn come from the lack of intrinsic democracy that cannot accept the differences between the Member States and the failure to respond to the need for reform, which neither the Lisbon agenda or the more recent Europe 2020 strategy will put right. Those strategies did not and do not take into consideration the different modus operandi of Member States who have already resisted calls for binding reform targets in the past which are considered an assault to their sovereignty.

EU, EMU & ECB policy driven toward German advantage

The fact is that the monetary dimension of the Euro with its one size fits all approach and the uniformity demanded by the EU simply cannot work because of intrinsic political, economic and cultural differences between the 27 Member States. The survival of the Euro itself is in question due to its structural shortcomings and the inherent workings of monetary union which have resulted in grave imbalances within Europe and a North-South structural crisis by creating excessive monetary stimulus in some countries and deflationary impulses for others.

The deeper cause lies in the entire machine of wreckage created by the Maastricht process since the mid-1990's and the failure of the ECB's leadership which clings to its madcap doctrine that monetary policy can be separated from other emergency operations. The original misconception that the Euro would bring about economic convergence and stability has failed and its consequent economic and financial distortions are now painfully evident. This imbalance is further aggravated by the ECB's exchange rate policy centred upon the fixing of the Euro to the Real Effective Exchange Rate (REER). As a direct indicator of the performance of the "real economy" as opposed to the non-financial economy, this policy primarily accommodates the German economy, a highly competitive industrial sector generating large exportable trade surpluses with a weak domestic demand, to the detriment in particular, of the Mediterranean countries' competitiveness. The table below outlines which Eurozone countries are the strongest performers in terms of competitiveness since the outset of the single currency. The calculation is defined by taking into account Unit Labour Costs, indicative of the ratio of labour compensation per labour input in terms of GDP. With the exception of Germany, each of the countries has lost competitiveness because unit labour costs have risen more rapidly since the introduction of the Euro.

As indicated later in this pamphlet, the economic power of Germany and its central position and the dependents of other countries upon her – both politically and economically – and the economic distortions created by the cohesion funds which take up a vast amount of the EU budget, the failures of the Common Agricultural Policy and the failure to show any real form of the overregulation within the EU as a whole (including the Working Time Directive and social and employment legislation) simply doesn't allow the oxygen for enterprise and small businesses which is needed for them to be successful. It is impossible to see how this can be reversed to achieve a more balanced pattern of trade and payments within the Eurozone and policy responses to date have not focussed on economic correction but merely on the suppression of aggregate demand.

Average annual wages (€) and unit labour costs in EU OECD countries, purchasing-power adjusted

	Wages in 2009	*% real-terms change since 2000*	% change in unit labour costs since 2000
Czech Republic	19,618	*43%*	32%
Slovak Republic	16,197	*30%*	30%
Finland	34,241	*20%*	21%
Greece[a]	27,460	*19%*	36%
Denmark	42,829	*19%*	31%
Ireland	45,166	*18%*	29%
Sweden	35,672	*16%*	18%
United Kingdom	44,580	*12%*	29%
Netherlands	46,615	*11%*	20%
France	37,050	*11%*	20%
Austria	41,109	*10%*	12%
Poland	17,812	*10%*	8%
Spain	33,193	*10%*	31%
Luxembourg	50,617	*10%*	29%
Portugal	22,666	*6%*	n/a
Italy	31,290	*3%*	31%
Germany	36,716	*1%*	2%
Belgium	40,616	*0%*	23%
Average[b]	**34,636**	***12%***	**24%**

[a] Figure for Greece is from 2008

[b] Average is for those countries listed and is unweighted by population.

Source: OECD.stat

Europe's wilful implosion

Eurorealists have always argued that those problems wilfully exist but the European Union, by moving towards greater centralisation and by refusing to accept the democratic results of referendums in Ireland, Denmark, France and the Netherlands, and by refusing referendums elsewhere, and by

undemocratic insistence on the European project, has actually created this implosion. Eurozone European Member States have created these circumstances by their wilful insistence on creating further European integration in the false belief that it would work and the United Kingdom has contributed to this by continuously acquiescing in this fatal process of integration. This has created a European compression chamber without a democratic safety valve. The protests and riots throughout Europe are now endemic. There is a complete loss of confidence in the political class. The system does not work and there is a severe indication of the rise of the Far Right, which is more likely to increase as the problems accumulate.

Against the judgement of the Eurorealists, the European Union insisted that the Eurozone arrangements entered into – starting with the failed Stability and Growth Pact – would take care of the Eurozone countries but they abandoned these rules and built up huge debts which have led to their collapse. This has been accompanied by what amounts to an abandonment of the rule of law, undermining the very legal framework of the European Union itself.

The Euro bailouts conundrum demonstrated that the European Union as a whole is prepared to enter unlawful and politically questionable arrangements to get what they want, regardless of the financial and economic cost. As French Economy Minister Christine Lagarde – now the Head of the IMF – said, “We violated all the rules because we wanted to close ranks and really rescue the Eurozone.” The UK’s own exposure towards the Euro bailouts was carried out under the European Financial Stabilisation Mechanism, and unacceptably exposes the British taxpayer to those failures.

The rule and sanctions based model of tight budgetary discipline and economic convergence tied to an autonomous and remote policy driven by the ECB (its policy approach) and its deficit focused Stability and Growth Pact have turned out to be failures, if not functionally useless. In the panic, we have knee-jerk policy legislation from the European institutions and Member States accordingly creating a two-tier Europe dominated by Germany, empowering Eurozone countries who take up the corrective surgery offered by the European Commission, only for those failed policies to later be enforced upon all other EU states, affecting Britain as well. The legally unsound and financially disastrous policy of acquiescing at each turn has left Britain exposed – and the only solution to which is a fundamental renegotiation of the European Treaties.

Freeing Britain from European economic and employment regulation

Unravelling burdens on business

When I wrote my pamphlet 'The Strangulation of Britain & British Business' in early 2004, my observations were pretty much the same as they are now: "The economic governance that was designed to pave the way for full political union in the EU is failing. A country's being locked into a low growth, high unemployment, supranational system of economic management is a dangerous state of affairs that is bound to lead to increasing social unrest." [22] On a daily basis, Britain is confronted with more and more calls for regulation, essentially meaning ever-greater integration into the European Union which is failing and does not work in Britain's national interest.

The British Chambers of Commerce (BCC) annual "Burdens Barometer" assessment, which uses the Government's own estimates of the compliance costs for regulations which affect business, has recorded that the total gross cost of regulations (UK and EU) introduced since 1998 in 2010 is estimated to be £88.3bn, and that the most costly of those include massive regulations underpinned by EU legislation such as the Working Time Regulations 1999 at £17.8bn, the Vehicle Excise Duty (reduced pollution), amendment regulations 2000 costing £10.4bn and the Data Protection Act 1998 at £8bn. Given that the British Chambers of Commerce calculated for last year that £27.55bn or 31.2% of the costs were attributable to domestic legislation, with a grand 68.8% or £60.75 billion being attributable to EU legislation, the question naturally arises – why on earth are we not dealing with it? We simply cannot afford it. [23]

The continued 'wait and see' attitude within the Government no longer remains possible within the framework of the current European Union regulatory structure. It is estimated that the huge EU regulatory burden placed on British businesses, calculated at approximately 5% of GDP, has created a massive trade deficit with the EU of around £135bn in the five years 2005-2009. It follows that many more jobs could be created in Britain were it not for our deficit with the EU.

[22] See: Bill Cash, MP and Bill Jamieson. 'The Strangulation of Britain & British Business'. The European Foundation, 29 March 2004.

[23] See: the British Chambers of Commerce 'Burdens Barometer 2010' (http://www.britishchambers.org.uk/topics/regulation) in conjunction with Perspectives by Ruth Lea, Economic Adviser to Arbuthnot Banking Group, 'The Coalition Government's approach to reducing the regulatory Burden' (http://www.arbuthnotgroup.com/uploads/22.2.2011.pdf)

Rejecting European Government

Olli Rehn, European Commissioner for Economic and Monetary Affairs, announced in his speech at the Brussels Economic Forum in Brussels on 18 May that the EU will finalise an unprecedented reinforcement of the EU economic governance with a tight set of rules and sanctions as a new European strategy. These rules will include a further regulation of financial institutions and markets and a major overhaul of economic policy coordination in the EU, despite them having been wrong on all counts previously. Their calls for fiscal union, more regulation and more EU, not less, are the equivalent of a heroin addict being plied with more heroin.

At every turn, the Coalition Government have accepted the key planks of integrationist legislation, from the European Investigation Order through to severe EU economic governance and surveillance proposals.

The damaging legal proposals reforming the EU framework for supervision of the financial system were adopted last year, including the Regulation establishing a European Systemic Risk Board (ESRB), and three regulations establishing the new European supervisory authorities at the micro-financial level. The new system has been in place since January 2011. This new legislation substantially reduces the powers of the UK in general. Member States have, therefore, reduced control over the supervision of their own financial institutions. That issue will become ever more apparent when the full implications of these regulations for the financial regulation of the banks and financial services within the jurisdiction of the European Court become entrenched, within the City of London and the United Kingdom.

The sovereign debt crisis has also opened the door for further economic and fiscal policy integration – the EU is moving fast towards full European economic government. If the Member States are already in a straightjacket, the situation is set to get worse given that their flexibility will be further reduced. The legislative proposals on Economic Governance in the EU and EMU would give Brussels unprecedented power to intervene in domestic economic policies. Although the UK will not be subject to sanctions, it will be subject to the Council policy recommendations, burdensome reporting requirements as well as surveillance missions from the Commission. Renegotiation is therefore fundamental.

Restoring a UK Energy Policy

On energy, there is a collateral factor of vast importance to English culture. The Prime Minister in 2008 made a keynote speech in which he said that “The beauty of our landscape, the particular cultures and traditions that rural life

sustains, these are national treasures to be cherished and protected for everyone's benefit. It's not enough for politicians just to say that – we need leaders who really understand it and feel it in their bones. I do". [24]

Unfortunately, the EU is in the course of destroying this very landscape through the Renewable Energy Directive. This is not just a minor matter but one which will affect every nook and cranny of our "green and pleasant land." To add insult to injury, because we have a 15% EU target for 2020, up from just under 2%, the Government has admitted that we in the UK will carry about 40% burden of the EU-wide costs. John Constable in his compelling pamphlet, *The Green Mirage* [25] says it is a burden that is iniquitous and should be renegotiated. He also says that the policy is based on high levels of governmental coercion and state management of the energy sector. There is in fact something of the Soviet Union about this renewable energy planning arrangement.

Furthermore, under these proposals, having spent £5.5 billion on subsiding renewable electricity plants, by 2020 a further £39 billion of subsidy will be added to consumer bills by then. By 2030, it could be £100 billion. Furthermore, under the Localism Bill, a legal presumption of compliance with these obligations is set out as one of the cards stacked against protesters against wind farms who are trying to protect the English landscape and their locality when the matter goes before an examiner in a local public inquiry. In other words, the EU renewable obligations which the consumer pays in his electricity bill as part of the tariff uses his own taxpayers money to destroy his own neighbourhood, drive down house prices, increase wind farms and pay the developers from that tariff and local wind farmers millions of pounds of subsidy on what is regarded as a totally uneconomic energy system, destroying the heritage of the British landscape throughout the land.

The destruction of the local countryside in hauling and putting up these monstrosities, these Golgotha's are manufactured largely in Germany and Denmark and are put in for the benefit of French and German electricity companies whose governments will not allow us to purchase their state energy systems. The Europhiles are now taking us for Eurofools. They are not far wrong.

[24] David Cameron, May 2008, speech to the Campaign to Protect Rural England.
[25] John Constable. 'The Green Mirage: Why a Low-carbon Economy May be Further Off Than We Think'. Civitas, 15 July 2011.

Renegotiating Lisbon and the European Treaties

The Lisbon Treaty is the most recent product of a lego-political power play being conducted on the European stage with profound implications for European and global democracy and stability, further to the failed structure already created under the Maastricht, Amsterdam and Nice Treaties. Those Treaties must be renegotiated. The Lisbon Treaty was another blow to democratic nation states because it rode roughshod over the French and Dutch referenda in 2005 – and, as the Eurorealists maintained at the time, the Lisbon Treaty shared a great deal in common with the failed EU Constitution. In 2009, the Conservative Party, for the first time since 1972, voted together in unity against the Lisbon Treaty and for a Referendum. I put down 150 amendments, all of which were supported by the Conservative Party as a whole, with the ominous exception of one amendment to preserve British sovereignty, on which there was a rebellion on the backbenches in favour of my amendment by 55 Conservative Eurorealists.

As with the Maastricht, Amsterdam and Nice Treaties, the Lisbon Treaty has accelerated the drift of powers from the Member States to the EU. After Lisbon, there is no real policy area which has been entirely left to Member States' governance. Although the Lisbon Treaty has not repealed the existing Treaties, they were merged into an enhanced Union, reflecting the collapse of the "pillar structure" established by the Maastricht Treaty in 1992. This has legally and formally ended the distinction between the European Union and the European Community, which is harmonised into an overarching Union, which is completely unacceptable.

Britain must regain the right to legislate for and govern the British people through the authority of the Westminster Parliament. The European project is not working – its new power-grab achieved through the Treaty of Lisbon must be stopped. Britain must seek to renegotiate the Treaties so that Europe can found a truly free-trading network within an association of democratic nation states. We are in a democratic crisis which cannot continue.

There must be a general framework for renegotiation. This must follow from a Referendum by a simple majority as to whether the British voter wishes to leave the European Union altogether or have all those Treaties renegotiated, bearing in mind that the status quo itself is now untenable. Following that Referendum, if the answer is to renegotiate than there must be a consideration of key issues. Firstly, it would require that we examine the existing EFTA agreements and the UK's original EFTA arrangements (1957-1960) and decide what is suitable and invite other Member States to engage in the same process by cooperation between the United Kingdom and other

EU countries and EFTA countries. Secondly, we would need to examine the original Treaty of Rome and compare that with what the UK signed up to in 1971/1972. Thirdly, in the light of the 1971 White Paper, the UK would have to insist upon the reintroduction of the veto and to sunset all provisions within those Treaties we have signed up to since 1972, including Lisbon, to set out terms of discussion and negotiation. Fourthly, going back to the EFTA arrangements, it would then be possible to determine which provisions were then suitable are now appropriate and then decide what if any other provisions may be required. Fifthly, the UK Government must insist on appropriate legislation at Westminster in line with the Supremacy of that Parliament and where necessary apply the "Notwithstanding the ECA 1972" to any interim measures which are deemed appropriate. Sixthly, in case any might think this were too ambitious, consider the reign of Roman Emperor Justinian, who between 527 and 534 AD, with his 'great codification' – restating, reducing and reforming the law in its entirety – comprising the Institutes, the Digest and the Code, which together with the Novels, or constitutions enacted after 534, made up the Corpus Juris, reducing the original text from 3 million lines to 150,000. [26]

Decoupling Britain from undemocratic EU institutions and procedures

Undemocratic post-Lisbon institutions

Europe cannot and will not work in the future, not only because of over-regulation and the irreversibility of the *acquis communautaire*, but because it is intentionally undemocratic in its legislative processes and institutional arrangements. European integration has resulted in a shift of power from national to the European level and the progressive transfer of competences from Member States to the EU has increased the democratic deficit. The EU institutions called themselves democratic, however the EU decision-making process could not be more undemocratic.

We have been told that the Lisbon Treaty reinforces accountability and democracy in the EU, bringing power closer to the citizen. However, the Lisbon Treaty further vests the central powers of government in the hands of unelected and unaccountable commissioners, and taking them as far away from the voters as is possible. There is no connection between the unelected Commission, which has almost the exclusive right of initiative over all EU legislation and the Member State citizens. The European Commission meetings on proposals for new regulations and directives take place behind closed doors; therefore, nobody knows how the Commission reaches its

[26] H. F. Jolowicz. 'Historical Introduction to the Study of Roman Law'. (Second Edition). CUP, pp.488-416.

decisions. The Commission has no democratic mandate and is not directly accountable to European citizens. The European Parliament is the only EU institution directly elected by the citizens of Member States yet it has no democratic legitimacy. The outcome of the EU elections has been showing how the European Parliament is disconnected with the European electorate. In the Council of Ministers most laws are decided by Qualified Majority Voting (QMV) and without formal votes. Most of the time, the voters do not know how their representatives have voted on the EU laws that would be binding upon them. Moreover, QMV has been weakening the democratic nation state; Britain has been forced to accept EU measures which it was against. The EU does not take decisions close to the people and promises of reform are hollow.

The Maastricht Treaty was opposed because it created European Government with all the consequences that have now become increasingly apparent, even to the wilfully blind. Followed by the Treaties of Nice and Amsterdam, and then Lisbon, it has created all the accoutrements of European Government. Maastricht itself introduced a major constitutional change in the development of the powers of the European Parliament – the co-decision procedure. Successive British Governments have continued to endorse this legislative procedure, which was extended and adapted by the Treaty of Amsterdam, Nice, and Lisbon. The Lisbon Treaty increased substantially the policy areas subject to co-decision, now absurdly called the "ordinary legislative procedure". This procedure was allegedly introduced in order to strengthen the democratic legitimacy of the European Union. However, this procedure is in fact undemocratic. [27] The debate over European legislation is not open or transparent as important decisions are made behind closed doors and with little or no accountability. The Council and Parliament act as co-legislators on a Commission-originated proposal with no legislative role provided by the national Parliaments. The European Parliament can make changes to the Commission's proposal and Council's common position, which makes a substantial difference to the content of the legislation. This procedure always tended to favour European integration. The European Parliament has a stronger negotiation position and negotiates compromises with the Council. Thus, individual countries can be outvoted not only by other countries in the Council, but also by the European Parliament. The Council of Ministers adopts the decisions prepared by the Committee of Permanent Representatives in the European Union (Coreper) and, most of the time the acts are adopted without a formal vote.

[27] See: Margarida Vasconcelos. 'EU co-decision procedure & the dismantling of democracy', *The European Journal*, April 2009.

'Ordinary legislative procedure' and backdoor legislation

Through the ordinary legislative procedure, the United Kingdom has been assisting in the proliferation of informal meetings and early agreements. The ordinary legislative procedure with the inclusion of the trialogue meetings and the early agreements could not have been more undemocratic. It has consistently undermined the Westminster Parliament. Under this procedure it is increasingly difficult for Westminster to manage the way in which European Union affairs are conducted and how legislation is passed. The negotiations are informal so it is very difficult for national parliamentary committees to assemble information, and to decide speedily enough in order to have any impact on the final outcome of an early agreement dossier. All this makes nonsense of the Treaty of Lisbon's claims to improve the role of the national Parliaments which was always a dubious claim.

The laws adopted in Brussels affect all Member States and their citizens, yet they are adopted behind closed doors. It is impossible for British people to have enough information in order to evaluate the decisions taken in their name. The majority voting system itself is not transparent and most of the time we do not know whether the Government has, in fact, agreed to what has been proposed or whether it has been outvoted. It is absolutely ludicrous that by a majority vote, decisions are taken and binding upon the Westminster Parliament but without MPs having any effective opportunity to stop them. Consequently, the UK Parliament, and the British people, are bypassed and stitched up. We cannot allow this to continue. It is vital to remember that the original White Paper in 1971, which preceded the European Communities Act 1972 itself stated in a promise to the British people that we would retain the veto because to do otherwise would not only damage our own democracy but would also "imperil the very fabric of the European Community itself." This promise has been savagely destroyed.

Renegotiation and Referendum must be delivered

As has been indicated above, although the Lisbon Treaty was opposed by a united Conservative Party, it is now being fully implemented without the promised Referendum for which the Party voted. By virtue of the Coalition Agreement, the Liberal Democrats have a stranglehold which combined with acquiescence by the Conservative leadership has allowed for the reversal of the policy in opposition to the Lisbon Treaty which the Conservative Party established during the passage of the legislation for the Lisbon Treaty itself. As I have mentioned, the apparent posture of the Prime Minister in the *Spectator* on 7 July in appearing to open the door for renegotiation is firmly rebutted by his transfer of my question to the Foreign Secretary of what his intentions and opportunities for renegotiation, and their both ducking the

question for answer by the Minister for Europe who confirmed that the policy was driven by the Coalition Agreement, i.e. by a stranglehold by the Liberal Democrats who are fanatically against any change in the European Treaties. If they are forced into change, then so be it.

A workable Britain requires that the Government reject the legislative initiative of unelected and unaccountable European Commission officials who design swathes of EU legislation. It is dependent upon Westminster repatriating immense decision-making powers from the European Parliament even as voter turnout has declined from 63% in 1979, to 56.8% in 1994, to 49.8% in 1999, to 45.6% in 2004, to 43% in 2009. To deal with this, Westminster must pass a Sovereignty Act, as specified in the 2010 Conservative manifesto and regain its ability to control the excesses of the whip system meaning that the all-powerful executive can be held to account. Britain's future is dependent upon rejecting Qualified Majority Voting in which through the Council of Ministers most laws are decided by QMV and without formal votes and Britain is forced to accept EU measures, which it was against in principle. Serious reform requires the abandonment of the Ordinary Legislative Procedure, underpinning the proliferation of informal meetings, early agreements and informal trialogues where key items of European legislation are informally decided. Serious reform demands that we reject the failure of the Permanent Representatives Committee or 'Coreper' consisting of the Member States' ambassadors to the European Union ("Permanent Representatives") where most of the time the acts are adopted at the Council without a formal vote. We must reject the comitology procedure which is essentially a fast-track legislative process completely lacking in democratic oversight and which is delivered by unaccountable committees composed from Commission officials, given that 59% of the cost arising from regulation in 2009 stemmed from EU legislation and over the last eleven years, the annual proportion of the EU-derived cost is 72%. [28] All of this demonstrates just how undemocratic the European legislative system has become and that the Government must urgently decouple from those arrangements.

The threat to an independent British Foreign and Defence Policy – refounding our global vocation

Lisbon's EU Foreign Minister and Diplomatic Corps a failure

The Treaty of Lisbon has reshaped the EU's institutional architecture for foreign policy from top to bottom. Indeed, the failure of Germany to endorse the policy on Libya illustrates the failure of the new system. At the top it is

[28] Stephen Booth (Ed.), Sarah Gaskell & Mats Persson. 'Still out of control? Measuring eleven years of EU regulation', Open Europe, June 2010 (Second edition).

guided by a newly styled High Representative for foreign affairs and security policy and at the bottom it has overseen the creation of a European Diplomatic corps. The Treaty hands over considerable authority to the new High representative who will chair the monthly meetings of the Member States' foreign ministers and will replace the foreign minister of the country holding the EU's rotating presidency. By uniting the functions between the European Commission and the Council of Ministers, the new position has aimed to overcome some of the debilitating divisions between the two institutions that have hampered the EU's policy in the past years. This "double hatting" of the new High Representative which anchors the function both in the Commission and the Council of Ministers was designed by the EU to address a lack of strategic coherence between foreign policies driven by the Commission and Member States. In theory, the division between the two services should be straightforward. The Commission is in charge of handling routine policies towards third countries, enlargement, neighbourhood relations, trade, humanitarian and development assistance, while the High Representative deals with security challenges, especially those that require a crisis response. The Treaty has also overseen the establishment of a new diplomatic corps under the European External Action Service (EEAS).

But has this formula effectively worked so far in practice? And what are the implications for British Foreign Policy? So far these changes have not ensured a coherent and consistent foreign policy approach and the EU has not matched its aspirations to become a major global player. As I indicated in a question to the Foreign Secretary, there is an inherent contradiction between the European Union objectives and those of the new British diplomatic initiatives in the creation of new embassies throughout the world.

Member States still want to carry out their national policies often only paying lip service to the EU position, and, as Member States inevitably have different concerns, any attempts to prioritise action is reflected in lengthy and frustrating bureaucratic battles between the EU's new High Representative, Baroness Catherine Ashton, and Member States. The new Representative has, since holding office in 2009, suffered a tortuous year to get the EEAS up and running as she was recruiting for the service which has set off a scramble for power among Member States, lobbying furiously to get their candidates accepted for key positions in countries like China, India and Brazil. The spiralling costs and the confused aims of the EU's grandiose new diplomatic corps are already under fire.

The birth of the EU's own fully-fledged diplomatic service comes as Britain's Foreign Office is drawing up plans to cut its own costs by 40% as part of the Government deficit reduction drive, as some UK embassies and consulates in smaller countries may be closed and their duties passed to the new network

of 136 EU embassies. The new so-called “European State Department” with 7,000 staff based around the world is aimed at massively strengthening the EU’s international role. But the increasing costs of Lady Ashton’s diplomatic service has introduced tensions among Member States about her new role and her proposal to increase the new budget, part of which would be used to pay for the new diplomatic service, with a request of 9.5 million Euros for staff salaries, implying extra costs for already hard pressed taxpayers.

Moreover, the new EEAS has so far failed to think strategically. As one senior British diplomat put it “the new EEAS should be about effective delivery of foreign policy and not about expensive bureaucracy”. Europe’s recent incapacity to find a strong united response to a tyrant on its doorstep during the Libyan crisis is a categoric failure of the EU’s foreign policy, evident in the conspicuous absence of many European countries and in Germany’s unprecedented decision to break ranks with Britain and France, Europe’s two diplomatic heavyweights, by abstaining with the BRIC countries against action in Libya. The deadlock in EU institutions was instrumental in forging a “coalition of the willing” on Libya.

The unelected High Representative has since been dogged by allegations of incompetence and weak leadership. The Sunday Times of 17 July reported the EU Foreign Minister intention of challenging the UK Government policy by outlining a proposal for a permanent EU military headquarters that could initially be housing 250 officers and crisis management experts with the aim to command and control future European civilian and military campaigns. EU diplomats are considering the UK as a possible option in order to soften Britain’s opposition. However, as Stephen Booth from Open Europe commented, “creating a new EU headquarters, would simply be a distracting attempt to paper over the deep seated divisions in the EU foreign policy and would threaten Britain’s primary alliance that remains with the US and NATO”. Britain must continue its traditional opposition to the centralization of power in Europe and play its part in the defence of freedom.

The European army – a disastrous and failed policy

Ever since the collapse of the Iron curtain 20 years ago, European leaders have expressed great enthusiasm for having a European army that would be self-sufficient in protecting Europe’s interests rather than having to rely on an American-led NATO, which itself needs reform. Since then, Europe’s inability to acquire a coherent and effective defence policy has been most evident in the conflicts that have arisen at Europe’s doorstep. European powers were unable to formulate a united and coherent policy for dealing first with the collapse of Yugoslavia in 1995 and it was only the US intervention, culminating with the Dayton Accords that put an end to the fighting. The

Kosovo crisis which ensued a year later, once more highlighted the inability of European politicians to agree to an initial policy by managing to alienate Washington through not committing any military resources.

The declaration of St. Malo itself, which I strongly denounced on the day it was announced, a Franco-British response to the event in Kosovo and to the perceived failure of the international community to intervene in time, did not involve the EU as an institution. This was despite the Maastricht and the Amsterdam Treaties respectively laying the foundations for the now abandoned WEU to formulate and implement a CFSP as a whole and to codify the so called "Petersburg Tasks" for peacekeeping and humanitarian missions. By declaring that "...The Union must have the capacity for autonomous action backed up by military forces ... in order to respond to international crisis", it has effectively laid the foundations towards a new military alliance in Europe.

September 11 and the European failure

Subsequent deep divisions remerged however in the aftermath of September 11 which saw only a handful of European Member States prepared to make a tangible contribution to the campaign to overthrow the Taliban regime in Afghanistan and when it came to confronting the Iraqi dictator Saddam Hussein in 2003 on whether or not to support the war. The divisions that arose as a result of UK participation in the US war in Iraq have drawn Britain further back in the NATO fold, while drawing Germany away from the UK and France, pointedly avoiding confrontation with Russia, thanks to its political connections to its oil and gas industry.

Funding and the NATO question remain the most important stumbling blocks to the full operational implementation of the European Security and Defence Policy (ESDP) so far. Whereas the US often views the ESDP as a consequence of the long held French goal of building a militarily unified Europe, strong enough to actively challenge an American led NATO, the UK's position has been to operate as a partner within one alliance or the other and not to push for a EU army but rather, to increase cooperation where national securities allows and sovereign capability is not jeopardised.

Will this position be sustainable for Britain in the long run, and are vital British interests being really addressed especially as the US are signalling that it wants to shift its agenda away from NATO? As the US Secretary of Defence, Robert Gates put it in his last major speech before retirement: …" there will be dwindling appetite in the US Congress … to expend increasingly precious funds on behalf of nations that are apparently unwilling to devote the

necessary resources or make the necessary changes to be serious and capable partners in their own defence".

After the Strategic Defence and Security Review (SDSR)

This has some potentially wide reaching ramifications for the UK, which has conducted its SDSR under the proviso that any future involvement in future conflicts, would be largely supporting a US led operation. The SDSR identification and management of the process of the recent cuts was in fact undertaken with key themes as part of all final decisions. One is that the UK should maintain a strong military capability and the other is the assumption that the US would lead the way militarily and financially. Despite the MoD as one of the most difficult Departments to manage and to cut with a £38bn black hole left by the previous Labour Government and cuts of up to 8% of its total budget announced by the Prime Minister in October 2010, Britain still remains one of the top spending military nations, on a par with France and Russia. However, the following review compares the UK reduced armed forces situation vis a vis other EU and world military powers after David Cameron's recently announced significant cuts to spending as part of the Strategic Defence and Security Review after 12 years:

Military forces

The Army already has fewer active soldiers (112,130) than France (130,500), Japan (151,640) and under the terms of the review, more 7,000 army personnel will be cut over the next five years. *The UK navy* (39,020 active personnel) will lose some 5,000 people by 2015, which will take it below France (40,500) and Japan (45,500). *The RAF* currently has some 43,780 active personnel, compared with Germany's air force (43,390), though with expected reductions to Tornado squadrons and closure of some air bases, this number will be reduced by 5,000 by 2015.

Military equipment

The Army will lose up to 40% of its tanks and heavy artillery. Reductions in the number of the 345 UK's Challenger 2 battle tanks would leave the UK with fewer tanks than many of its NATO allies (France, 451, Germany 1525, Israel 2990, US 6467, Russia 7384). And 123 Tornado jets, if phased out, would leave the UK potentially with fewer fighter planes than France (342) and Israel (407).

The UK and France are the major military in Europe. If these voices get louder however, Britain will have to revaluate its strategic decisions as the overall military and strategic power of Europe is waning and is having a direct impact

on NATO. This, coupled with the changing rhetoric from the US whose recent stance on Libya is proof of a change in its strategic calculus, could mean a bleak future for Europe's military capabilities and suggests that the European defence industry could start heavily focussing on the emerging markets such as Brazil, India and Saudi Arabia, and possibly signalling a shift in Britain's international relations viewpoint if the Prime Minister does not take a strong stance in defence of British geopolitical strategic and defence interests and renegotiate the Treaties which have endangered Britain's defence interests.

The German Question

A German Europe or a European Germany?

I addressed the question of Germany's position in the European Union in my Bow Group pamphlet in 1990, *The Democratic Way to European Unity: Arguments Against Federalism*, in my book *Against A Federal Europe: The Battle for Britain* and in my pamphlet *British and German National Interests*. [29] These set out my concerns about the way in which German foreign policy was being developed and it is for the reader to judge how far my predictions have been fulfilled and the extent to which we are being put on the periphery. However, what has become clear is that the German question, as expressed by Thomas Mann's statement, "A German Europe or a European Germany?" is now clearly answered – it is a German Europe. This is not to say that we are now moving back to a militaristic Germany by any means, but what we are faced with is an unacceptable imbalance of a predominant greater Germany in the context of the rest of the European Union and not only the Eurozone which would develop into a federal system.

Germanic hegemonic advantage in modern Europe

The one-size-fits all approach and the uniformity demanded by the European superstate simply cannot work as the different interests of EU Member States will always have diverging interests. The Franco-German relationship is under

[29] Bill Cash. British and German National Interests. London: European Foundation, 1998. See also: The Challenge for the Conservative Party: The future for Britain and Europe' (2004); The European Constitution - A Political Timebomb: Returning Power to Britain, Westminster and You (2003); Associated, Not Absorbed: The Associated European Area: a constructive alternative to a single European state (2000) ; Britain and Europe Challenging questions for Tony Blair, Kenneth Clarke and Michael Heseltine (1999); A Response to Chancellor Kohl A European Germany or a German Europe? (1997); Are we really winning on Europe? (1996); The Blue Paper: a Response to the Government's White Paper (1995); Visions of Europe (Duckworth, 1993); Europe: The Crunch (Duckworth, 1992). I would also refer to my arguments in 'Against a Federal Europe: The Battle for Britain' (Duckworth, 1991), Chapter 5, 'A European Germany and a German Europe'. Genscher stated in Cologne Express, 13 April 1990, 'We Germans can be the architects of a united and inidvisible Europe.

strain and has become unbalanced in Germany's favour. The original deal between an economically strong Germany and a politically driven France, once the motor of European integration, is disintegrating in the light of three fundamental forces: the enlargement of Europe which has increased the size of the periphery, the onset of the financial crisis which has increased the importance of economic might and the growing gap between the German and French economic performance and between Germany and the rest of Europe. Richard Conquest has written a profound analysis of this problem. [30] The failure to recognize this ongoing fragmentation is creating a dangerous instability and ultimately underpins systemic political tensions that are more likely to unfold because of the present policy course which is unwilling to address the need for radical reform and is instead allowing for further EU economic and fiscal policy integration to go ahead, ultimately resulting in the creation of a full economic government.

Greater Germany, greater voice, greater stake

Germany's role within the EU has changed, signalling that it is emancipating itself from the Maastricht order as the recent pamphlet by the European Council for Foreign Relations demonstrates, even from the Europhile point of view. [31]

Its exposure to the Eurozone bailouts and the creation of the EFSM has resulted in Germany now demanding a formal voice that reflects its financial commitment if it takes on a disproportionate part of the financial burden, as it has done for the Greek, Irish and Portuguese bailouts.

The German Constitutional Court's growing hostility towards the Commission has also contributed to the growing German disenchantment with the European project, evident in the shift, announced by Chancellor Merkel, from the "Community method" of European integration through the Commission to a new intergovernmental "Union method" in her speech in Bruges in 2010, following the example of Mrs Thatcher. These intergovernmental mechanisms, which have been designed outside the formal EU institutional voting powers are linked to financial contributions and give Germany greater weight within the EU, to the detriment of the small countries, itself a result of Germany's sidelining of the Commission. And as Angela Merkel's response to the Greek crisis laid bare, Germany's commitment to the EU has weakened, and European integration is not the existential imperative it once was.

[30] Richard Conquest. 'German Economic Policy and the Euro 1999-2010'. The Bruges Group 2011.

[31] Thomas Klau, Francois Godement and José Ignacio Torreblanca. 'Beyond Maastricht: a new deal for the Eurozone'. London: European Council for Foreign Relations. December 2010.

Germany's neo-mercantilist foreign policy also reflects changes in the German nation's definition of its interests. This has now been exacerbated by the proposal for a fiscal union of Germany and its satellite countries within the Eurozone, but with profound impact on all the other Member States who are certainly affected by this massive leviathan despite attempts by the Coalition Government to suggest otherwise.

Although Germany's export economy still needs European unification, its trade is increasingly with markets outside the EU, less costly and complex, resulting in Germany now defining its foreign policy and national interests more in terms of its economic needs and exports than of its domestic and political imperatives. Thus, it has refused so far to address the problem of its huge trade surpluses with other EU Member States, most notably France and the United Kingdom, and will feel less constrained to operate through multilateral institutions or bilaterally with other powers. This strategy is encapsulated in the claim that Germany needs the BRICS more than the PIGS countries and Berlin increasingly deals with Washington in a bilateral pragmatic manner, not least since the US itself is withdrawing from European security issues, while maintaining its commitment to Article 5 of NATO.

Perilous contradictions and imbalances

Germany's actions throughout the recent economic crisis have been contradictory. Rather than moving forward in the direction of an economic union, it reverted to a policy favouring national solutions. But this position is difficult to reconcile with Germany's inability to call into question the Euro and the European Treaties and the inherent contradictions between national solutions and European constraints. The discrepancy between the mood in Germany and the discourse in many EU countries is growing wider. As German elites tend to believe that the German economic and monetary model is the only panacea to Europe's Euro crisis, many Europeans consider Germany as the biggest beneficiary of the Single Market and Eurozone and regarding Germany as the EU state that benefits mostly from current trade imbalances and the "one size fits all" monetary policy of the ECB.

According to Professor Roland Vaubel of Mannheim, EU countries, Germany in particular, have been developing a very sophisticated method of what he calls regulatory collusion, [32] whereby countries gain comparative advantage by using the majority voting system in order to enhance their own particular interests to advance their own national interests. As a result, the

[32] Roland Vaubel. (2009) 'The political economy of labor market regulation by the European Union'. *The Review of International Organizations*, 3:4, 435-465.

consequences of this ill conceived and premature currency union are already creating dangerous imbalances that are having an impact on production, jobs, investments and trade in the Eurozone and driving many European countries to a situation of total unsustainability despite programmes of fiscal retrenchment.

The deliberate conduct of German hegemonic economic policy is already causing divisions across Europe and the political appetite across Europe to devolve budgetary power to the EU rests between the nutcracker of legal obligations and economic failure. While Europe's imbalances are to be also blamed on the crisis of indebted countries, it should be acknowledged that Germany, with its surplus economy, which overwhelmingly originates from Europe, is not a model for all and is far from being the motor of European stability. Germany has attained a hugely predominant position through the EU contributing to a de facto trade and current accounts imbalance within Europe.

The remarkable success of Germany's exchange rate policy exercised through the development of its important, orderly labour market and management of low inflation rates, made conditional under the terms of the Maastricht criteria, has greatly contributed to the emergence and preservation of Germany's quite astonishing international competitiveness, current account balance and success in developing overseas trade, since the introduction of the Euro. This is exacerbated by its deserved comparative advantage in terms of unit labour costs which have increased between 1999 and 2009 by a mere 2% as compared to an average of 25% of all the other Member States including the United Kingdom. By utilising their investment policies in Eastern and Central Europe in particular and their comparative advantage in terms of cost of labour, Germany has created a massive advantage through its own direct investments in countries such as Poland, Hungary, the Czech Republic etc, from which it can then repatriate its massive profits to Germany itself. Unfortunately, it has then made the mistake of investing these profits in Member States such as Greece, Ireland, etc, which have failed, and German banks are now struggling under the welter of failed States in which they have invested with massive exposures and the consequent bailouts which they are then seeking to rectify through Eurozone policies, but also by calling on the United Kingdom under the unlawful EFSM which we should have refused to accept.

As figures show, the international economic reach dramatically outstrips all other Member States performance with 27.3% of all EU exports originating from Germany as compared to 12.2% in France, 11.3% in Italy, 10.4% in the UK and 7.4% in the Netherlands and 45% of all EU trade with China. But the recent Euro crisis has unleashed a wave of resentment about the perceived costs that Germany has now been asked to pay for other Member States

profligacy. The Chancellor is having to contend with the 68% of Germans who when polled say that they have little or no trust in the Euro and only 12% want to see European integration proceed. This delegitimization would help to explain why the German government has enacted this policy so far.

German Euroscepticism and the appetite for renegotiation

As a result of these changes, Euroscepticism has become more socially acceptable since German reunification. This loss of confidence has far reaching implications for the EU. German voters are disgruntled and angry at their politicians and at “Europe” and who can blame them? Voter volatility is high, and the erosion of traditional loyalties continues and these profound social and economic changes will affect how Germany will direct its policy course. So far, no new narrative has yet emerged to replace the idea of European integration but the Euro, as a political and economic project is encountering more anti European feelings across the Continent as many countries are becoming increasingly sceptical of the EU and are losing faith in the European project. Perhaps the most important expression of this new scepticism is the 2009 judgement of the German Constitutional Court on the Lisbon Treaty but anti European feelings are also evident in the emergence of the True Finns party in Finland which opposes further Eurozone bailouts and exposes the failed Stability and Growth Pact which has created unaffordable debts and an unlawful bail out system, as no Member State should be liable for the debts of another state, according to Treaty rule. To this extent, Professor Markus Kerber is arguing that in one case, the bailout package is not compatible with EMU rules. Taking into account that the issue concerns the interpretation of the Treaty and the validity of the EU law, it would seem that the German Constitutional Court may have no choice but to ask the ECJ for a preliminary ruling on the legal situation underpinning the bail outs. Germany also has constitutional complaints going through the German Constitutional Court on the issue of EU bail outs- particularly on the use of the European Financial Stability Facility and the European Financial Stabilisation Mechanism.

The Wall Street Journal recently reported on an interview with Hans-Werner Sinn, president of the IFO Research Institute who has said the bail out of Portugal could become a “bottomless pit” for Eurozone states, as the crisis is now spreading to Spain because of local banks’ involvement in Portugal, and now to Italy. It is therefore a key issue, as Hans-Werner Sinn argued, that Germany’s government is likely to lose much of the “several hundreds of billions of Euros” it has provided to struggling peripheral Eurozone states through European Union and International Monetary fund rescue packages, as well as European Central Bank policies. It is certainly open for Germany to back a legal challenge to the bailout mechanism under Article 122, which the

United Kingdom Parliament's European Scrutiny Committee has described as "legally unsound". But according to Dr Michael Sturmer, chief correspondent of *Die Welt*, the German government with its "anti strategist" Angela Merkel at its helm, has no answer, except to prolong the bailout system until after the next Bundestag elections, in order to stave off the rise of a German equivalent of the "True Finns". He also pointed out that under previous governments, "Europe was not only a thing of the stomach and brains, but of the heart. Today European policies in Berlin have no heart", suggesting that the cultural and economic differences between the north and the south of the Eurozone have altered the raison d'etre of the single currency creation that not even assurances of the Growth and Stability Pact can alter. According to Michael Sturmer, we are now witnessing a "constant process of renegotiation" of exactly what this European context should look like and what kind of Germany Berlin will want.

Revising the Post Yalta order

As well as challenging the Maastricht order, Germany is also challenging the Post Yalta order. Her abstention on UN Security Council Resolution 1973 on the Libyan no fly zone is indicative of an independent approach to the world in terms of its post Yalta foreign policy role vis a vis regional and global issues. Her lining up with Russia and China against US, UK and France was hardly predictable, and, particularly since the Iraq war, its position has become less Atlanticist, not least since the US itself is withdrawing from European Security matters while maintaining its commitment to Article 5 of NATO.

Its new neo-mercantilist economy also reflects Germany's definition of its own foreign policy. While it remains committed to a Foreign European policy, it is not prepared to see its economy held back by the rest of Europe. Berlin's yearning for a more prominent position in international affairs could mark the beginning of a new approach in German foreign policy. But this approach could raise uneasiness from Germany's European neighbours, especially France whose proposal to create a Franco-German cabinet level minister was met with little enthusiasm in Berlin, historically interested in strengthening NATO and its own bilateral ties with the US and suggesting that other priorities come before the Franco-German relationship for Berlin.

Germany's revisionism of the Maastricht and post Yalta order has created a strategic vacuum within the EU which is best encapsulated by a German official in 2010: "We do not want to lead the EU. We just want the others to obey the rules". But they do not. The reform of the Euro will create a more German Europe but not quite the Economic Pax Germanica, without growth it will be more difficult to make this discipline acceptable. Moreover, despite Germany claiming more positions in EU institutions, its leadership is obscure,

as it is painfully aware that alone it does not count much in the world. As for her EU partners, they are most likely to remain on edge, as, despite needing her leadership, it also fears its pre eminence.

Why the German Question is the European Question

The movement towards the current dangerous situation has been a modern policy of appeasement: when Britain refused to veto monetary union, allowing it to go ahead within the framework of the Maastricht Treaty, it committed another act of appeasement. Now we have another similar progression with economic governance and a fiscal union for the Eurozone. This continuous policy of allowing other countries to go ahead and our refusal to veto proposals has resulted in very severe damage to British national interests – and, also, to the real national interests of Britain's European partners. What John Major and others completely failed to grasp was that the European Treaties are a continuation of European strife by other means. When Chancellor Kohl said at Louvain in February 1996 that the only alternative to EMU was war, he was showing a clear understanding of this.

As Johann Wilhelm Gaddun, then Vice President of the Bundesbank said in 1998, "EMU is a highly political undertaking. The Federal Republic will ultimately be the country which profits most from European unity, even is this is not immediately visible."

In my pamphlet, [33] I stated that "The future of the single currency will determine whether or not the European continent as a whole is to be a democratic association of sovereign nations trading freely together and cooperating politically, or whether it will become an undemocratic proto-state dominated by Germany."

The European question is the German question: how to accommodate a large and powerful country in the middle of Europe in such a way as her numerous neighbours to not feel threatened. Time and again we have been told that European integration is the way to do this, because it will dilute German influence and introduce a consensual approach to international relations, rather than the balance of power. Few people can seriously believe this still now. European integration is becoming increasingly German in flavour and the Baltic States, the Czech Republic, Hungary and Poland know this only too well.

I wrote in 1990: 'If Germany needs to be contained, the Germans must do it themselves. To play safe in political union as a means of submitting to

[33] Bill Cash. 'British and German National Interests'. London: European Foundation, 1998

voluntary containment is an abdication of responsibility. If the Germans desire political union because they cannot trust themselves, we must persuade them that political union would not contain them, rather the opposite. Germany is a mature nation now: now is the time for the Germans to prove themselves by agreeing to co-operate and work together within the Community, without all this assertiveness and Bismarckian singlemindedness, which merely awakens old fears. The answer to the German question lies, at least partly, in Germany herself.' [34]

Never before have the nation states of Europe been united, except by force and excepting those periods of very distant history before nationhood and democracy existed. Never before has a monetary union between different countries held together for long. Never before has a monetary union even been attempted with a paper currency, i.e. a currency which is not convertible on demand into a known quantity of gold. Any one of these factors alone would presage dangerous instability: taken together they are a recipe for increasing and ultimately unbearable political tensions. Tensions are all the more likely because the country which will be the principal bearer of them is hardly well suited to the task. Histories of 'imperial overstretch' typically describe how countries gradually expand, through commerce or conquest, until they take on more commitments than they can sustain. The German situation now may be different from this classic, schema, but it cannot be denied that Germany wishes to put herself at the centre of an empire over which she will have determining influence. At Louvain in 1996, Chancellor Kohl said: 'Germany has a fundamental national interest in ensuring that all its neighbours become members of the European Union one day ... We Germans are very much aware that German unity and European integration are two sides of one coin.' Irrespective of who is in power in Germany, the key question will remain not merely whether history repeats itself but of human nature. Treaties and pieces of paper will not alter this.

The answer to the German question is not to create a German-dominated power structure for the whole continent. It is instead to consolidate democracy in each of Europe's nation states. European integration undermines national democracy, and regionalisation is certainly no substitute for taking democratic powers away from national parliaments. Democracies do not go to war with each other and the only hope for a stable, prosperous and peaceful Europe is if it is based on national democracy and accountable government. This can be achieved if Germany – in line with the wishes of its people – rejects the single currency. This will require massive preparation. Britain is free to renegotiate the Treaties which gave birth to EMU. Now is not the time for another bout of

[34] William Cash. 'A democratic way to European unity: Arguments against Federalism', Bow Group, April 1990.

'wait and see' which provides a false antithesis. It is a question of principled British and German national interests. Britain, Germany and Europe depend on it.

Decoupling Parliament and Courts from the European Court of Justice

Who is to be master?

It is undeniable that the ECJ has been the motor behind greater European integration. The consequence of the failure of the European integration process has been to discredit the rule of law itself, as for example in the case of the failed Stability and Growth Pact, the complete repudiation of the no-bailout provisions and the unlawfulness of, for example, the European Financial Stability Mechanism. Despite all this and as if if this has never happened, the European Court has followed an Alice in Wonderland policy of integrating Community law into national legal orders, including that of the United Kingdom. This brings to mind Lewis Carroll's passage in *Through the Looking Glass:*

> "*When I use a word," Humpty Dumpty said, in a rather scornful tone, "it means what I choose it to mean. Neither more nor less." "The question is," said Alice, "whether you can make words mean so many different things."*
> *"The question is," said Humpty Dumpty, "who is to be master. That is all."*

Who is to be master? In order to ensure the effective and uniform application of Community law, national courts when faced with an issue concerning the interpretation or validity of an act of Community law may seek a preliminary ruling from the ECJ. However, under the Treaties, if it is a last instance court, it is compelled to refer the matter before the ECJ. The judgments of the ECJ not only bind the national court to which it is addressed but also all national courts facing the same issue. This has had an enormous impact on the sovereignty of the United Kingdom as the national courts have lost a significant part of their independence to the Court.

The power of the European Court of Justice

Obviously, the preliminary rulings procedure has been of decisive importance for the ECJ role in the development of the Community legal order. It was through this procedure that the ECJ developed principles of a constitutional nature, the so-called fundamental principles of Community Law that have no legal basis in the Treaties but were built on the basis of the ECJ conception of

how the new legal order should work. The ECJ created the doctrine of direct effect [35] and established the supremacy of EC law over national law. [36]

Originally, the procedures and remedies for breaches of Community law were a matter for Member States. The ECJ in order to ensure the judicial protection of EU rights has developed two principles, the principle of equivalence and the principle of effectiveness concerning the adequacy of national remedies. The Lisbon Treaty codified these principles. Hence, the Member States have to establish provisions within their rules of procedure, which provide effective remedy for potential violations of rights conferred by Union law. Obviously, this provision will have a major impact on Member States, as the requirement to provide for sufficient remedies is, now, primary law. The ECJ has also introduced the doctrine of state liability [37] enabling individuals to obtain reparation when their rights are violated by a breach of Community law "*for which a Member State can be held responsible."* Obviously, this principle has substantial implications, in particular, for the enforcement of EU labour law such as on directives on health and safety at work. It encroaches upon national sovereignty because of its very intrusion on the autonomy of the national courts.

For Britain, the Working Time Directive is proof of one of the most burdensome pieces of legislation, yet every time the ECJ is asked to interpret the Directive, through the preliminary ruling procedure, further burdens are imposed on business. [38] The ECJ's rulings have left UK social and employment legislation – including practice on sick leave and annual leave – in an incomprehensible mess. And still we watch as British sovereignty is destroyed. The Treaties that created this employment and social legislation must be unravelled.

The constitutional character of the ECJ has been strengthened with the adoption of the Lisbon Treaty, particularly with the collapse of the pillar structure. The Lisbon Treaty has enabled the Court to rule on all matters in the Treaty with few exceptions.

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[35] In 1963, the ECJ created the doctrine of direct effect in the very well known Van Gend & Loos case.

[36] The ultimate ECJ constitutional claim was in Case 6/64, Flaminio Costa v. Enel, when the ECJ established the supremacy of EC law over national law.

[37] In 1991, in *Francovich* case, introduced the doctrine of state liability. According to the Court, the reparation by the Member State is essential when it has not implemented a Directive in due time and consequently the individuals are unable to enforce their rights granted by Community law before the national courts.

[38] In the Joined *Cases Gerhard Schultz-Hoff (C-350/06) v Deutsche Rentenversicherung Bund and Mrs C. Stringer and Others (C-520/06) v Her Majesty's Revenue and Customs and Case C 277/08,* Francisco Vicente Pereda v Madrid Movilidad SA, the ECJ has interpreted the right to paid annual leave enshrined by the working time directive.

Britain's ability to deal with governing itself has been eroded and that must be addressed through a British decoupling from those legal arrangements, beginning with a renegotiation of the existing European Treaties.

Overriding the Charter of Fundamental Rights

Get out of the Charter

A Britain with a real future requires a decoupling of our arrangements from the European rights agenda as a whole – which means Britain will have to wake from its acquiescence into the Charter of Fundamental Rights, which the Conservatives pledged in their 2010 manifesto they would opt out of. The EU Charter of Fundamental Rights was not incorporated into the Lisbon Treaty but it is an integral part of it – and it is legally binding. Member States are required to comply with the Charter when implementing EU law. Obviously, the Court has jurisdiction to hear actions brought by the Commission against a Member State for infringing the Charter when implementing EU law. Furthermore, by the preliminary reference procedures, issues such as the compatibility of a Member State act while implementing EU law with the Charter or compatibility of EU legislation with the Charter will be referred to the ECJ. Individuals may now invoke in any court the Charter of Fundamental Rights when the matter in question has a connection to Union legislation. The Charter lays down rights, such as protection in the event of unjustified dismissal, right to limitation of maximum working hours and the right of collective bargaining and action. The courts may interpret these rights, which not only override Parliament but also impose further burdens on business.

It remains to be seen whether the prohibition, under Article 6 TEU, means the Charter shall not extend EU competencies and will have the effect of restricting the scope for application of the Charter, particularly in the field of economic and social rights. It will depend how the ECJ interprets the Charter. The Court is very likely to use its power of interpretation, as it has done in the past, in a committed judicially active manner.

The dreaded protocol

The UK has a Protocol on the Application of the Charter (Protocol 30) which the then Minister of Europe, Jim Murphy, as well as the then Foreign Secretary, David Miliband, have explained to the European Scrutiny Committee is not an opt out from the Charter but "it is a statement of how the Charter provisions will apply in the UK." This protocol states that the UK courts or the Court of Justice may not declare UK law incompatible with the Charter. However, the preamble's states that the protocol "(…) is without

prejudice to other obligations devolving upon Poland and the United Kingdom under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally." Hence, the protocol does not prevent the UK Courts from being bound by the ECJ interpretations of Union law measures based on the Charter. Obviously, and past experience tells us, the ECJ will interpret Union law according to the Charter. In fact, there are several examples of the ECJ interpreting and assessing the validity of EU law according to the Charter. [39] The outcome of such interpretation will bind UK courts because of the UK obligations under the Treaties and "Union law generally." The UK will be bound by the Court of Justice rulings if it interprets Union law as implemented in other Member States in conditions where the same law is also implemented in the UK.

It is important to mention that the Secretary of State conceded, in the Court of Appeal, in Saaedi that "… fundamental rights set out in the Charter can be relied on as against the United Kingdom and ...that [the High Court] erred in holding otherwise' because the Charter reiterates that the rights that already formed part of EU law, and does not create any new rights." The Government said that the High Court was wrong to hold that the UK has an opt-out, and so the Charter could not be directly relied upon. The case concerns interpretation of EU law, consequently the Court of Appeal has decided to refer several questions to the ECJ. The ECJ will, now consider the status of the Charter in the UK.

Charter we promised to repeal is EU law

The Preamble of the Charter states that the Charter "reaffirms the rights, freedoms and principles recognised in the Union and makes those rights more visible, but does not create new rights or principles;" Hence, "other obligations" include fundamental rights recognised by the Court of Justice as general principles of EU law. Consequently, if the ECJ recognises a fundamental right as a general principle of EU law, the UK is legally bound by it, irrespective of the Charter and the Protocol 30. If a fundamental right is infringed, an individual is entitled to legal action whereas principles are objectives that may be implemented by EU legislation or by Member States when implementing European law. Under the Charter, there is no clear distinction between principles and rights, with the consequence that an article might contain both a right and a principle. Article 1 (2) of the Protocol reads

[39] The European Court of Justice has recently delivered its ruling in the *Test-Achats* case concerning the validity of Article 5(2) of a Council Directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services. Under this provision, Member States were entitled to derogate from the principle of equal treatment with regard to insurance contracts. The ECJ has assessed the validity of Article 5(2) in the light of the Charter provisions, and ruled that the provisions is invalid, hence any Member State's court has to consider this provision invalid.

"In particular, and for the avoidance of doubt, nothing in Title IV of the Charter creates justiciable rights applicable to Poland or the United Kingdom except in so far as Poland or the United Kingdom has provided for such rights in its national law." However, several of the rights in this Title (Solidarity Title) have already been recognised as general principles of EU law, so they can be enforced in national courts. The ECJ has recognized in its case law that fundamental rights form part of the general principles of EU law. [40] In fact, Article 6 TEU expressly states that fundamental rights *recognised by* the European Convention *on* Human Rights constitute general principles of EU's law. The majority of the provisions contained in the Charter come from the European Convention of Human Rights. The incorporation of the Charter into the Treaty makes a substantial difference because it concentrates a mass of precedence from the European Court of Human Rights in the Charter, and is thereby adjudicated by the ECJ.

The Charter has the potential of acting as a restraint on the ability of the UK Government to make necessary changes, for instances to our law on small and medium-sized business. The government might attempt to produce legislation, which might then be struck down because of the Charter. Britain needs a complete opt-out from the Charter because the pledge in the Conservative party manifesto of 2010 to secure a "full opt-out" appears to have been abandoned. The Coalition Agreement does not even mention the Charter but as a point of principle, we must get rid of it.

Bypassing the European Convention of Human Rights

The Conservative philosopher, Edmund Burke, once wrote "We know that we have made no discoveries, and we believe that no discoveries are to be made, in morality, not in the idea of liberty, nor many of the great principles of government which were understood long before we were born … In England … we have not been drawn and trussed in order that we may be filled, like stuffed birds, with chaff and rags and paltry blurred sheets of paper about the rights of man."

[40] In February 2010, the ECJ delivered its ruling in Case C 555/07, *Seda Kücükdeveci v Swedex GmbH & Co. KG* where it has developed a new EU law doctrine. The Court has found another way to bypass the lack of horizontal direct effect of directives by giving direct effect to the corresponding general principle of law, principle of non-discrimination on grounds of age. The Court also refers to the EU Charter of Fundamental Rights, which prohibits any discrimination on the grounds of age. The ECJ ruled that the provisions of directives expressing general principles of European Union law have full direct effect, even in horizontal situations. Obviously, this ruling will have far reaching consequences. We should not be surprised if this new rule is *"*extend to all Directives implementing any of the rights enshrined in the Charter*"* as noticed by Pescatorius in Adjudicating Europe.

EU acceding to European Convention and UK passing of the Human Rights Act

The Lisbon Treaty gave the European Union legal personality and provides a legal base for the Union to accede to the European Convention on Human Rights (ECHR). In fact, it requires the Union to accede to the ECHR. The Convention is an international Treaty, which only Member States of the Council of Europe may sign. The EU accession to the ECHR is an example of the EU merging its institutions into that of a state bound by an oppressive human rights code, and under which the UK legislature and judiciary are merely subsidiary concerns. The truth is that the UK is already vastly submerged under the authority of the ECHR, after the introduction of the Human Rights Act in 1998. The Human Rights Act is also preventing us from taking effective action against rioters and young people because it prevents proper discipline in the schools and elsewhere. [41]

Until the passing of the Human Rights Act 1998, the proper protection of human rights was guaranteed by established English law. Now the judiciary is bound by the HRA and increasingly uses Strasbourg jurisprudence as a precedent. Under the European Convention on Human Rights the Council of Europe Member States are required to comply with rulings of the European Court of Human Rights and to implement judgments by amending national laws where a breach of the Convention has been identified. The Human Rights Act – which was passed by the Labour Government in 1998 and which incorporated the European Convention on Human Rights (ECHR) into UK law – should be repealed and we should withdraw from the ECHR altogether.

The EU accession to the Convention on Human Rights will enable individuals to bring complaints against the European Union institutions before the European Court of Human Rights, after they have exhausted all national judicial remedies. The European Court of Human Rights will have the power to review the compatibility of Union acts with the ECHR. The Union will be bound by a judgment of the ECHR finding a violation of the Convention and, for this reason, be under an obligation to execute such judgment. The EU may also be obliged to abolish or amend the provision of the Union law. The EU's accession to the Convention on Human Rights struck the European Scrutiny Committee "as potentially a significant development in its internal legal order—despite Treaty provisions to the contrary—and that it would amount to submitting the acts of EU institutions to independent external control by the ECHR." The Committee also said it was a potentially significant development in the way in which EU citizens' human rights are protected. It is clear that the

[41] HC Deb, 11 August 2011, c1137.

human rights legislation is working against human rights e.g. preventing discipline, law and order underpinning the UK riots.

The UK could veto the EU accession to the Convention, as this must be decided by unanimity yet the Government supports EU accession. In fact, the Secretary of State for Justice, Kenneth Clarke told the European Scrutiny Committee [42] that the "Accession also reflects the Coalition Government's commitments on civil liberties, bringing the actions of the European Union directly within the jurisdiction of the European Court of Human Rights." Kenneth Clarke pointed out three key benefits for the EU accession to the ECHR: (i) it will "close the gap in human rights protection as applicants will, for the first time, be able to bring a complaint before the European Court of Human Rights (…) directly against the EU and its institutions for alleged violations of Convention rights", (ii) it will "enable the EU to defend itself directly before the Strasbourg Court in matters where EU law or actions of the EU have been impugned" and; (iii) it will "reduce the risk of divergence and ensure consistency between human rights case law between the Strasbourg and Luxembourg Courts."

The European Scrutiny Committee noted Article 52(3) of the Charter on Fundamental Rights allows for EU human rights law to provide 'more extensive protection' than the ECHR and so the Committee asked Ken Clarke "how accession will 'reduce the risk of divergence and ensure consistency between human rights case law between the Strasbourg and Luxembourg Courts." In fact, the Committee noted that there is concern among academics "that the Charter will lead to legal uncertainty in how human rights are applied in Europe by introducing an additional standard of 'fundamental' right." Ken Clarke explained, "The EU will be bound by the Strasbourg Court's judgments in cases in which it is a respondent." In fact, the Secretary of State for Justice noted that "(…) the Strasbourg Court will have the final say about whether the EU has interpreted Convention rights correctly, which will ensure that the Convention is applied consistently."

The Government do not expect the European Union's accession to the ECHR to have any direct impact on UK law. Nevertheless, the Secretary of State for Justice concedes "that an adverse judgment against the EU by the European Court of Human Rights may require the EU to amend its legislation in order to protect individuals' fundamental rights in a way that will have consequential implications for UK law."

[42] European Scrutiny Committee – Sixteenth Report, *EU accession to the European Convention on Human Rights*, January 2011. See: http://www.publications.parliament.uk/pa/cm201011/cmselect/cmeuleg/428-xiv/42802.htm

Strasbourg precedents in our courts

A great deal of attention should be paid to the manner in which our judiciary is using Strasbourg precedents and importing them to their judgments in our courts. We are moving away from common law and precedent, and instead being absorbed into a system of law, judgments and courts that operate on abstract principles. When there is a divergence between the Strasbourg and Luxembourg Courts, those problems will become more confused. The accession of the European Union to the European Convention on Human Rights will create a great deal of uncertainty about which of the jurisdictions will prevail.

The European Court of Human Rights has overridden an overreached into the functions of the United Kingdom Parliament and its legal system, through the Human Rights Act 1998. Lord Chief Justice has already shown his concern about the impact of the accession on the manner in which we make our decisions and the invasion of common law precedent. In fact, Lord Chief Justice said, to the entire judiciary "Too many decisions from Strasbourg, and too many domestic decisions, are cited in argument, and, I'm sorry to have to say this to my brother and sister judges, in all our judgments." [43] Then, he warned them against adopting Strasbourg's precedents as a means of arriving at decisions in our own courts. Lord Chief Justice stressed, "We must beware. It would be a sad day if the home of the common law lost its standing as a common Law authority." We must, therefore, beware of the manner in which our legislation is being subjugated to Strasbourg decisions.

Prisoners' votes

Prisoners have been denied the right to vote in all elections in the UK. In 2004, the Human Rights Court twisted the argument in the favour of prisoners. Whilst the right to vote is fundamental to democracy, it is not correct in the context of those whose privileges and rights are being barred because of their debt owed to society and it is the support for prisoner votes in this context, which led to the weakening of the democratic system. The UK Parliament did not support the view the court was about to reach. The court concluded that there had been a breach of Article 3 of protocol N1.

It was not for the court to impose such principles which are better located within the specific laws and circumstances of our national political culture and democratic standing of the UK via its national Parliament in Westminster.

[43] Lord Judge, Lord Chief Justice of England and Wales, The Judicial Studies Board Lecture 2010, Inner Temple, 17 March 2010. See: http://www.judiciary.gov.uk/Resources/JCO/Documents/Speeches/lcj-jsb-lecture-2010.pdf

In December 2010, Mark Harper announced in a written ministerial statement, and to much dismay, that offenders sentenced to a custodial sentence of less than four years would be given the right to vote unless the judge considered this inappropriate when making the sentence. A backbench debate was then held in the House of Commons on 10 February 2011, the motion, which supported the continuation of the current ban, was agreed on a division by 234 to 22. In the meantime there had been the Greens and M.T. judgment by the ECHR on 23 November 2010. That judgement gave the UK government six months from the date the judgement become final to introduce proposals to lift the blanket prison vote ban. As with the Hirst case, the government referred it to the Grand Chamber of the ECHR, in effect appealing the court decision. In April 2011 the request for an appeal hearing was dismissed and the court gave the UK government six months to ensure new legislative changes, to introduce legislation to lift the blanket ban.

Sovereign democracy vs. the European Convention

According to Lord Hoffmann the European Court of Human Rights "lacks constitutional legitimacy." [44] In April 2011, Lord Neuberger recalled "It is true that membership of the Convention imposes obligations on the state to ensure that judgments of the Strasbourg court are implemented, but those obligations are in international law, not domestic law. And, ultimately, the implementation of a Strasbourg, or indeed a domestic court judgment is a matter for Parliament." Lord Neuberger stressed "… in a true democracy, Parliamentary sovereignty is absolute, because the only true master is the electorate." [45] Even Baroness Hale, has recently described the European Convention on Human Rights as a "living tree," stressing, "there must be some limits" to "the growth of the living tree." In fact, she said that human rights rulings "should seek to strike a fair balance, between the universal values of freedom and equality embodied in the Convention, and the particular choices made by the democratically elected Parliaments of the Member States." [46]

[44] Lord Hoffmann, 'The Universality of Human Rights', Judicial Studies Board Annual Lecture, 19 March 2009 (http://www.judiciary.gov.uk/Resources/JCO/Documents/Speeches/Hoffmann_2009_JSB_Annual_Lecture_Universality_of_Human_Rights.pdf)

[45] Lord Neuberger of Abbotsbury, Master of the Rolls,' Who Are the Masters Now?' Second Lord Alexander of Weedon Lecture, 6 April 2011 (http://www.judiciary.gov.uk/Resources/JCO/Documents/Speeches/mr-speech-weedon-lecture-110406.pdf)

[46] Baroness Hale of Richmond, 'Beanstalk *or* living instrument*,* how tall can the ECHR grow*?'*, Barnard's Inn Reading 2011. (http://www.supremecourt.gov.uk/docs/speech_110616.pdf)

If we are to save our democracy from the Strasbourg court, the Coalition Government must reject the view of the European Court of Human Rights and reassert our sovereignty in line with the democratic wishes of the electorate. Britain must be left to legislate for itself which in this case means maintaining the ban and existing arrangements on voting in elections for convicted prisoners and thereby override Strasbourg.

Any rejection of the failed and burdensome European human rights agenda under the Charter necessarily entails a rejection of the European Convention of Human Rights. When I was Shadow Attorney-General, I recommended, and the Conservative Party accepted, that we repeal the Human Rights Act. We also enter a new situation because, not only do we have the HRA to contend with, but the Lisbon Treaty provided for the Union to accede to the European Convention on Human Rights ECHR.

The Conservative manifesto, on which all Conservative MPs campaigned at the 2010 general election, stated: "we will replace the Human Rights Act with a UK Bill of Rights." The repeal of HRA 1998 was Conservative Party policy, but under the Coalition it has been abandoned. In March 2011, the Deputy Prime Minister, Nick Clegg, and Secretary of State for Justice, Kenneth Clarke, launched a so-called "independent Commission" to investigate the case for a UK Bill of Rights. The Bill of Rights Commission has already lost credibility because many of its members support the whole structure of the ECHR and the HRA. Moreover, the Commission suggests that they are dealing with the problem when in fact they are not; the Commission is to look into a British Bill of Rights, which deals with neither repealing the Human Rights Act nor dealing with the European Convention on Human Rights.

Confused media and human rights agenda

It is ironic that prisoners' rights and celebrities' private lives have pressed the debate over these issues. In fact, as pointed out by David Aaronovitch, in *The Times*, "Forget prudishness, this is a prurient form of Reithianism, in which the journalist, to survive, has to divulge the details of the sex lives of celebrities in order to persuade readers to buy the product and thereby get the higher-minded benefit of the Mail ranting against pornography and lax morals." We have to get our values and sense of priorities restored. Peter Riddell noted "the media has become an alternative establishment, claiming as much legitimacy as elected representatives and fostering a culture of inherent mistrust of the motives of politicians. The media have usurped the function of politicians." [47] In March 2011, the Lord Chief Justice recalled, in relation to "the criticism of 'Human rights' and the judgments made by reference to

[47] Peter Riddell, 'In *Defence of Politicians* (In spite of themselves),' *2011.*

them", that "the incorporation of the Convention, and the statutory requirement that the decisions of the European Court of Justice must be applied (…), and the decisions of the European Court of Human Rights must be taken into account, represents the law of the United Kingdom as decided in parliament by the ordinary legislative process." He stressed "Judges are obliged to apply the legislation enacted by our sovereign parliament, and the European Communities Act 1972 and the Human Rights Act 1998 are two such Acts." Then, he pointed out "when the judiciary is criticised in the media, it should be on the basis of an understanding of the limits or obligations imposed by the law on the judge." [48] I have been saying that the BBC has consistently declined to give proper coverage to the European issue and has adopted that policy with tenacity and editorial contrivance since the 1950s. Anyone who raises serious and seminal questions about the European issue – most of their predictions have turned out to be true – tends to be regarded as Europhobic or worse. What's the betting that the BBC does not even refer to this pamphlet let alone interview the author of it, with a proper debate, in its usual treatment of the Eurorealist arguments, despite the Charter?

The Human Rights Act undermines the best traditions of British freedoms. British constitutional history is being written out as the Convention is enforced, and the Parliament must be protected if we are not going to allow our constitution to become extinct. Both the Charter of Fundamental Rights and the European Convention on Human Rights, in their differing judicial aspects – the ECJ and the European Court of Human Rights – impinge on UK sovereignty. It is about time that we legislated on our own terms in Westminster to deal with these matters, to ensure that the British voter actually sees legislation that is what he wants and that we have British law for British judges. We must have British law for British judges if we are truly to defend and govern the British people.

Repatriation of Criminal Law

The Lisbon Treaty has abolished the Maastricht Treaty pillar structure and moved Police and Judicial Cooperation in Criminal Matters to the Treaty on the Functioning of the European Union. This has serious implications because decision-making on police and judicial cooperation is no longer intergovernmental but is subject to the Community method, ordinary legislative procedure, qualified majority voting and the ECJ's jurisdiction has

[48] Lord Judge, Lord Chief Justice of England and Wales, 'The Judiciary and the Media', Jerusalem, 28 March 2011.
(http://www.judiciary.gov.uk/Resources/JCO/Documents/Speeches/lcj-speech-judiciary-and-the-media-100406.pdf)

been extended to those areas. The UK has the right to choose whether to take part in judicial and police cooperation in criminal matters. However, the UK loses protection every time it decides to opt in transferring jurisdiction from the UK courts to the ECJ jurisdiction.

The Lisbon Treaty enhances mutual recognition of judicial decisions and judgments, which will be respected and enforced throughout the Union. This provision prevents any judgment from the courts of another EU Member State from being challenged in the UK courts, with grave consequences for individuals, business and the UK legal system. Measures based on the principle of mutual recognition of judicial decisions that affect fundamental issues of sovereignty might lead to extremely unjust procedures such as the European Arrest Warrant. The Union has also a new competence to define certain criminal offences and set minimum sentences for those found guilty of them, overriding UK criminal laws and sentencing policies. The power to determine criminal liability and to impose criminal penalties is a sovereign power, which should be retained by the UK.

The Conservative party has pledged to negotiate a "mandate to negotiate the return of criminal justice powers from the EU to the UK." The pledge "to bring back key powers over legal rights" and "criminal justice" seems to have been abandoned as the Coalition Government has agreed to "approach forthcoming legislation in the area of criminal justice on a case by case basis." It seems they are considering opting into Justice and Home Affairs measures, which are set to come from Brussels. The Home Secretary, Theresa May, last July, decided to opt into the draft directive creating the European Investigation Order.

As my colleague, Bernard Jenkin said in the House of Commons last January "Having fought against the Lisbon Treaty in principle and most particularly on the basis of its potential to interfere in the criminal and civil law of this country, it is astonishing that the Government, since the election, have, for example, approved the directive establishing the European investigation order." [49] The Draft Directive on the European Investigation Order, if adopted, would create a single instrument for obtaining evidence located in another Member State in the framework of criminal proceedings. Any judicial authority from any EU Member State may ask the UK police to gather any criminal evidence, including searching a house, intercepting telephone calls and obtaining DNA. Hence, police resources would be spent on such requests and which UK would not be able to refuse. Moreover, the UK might be required to obtain evidence as regards actions that are not considered a crime in this country.

[49] HC Deb, 26 January 2011, c394.

The Government has also opted into the draft directive on passenger name records, the directive on the right to interpretation and translation of criminal proceedings, the draft directive on the right to information in criminal proceedings, the draft Directive *o*n attacks against information systems, ceding jurisdiction in these areas to the ECJ.

The absorption of our criminal justice system is therefore another area of deep concern. The proposals are put forward in complete disregard of the different legal systems within the EU, particularly the common law system. The whole of our justice and criminal law system is affected by Brussels. There is a continuing process of Europeanization on criminal law, criminal procedure, and civil matters. They are increasingly being taken away from Westminster and transferred to the European Union. In 2010, Lord Chief Justice recalled "The European Union is about to expand not simply its influence but its jurisdiction over criminal matters." Then, he stressed "… that the development of the European Union, and the extended jurisdiction of the European court in criminal matters, will have a significant impact domestically. Twenty years down the line, where will we be?" [50] The duty to act is already upon us because of this very problem which is why the Coalition Government must seek to renegotiate the Treaties.

No direct taxation from Europe

The economic crisis has been used as an excuse to harmonise Member States' taxation policies. Tax harmonisation is a manifestation of greater European economic government, which will apply to the whole of the EU and not just the Eurozone. The Government must veto such proposals. The Commission has already proposed, last March, a draft Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) and I welcomed the Government's recent but limited stand against the draft directive on the EU's introduction of that Corporate Tax Base. In fact, the House of Commons as a whole considered that the Draft Directive to introduce a Common Consolidated Corporate Tax Base did not comply with the principle of subsidiarity.

Ultimately, the United Kingdom will witness the creation of EU taxes if it does not seek to intervene. Now, we have confirmation of what the Commission is about to commit to with regards to the reform of the EU financial resources – it wants to introduce EU direct taxes to finance the EU's budget and scrap the

[50] Lord Judge, Lord Chief Justice of England and Wales, 'The Judicial Studies Board Lecture 2010', Inner Temple, 17 March 2010 (http://www.judiciary.gov.uk/Resources/JCO/Documents/Speeches/lcj-jsb-lecture-2010.pdf)

UK rebate. Under the Lisbon Treaty "The Union shall provide itself with the means necessary to attain its objectives and carry through its policies." The Commission has made full use of this provision and presented a proposal for a Council decision on the system of own resources of the EU. Under the Commission proposal, the EU would have as own new resources a financial transaction tax and a new VAT resource. The financial transaction tax would be collected at EU level. If such proposals go ahead the UK could become the main net contributor to the EU budget. Such proposals would entail a major transfer of powers to Brussels, which would be able to raise its own funds. This would encroach on national tax sovereignty. Such demands are completely unacceptable to the British people and must be scrapped.

Reasserting the Sovereignty of the United Kingdom Parliament

The political context of 'sovereignty'

Sovereignty is central – there is no democracy without sovereignty and without the election of MPs by the voter who choose them as their representatives at the ballot box. For many years, I have been introducing annually a Sovereignty Bill to reassert British sovereignty over the encroachments of European Treaties and legislation. Indeed, when I became Chairman of the European Scrutiny Committee in September 2010, I immediately set up an inquiry into the relationship between the sovereignty of the United Kingdom Parliament and the European Union Act, which has now been enacted. It took impartial evidence from the greatest experts in Britain on both sides of the argument and concluded unanimously that the claims for the Bill to contain a preservation of British sovereignty were a mirage. There remain significant problems regarding the issue of the assertions of certain members of the Supreme Court to be the ultimate authority over and above Parliament itself. [51]

It is beyond belief that we have not yet reasserted British sovereignty. The issue of parliamentary sovereignty is essentially a practical one that affects every person in the country on a daily basis in a very direct way, also affecting the rule of law, the role of the judiciary and that of the civil service, and only in Parliament can it be resolved. The EU invades every nook and cranny with the vast array of laws that stream out of the European Union. We can find EU influence everywhere, and most of the provisions do not work and impose burdens on business and our everyday lives. Sovereignty matters because of democratic consent. The fundamental issue at the heart of concerns over the

[51] The report can be found at: House of Commons, European Scrutiny Committee. 'The EU Bill and Parliamentary sovereignty', Tenth Report of Session 2010–11, Volume I: Report, 6 December 2010. Available at: http://www.publications.parliament.uk/pa/cm201011/cmselect/cmeuleg/633/633i.pdf

sovereignty of the United Kingdom Parliament is the freedom of choice – the choice of the voters at the ballot box to decide the laws under which they are to be governed and to deal with the question of who governs Britain. Sovereignty means "supreme power or authority" – "a self-governing state".

All the Members in the House of Commons are, individually, elected in their constituencies. It is exclusively on that basis that our authority to legislate is derived. Sovereignty is about giving ultimate power to the people's democratic representatives in Parliament, not to the courts and not to international bodies such as the European Union. Sovereignty has therefore to be preserved and reaffirmed. Members of Parliament have an absolute duty to protect sovereignty on behalf of their constituents. A threat to parliamentary sovereignty is a threat to democracy.

A Real Sovereignty Act – after the failure of the European Union Act's Clause 18

The sovereignty of Parliament has been and continues to be undermined by the European Union and the ECJ through the European Communities Act 1972 (as well as by the Human Rights Act 1998). The supremacy of EC law is a cornerstone principle of Community law (reinforced by Declaration 17 under the Lisbon Treaty). The sovereignty of Parliament is under threat from EU law itself, which claims constitutional supremacy over Member States' constitutions and from European human rights law, which is growing in prominence throughout our legal system. The sovereignty of Parliament needs safeguarding not only from the EU but also from our own judges. The protection of our sovereignty is essential.

We have to challenge the supremacy of EU law and strike down EU laws and ECJ rulings. The framework of European law within the jurisdiction of the Court of Justice has obvious implications for parliamentary sovereignty. The danger of Britain being absorbed by Brussels has never been so present.

To this end, Britain needs a Sovereignty Act to reassert the sovereignty of Parliament. David Cameron recognised that by proposing to introduce a Sovereignty Bill but retreated from that position. The government coalition agreement states: "We will examine the case for a United Kingdom Sovereignty Bill to make it clear that ultimate authority remains with Parliament." Instead the Coalition government presented last November to the House of Commons, a new European Union Bill – the so called "referendum lock" on future transfers of power from the UK to the EU.

When the European Union Act was presented to Parliament, the European Scrutiny Committee, which I chaired, immediately announced its intention to

conduct an inquiry and to produce a report on the Bill's asserted Parliamentary sovereignty clause (Clause 18) before the Bill's Second Reading. The Committee unanimously agreed that Clause 18 in the Bill did not contain what was on the tin, that it did not confer sovereignty and that the provision was not needed. The European Union claims sovereignty over our democratic Parliament, and this Bill does little to preserve it.

The majority of the witnesses who gave evidence to the European Scrutiny Committee believe that Clause 18 is nothing more than a restatement of the doctrine of dualism. The European Scrutiny Committee concluded, "Clause 18 does not address the competing primacies of EU and national law." The Bill Explanatory Notes, initially, provided for the dangerous notion that parliamentary sovereignty is a "common law principle", and therefore subject to judicial authority. The explanatory notes have been disavowed on this matter, but the problem of judicial assertions relating to parliamentary sovereignty has not disappeared. According to Professor Tomkins the Bill "goes out of its way to invite litigation." The European Scrutiny Committee unanimously agreed, "Clause 18 is not a sovereignty clause in the manner claimed by the Government." The Bill does little to preserve the sovereignty of Parliament. It is feared, therefore, that the sovereignty of Parliament is in danger. There are judges in the Supreme Court who are strongly suggesting that parliamentary sovereignty has been qualified, and that they hold ultimate authority. Lord Hope, who is now Deputy President of the Supreme Court, said, in the Jackson case, that 'parliamentary sovereignty is no longer…absolute'. He added that 'step by step' it 'is being qualified'. Lord Hope was not alone, Lady Hale, who remains on the Supreme Court, also agreed with him.

The sovereignty of Parliament is under threat, however, not only from the common law radicalism of judges such as these, but also from the EU law itself, which claims constitutional supremacy over Member States' constitutions and from European human rights law, which is growing in prominence throughout our legal system.

The claims that have been made clearly demonstrate that moves are not only afoot but under way to qualify the sovereignty of the United Kingdom Parliament and Acts of Parliament. Such moves fall back on an assertion that they are relying on the rule of law. The judiciary has the right to interpret the law that is what the rule of law means. But, when the Supreme Court speaks of the rule of law, we should ask these questions: whose law, which law, and how has it arisen? Those who talk about the rule of law unconnected to democratic consent are not talking about the rule of law but the rule of rulers. The law that we should be governed by is the law as decided by the British people for themselves. As I have said, "British laws for British Judges and

British Judges for British laws." We must therefore override that legislation which is completely inconsistent with the sovereignty of Parliament.

The most precious thing about the British constitution is that it gives ultimate power to the people's democratically elected representatives in Parliament. Not to courts. Not to international bodies such as the EU. But to elected representatives on behalf of the voters. A threat to parliamentary sovereignty is a threat to democracy itself and the freedom of the voters to choose who governs them and how. Removing sovereignty from Parliament means that some other body will have the last word instead. The sovereignty of Parliament is inviolate, but requires to be reaffirmed. My amendment to Clause 18 would have inserted at the beginning of the clause, which merely covers the status of EU law, the words: "The sovereignty of the United Kingdom Parliament is hereby reaffirmed*."* This would have translated the Clause 18 into a sovereignty clause by reaffirming the sovereignty of Parliament. My amendment would have had the effect of preventing the courts from applying a common law principle, which has become entrenched in certain thinking in influential academic and legal circles, and in the Supreme Court. I therefore proposed a safe mechanism and firewall against any attempt by the judiciary to interfere with the sovereignty of Parliament. However, the Prime Minister, Government and the entire Conservative party, with some honourable exceptions, astonishingly voted against it.

The fact is that the 'sovereignty clause' (Clause 18) does not defend parliamentary sovereignty. Taking into account the present Eurozone crisis, and given the failure of economic governance in which we are absorbed and the coalition Government's continuing acquiescence in European integration and their refusal to repatriate powers, the Bill does little or nothing to improve the situation. We need to return to the sovereignty question – and address it properly. A better Britain requires a Sovereignty Act, as promised in the Conservative manifesto in 2010.

How Parliamentary sovereignty is being eroded: Lisbon Treaty and Declaration 17

The supremacy of EC law is a cornerstone principle of Community law but the Treaties do not provide it. The primacy of EU law over that of the Member States has been established by ECJ case law. [52] Nevertheless, there is a Declaration attached to the Lisbon Treaty, Declaration 17, which provides "in accordance with the settled case-law of the EU Court of Justice, the Treaties

[52] The ECJ established this principle in *Costa v. ENEL.* Then, in Simmenthal the ECJ ruled that under primacy of EU law principle any national court or tribunal must set aside any rule of national law which is determined to be incompatible with EU law.

and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case-law." However, according to the Council Legal Service "The fact that the principle of primacy will not be included in the future Treaty shall not in any way change the existence of the principle and the existing case-law of the Court of Justice." The EU Member States have therefore endorsed the primacy of European Law, as asserted by Declaration 17. This Declaration restates the ECJ case law, but also gives guidance to our courts and others and which asserts and affirms the case law of the European Court. That case law involves the Court asserting its jurisdiction over not only our laws and law-making, but our constitution, which belongs to the British people, the voters at the ballot boxes, as against our own Parliamentary sovereignty. Hence, the Parliamentary sovereignty must be re-asserted.

How Parliamentary sovereignty is being eroded: the courts, Supreme Court and the fight back

As the European Scrutiny Committee pointed out "Under the European Communities Act 1972 (ECA) Parliament voluntarily gave effect to the UK's obligations and duties under the former Community and now EU Treaties in national law. (…) and without it EU law could not become part of national law." The ECJ's doctrine of the supremacy of EU law over national law is given effect by Section 2(4) and 3(1) of the European Communities Act 1972. Consequently UK courts, under these sections, are obliged, to disapply legislation, which is inconsistent with EU law. Under section 2(4), and because of the ECA, the House of Lords refused to apply the Merchant Shipping Act 1988 and provisions of the Employment Protection (Consolidated) Act 1978 for inconsistency with EU law. They refused to give effect to an Act of Parliament, but they were able to do so just because of the ECA1972.[53]

[53] The most important case in the UK on the supremacy of EC law was the Factortame case concerning the Merchant Shipping Act 1988 which Spanish fishermen claimed to be discriminatory and incompatible with the EC Treaty. *The Factortame case* set out the relationship between EU and UK law, and the nature of Parliamentary sovereignty. According to Lord Bridge, "…If the supremacy within the European Community of Community law over the national law of Member States was not always inherent in the E.E.C. Treaty it was certainly well established in the jurisprudence of the European Court of Justice long before the United Kingdom joined the Community. Thus, whatever limitation of its sovereignty Parliament accepted when it enacted the European Communities Act 1972 was entirely voluntary. Under the terms of the Act of 1972 it has always been clear that it was the duty of a United Kingdom court, when delivering final judgment, to override any rule of national law found to be in conflict with any directly enforceable rule of Community law. Similarly, when decisions of the European Court of Justice have exposed areas of United Kingdom statute law which failed to implement Council directives, Parliament has always loyally accepted the obligation to make appropriate and prompt amendments."

The sovereignty of Parliament is the most important principle of the United Kingdom Constitution, and has been since 1688, as confirmed by constitutional authorities. The principle of parliamentary sovereignty means that the UK Parliament can enact any law whatsoever on any subject whatsoever, but there are now considerations of compatibility with European Union law, and it is arguable that the European Communities Act of 1972 is "semi-entrenched". The evidence received by the European Scrutiny Committee has suggested that the legislative supremacy of Parliament is not currently under threat from EU law.[54] The Committee concluded that if the legislative supremacy of Parliament is under threat it is from judicial opinions in other areas of law. In fact, Lord Bingham [55] noted that "Some distinguished academic authors, and also some judges in extrajudicial utterances ... have suggested that parliament is not, or is no longer, supreme, and that in some circumstances the judges might, without the authority of the parliament, hold a statute to be invalid and of no effect because contrary to a higher, fundamental, law or to the rule of law itself." However, he stressed, "Parliament, has in the UK, no legislative superior…"

There is, therefore, an argument that comes from the judges in the Supreme Court and the judicial trends leading towards a diminution of parliamentary sovereignty through the courts. The Jackson case in 2005 does not concern EU law but it is the most recent decision concerning the law of parliamentary sovereignty. Three of the Law Lords suggested that parliamentary sovereignty is no longer absolute and referred to the ECA as an example of the restriction of Parliamentary sovereignty.

According to Lord Hope "Parliamentary sovereignty is no longer, if it ever was, absolute. (...)" He described the principle of parliamentary sovereignty as having been "create by common law…" According to Lord Steyn ". . . The

[54] The relationship between EU law and national law was tested in the '*Metric Martyrs' case,* which was decided by the Divisional Court in 2002. The argument raised by Eleanor Sharpston QC on behalf of Sunderland City Council in this case were nearest the legislative supremacy of Parliament has come to being threatened by EU law. Eleanor Sharpston QC argued that EU law should not be seen as being merely *incorporated*, into domestic law but as having been *entrenched*, by virtue of a principle of EU law, independently of constitutional principles of national law. Lord Justice Laws rejected this argument, "Whatever may be the position elsewhere, the law of England disallows any such assumption. Parliament cannot bind its successors by stipulating against repeal, wholly or partly, of the ECA. It cannot stipulate as to the manner and form of any subsequent legislation. It cannot stipulate against implied repeal any more than it can stipulate against express repeal. Thus there is nothing in the ECA which allows the Court of Justice, or any other institutions of the EU, to touch or qualify the conditions of Parliament's legislative supremacy in the United Kingdom."

[55] Lord Bingham. 'The Rule of Law'. Allen Lane, 2010.

judges created this principle. " [56] Lord Bingham could not accept his colleagues' arguments and has stressed the subservience of judges to the legislative supremacy of Parliament, stating "To my mind, it has been convincingly shown that the principle of parliamentary sovereignty has been recognised as fundamental in this country not because the judges invented it but because it has for centuries been accepted as such by judges and others officially concerned in the operation of our constitutional system." [57]

As Professor Tomkins noted "Technically, the comments made in Jackson about the sovereignty of Parliament were obiter …" however "it is authority for the proposition that we have the right to be concerned about what is going to happen to parliamentary sovereignty in the hands of the courts." [58] Attention should be given to the fact that the judges who made those remarks with regard to the Hunting Act 2004 and the case of Jackson in 2005 not only indicates but makes it all but a certainty that they will say such things in respect of other case law, irrespective of whether it is in the European framework or not.

"Notwithstanding the European Communities Act 1972" – the means of holding the fort after a Referendum

There is no written constitution in the UK but this does not alter the fact that the European Communities Act 1972, as Lord Bridge made clear in the Factortame case as well as Lords Denning (McCarthys v. Smith), Diplock (Garland v. British Rail) and Laws (Thoburn v. Sunderland County Council), is not only a voluntary Act but can be overridden by clear, precise wording inconsistent with ECA 1972 and the judges are obliged to give judgements accordingly. So, that is where our task as legislators starts. In the light of what Lord Denning, Lord Diplock and Lord Justice Laws have stated in their seminal constitutional judgements where the English statute is clear in overriding Community law by the words, for example, "notwithstanding the European Communities Act 1972" the English courts are obliged to give effect to the latest clearly expressed statute of the United Kingdom.[59]

[56] House of Lords Opinions of the Lords of Appeal for Judgment in the Cause Jackson and others (Appellants) v Her Majesty's Attorney General (Respondent). See: http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd051013/jack.pdf

[57] Lord Bingham. 'The Rule of Law'. Allen Lane, 2010.

[58] Written Evidence from Professor Adam Tomkins to the European Scrutiny Committee (http://www.publications.parliament.uk/pa/cm201011/cmselect/cmeuleg/633ii/633we02.htm)

[59] It is important to recall that Lord Denning in McCarthys Ltd. V Smith said: "If the time should come when our Parliament deliberately passes an Act with the intention of repudiating the Treaty or any provision in it or intentionally of acting inconsistently with it and says so in express terms then I should have thought that it would be the duty of our courts to follow the

The European Scrutiny Committee report on the inquiry into parliamentary sovereignty, based on clear evidence from constitutional experts, upholds both the principle and the wording of the "notwithstanding" formula, in order to preserve democratic consent. The European Scrutiny Committee stressed "we cannot see why it is "unrealistic" for an Act of Parliament to ask judges to disapply an aspect of EU law if it is the will of a democratically-elected Parliament, even if it were to lead to infringement proceedings in the Court of Justice." This is a very important statement from the European Scrutiny Committee, because for many years it was asserted that, owing to the nature of the European Communities Act and the Treaties on which it is based, with their amendments and their additions, it would not be possible for Parliament to legislate "notwithstanding the European Communities Act."

In 2006, I put forward an amendment on that basis to the Legislative and Regulatory Reform Bill. I put forward the amendment "notwithstanding the European Communities Act 1972". My sovereignty proposals in relation to the Legislative and Regulatory Reform Bill were then accepted by the current Prime Minister when he was Leader of the Opposition and by the party Whips. The Conservatives supported such a measure before. We lost the vote, but we won the principle within the party. So that is the commitment that was made then and which we must return to.

For a number of years, and again in 2010, I proposed a United Kingdom Parliamentary Sovereignty Bill, which would have addressed constitutional issues such as the assertion of European Union institutions that they have ultimate jurisdiction over our law-making. It would have defended the voters' rights to continue their freedom to make their choice at the ballot box, irrespective of majority voting, irrespective of the ordinary legislative procedure and irrespective of the assertions of the ECJ. The Parliamentary Sovereignty Bill would have been a fundamental instrument to protect British national interests.

If the Conservative party abandons the commitment to repatriate powers or to introduce a proper Sovereignty Bill there is no way of stopping the flood of new regulations and directives coming from Brussels. The arrangements in the EU Bill do not deal with the present but only with the future. The EU Bill makes no provision for our current predicament, and provides only relative safeguards for the future, subject to the influence of a Minister's decision as to whether a Referendum would be required or not. We have to deal with the

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statute of our Parliament. ... Unless there is such an intentional and express repudiation of the Treaty, it is our duty to give priority to the Treaty."

existing European Union, not any future EU or any future extension of powers or competences. The Bill is therefore an opportunity missed to stop the acquiescence in the failed European integration as well as to reaffirm our parliamentary sovereignty with a proper sovereignty clause.

We made a promise in our manifesto with regard to the question of repatriation. The repatriation of powers from Brussels, which was a Conservative Party Policy while in opposition, has been specifically rejected by the Deputy Prime Minister. Using the formula-notwithstanding the European Communities Act 1972, would enable us to re-grow our economy and repatriate powers.

In cases in which European Union law, European Court of Human Rights law and European convention law contradict the wishes of the electorate, it must be made clear that the sovereignty of Parliament will override such provisions in a way that ensures that the wishes of the electorate are complied with, consistently with General Election and manifesto pledges. The European Communities Act is an entirely voluntary act. Hence, it means that the Parliament can, if it wishes, repeal that act or amend the regulations made under it. There is no presumption that merely because of the European Communities Act 1972 we have to accept whatever is given to us by the European Union. If it is not in our national interest, we must repudiate it. It is not possible to get rid of the regulations made under the 1972 Act without expressly providing in the legislation that, 'notwithstanding the Act', Parliament should act in that way. This formula could be applied when there is a clear threat from European legislation or legislation emanating from the European convention on human rights or the European Court of Human Rights. Using the formula "notwithstanding the European Communities Act 1972", the courts would be obliged to give effect to the later legislation. We need to restore our democracy, and reassert parliamentary sovereignty.

A Referendum on the European Union

The British people are completely with us on the European issue – and they are also fed up, sick and tired, just as they were over the Alternative Vote, where approximately 75% completely rejected the Lib Dem proposals. This will happen on Europe, if they are given the chance of a Referendum.

EU legislation and EU policy are destroying Britain. We need a strategy to force the Coalition Government to pass a Bill to give the electorate a Referendum.

The recent announcement of the Government's email petition merely invites a possible debate, which MPs can arrange anyway. A real petition demanding that Parliament passes a Bill to all authorise and to require a Referendum, asking the right question (see below) is essential. Such a Petition would contain names and addresses by constituency – especially marginal constituencies.

When I set up the Maastricht Referendum campaign in the early 1990s, this raised about 700,000 signatures. We will do far better now. We are not dealing with predictions about Maastricht, but about an actual European crisis and the impact on people's daily lives.

The strategy, therefore, is to obtain support inside and outside Parliament for a Bill to authorise and require a Referendum with the following question.

The Referendum Question

The question to be asked of the voters, which must be embedded in the Referendum Bill itself, should be on a simple majority whether they wish a) to leave the European Union or b) to renegotiate our relationship with the European Union into a trading association of nation states with political cooperation. This would present the voters with a clear choice and the outcome would depend on which of the two questions achieved more than 50% of those who voted.

The status quo is simply untenable – nor is it realistic to give up the veto in return for opt outs which are simply not on offer, although there is no harm in trying.

The Coalition Government has other problems to contend with as well, such as 'Hackgate' and the UK riots and a string of U-turns, difficulties with the lack of growth, the public sector, pensioners, health reforms, cuts, VAT, disaffection with the armed forces organisations, etc, on top of which putting the enfeebled and Eurofanatic Lib Dems in their place – who have nowhere to go and certainly do not want a General Election where they will be annihilated (they are down at about 10% in opinion polls) – would together provide David Cameron with a powerful reason to keep his own troops on board. Furthermore, the pressure would build to for him to allow the Bill to go through. As to the need for Labour votes in Parliament, Ed Miliband has already given instructions to his whips to shift gear in the Labour Party on aspects of the European issue. They have, significantly, abstained already on certain European votes. There are indications that Miliband is prepared to consider some form of renegotiation of the European Treaties himself, no

doubt under trade union pressure (e.g. loss of jobs following the debacle over the Public Procurement Directive and Bombardier).

The Lords are also involved as a second House. They are deeply disaffected by the Coalition Government's direct attack upon them over many matters, particularly the Bill for an elected House of Lords, and would not stand in the way of a Referendum Bill.

The European issue is littered with broken promises on all sides and all parties, except the Eurofanatic Liberal Democrats.

The Coalition Government is continuing the broken promises in compliance with the Coalition Agreement (see above, reply to me 18 July 2011). David Cameron obtained my vote (as from other senior Conservatives still in the House) in the leadership election on a clear understanding that he would protect the sovereignty of the United Kingdom Parliament. In December 2005, after his election, he also promised the "imperative" repatriation of social and employment legislation – see his Centre for Policy Studies speech – which has since been refused. The Conservative Manifesto promised a Sovereignty Act and repeal of the Human Rights Act, both of which were based on my own proposals and both of which have since been denied. Furthermore, the Lisbon Treaty, to which I put up and debated about 150 amendments, was also, line by line, opposed by the Conservative Party (on which we were united for the first time since 1972), and we voted together for a Referendum. The Referendum has been denied and the Lisbon Treaty is now being implemented in full with disastrous consequences day by day for the United Kingdom.

The European Union Act 2011 proposes Referendums in the future but certainly not the kind of Referendum Bill which is proposed in this strategy and, in any case, the Government has made clear that there will be no Referendums in this Parliament, i.e. until the new Parliament starting in May 2015, by which time the fiscal union of the hardcore European Member States, and much else besides, will have already caused massive damage to our national interests.

David Cameron is very intelligent and assured but he is failing to see the big landscape and the potential economic crash which is moving from slow to fast-forward. He must get ahead of the curve. He needs either to put the Liberal Democrats back in a box or disband the Coalition in the national interest. He is locked into power without a strategic national interest. His sense of history must lead him to take decisive action for his own country and lead Europe and the United Kingdom into a new era.

I wrote to David Cameron on 10 May last year, as he was about to form the Coalition, insisting that at the very least the Liberal Democrats in any form of Coalition must be required to abstain on European issues, but they have in fact been given a stranglehold. Nick Clegg has publicly ruled out repatriation of powers (e.g. employment legislation) and any Referendum, e.g. on fiscal union within the Eurozone or any shift on the Coalition EU policy. This policy is exclusively confined to their interpretation of "any transfer of competencies or powers" to the European Union and they construe this extremely narrowly, even pretending that the creation of a fiscal union within the Eurozone "would not affect us", which is absurd.

Furthermore, when I proposed a simple clause to the European Union Act while it was going through – "The sovereignty of the United Kingdom Parliament is hereby reaffirmed" – David Cameron voted against my clause, whipped the Party and pressurised MPs who wanted to vote for this.

As far as the increase in the European budget is concerned, my amendment was adopted by Parliament as a whole to stop the increase and some increase was accepted by the Government.

David Cameron also proposed to undermine the 1922 Committee within a few weeks of becoming Prime Minister, which I stopped by taking pre-eminent Leading Counsel's opinion that Cameron's proposals to bring Ministers into the 1922 Committee was contrary to the Conservative Party Constitution. He had intended to dilute backbenchers' votes on matters brought before the 1922 Committee. This Committee is the bastion of the Conservative Party against unacceptable leadership policies and it also is the forum which determines the basis of Conservative Party leadership elections. My threat, which was real, to take them to the High Court the next day succeeded. They backed down. They wanted to undermine the 1922 Committee which was the only means available to us to restrain the Government from pursuing policies (e.g. European policies) contrary to the national interest as seen through the eyes of the backbenchers in the 1922 Committee.

Against this background, it will be seen that not only has there been a string of broken promises but, although the Liberal Democrats are weak and feeble and could be ignored and put back in their box, the real European policy which is being pursued is one of acquiescence in further damaging European policies because they are the real policy of the Foreign Office / No. 10, with or without the Liberal Democrats.

The time has come for real action with real support. We are now faced with a two-tier Europe, with a dominant Germany, fiscal union and a hard core economic "federation" with whom we have a massive trade deficit (-£53 billion

last year), with no attempt to deregulate burdens on business with EU regulation and with a massive European financial crisis. We have a trade surplus in the rest of the world in the same period of £7.1 billion. We must have a strategic change in our foreign, European and economic policy to achieve growth, to continue to try to improve trade with Europe, and to shift our overall trading framework to the Commonwealth and the rest of the world. To achieve this requires a Referendum for all the reasons set out above.

There has never been a better opportunity for achieving this. There are the blatantly obvious facts of the damage being caused by the European Union which are now clear throughout the country and are only being resisted through the application of the Coalition Agreement and the refusal to tackle the European issue – despite the fact that it is European policy and legislation which is sacrificing the national interest and the chance to reduce the deficit through economic growth. This is the only means of achieving economic stability in the UK and providing for such reasonable public expenditure as can be justified and by giving oxygen to the business community and the reasonably taxed private enterprise on which our prosperity and now failing growth prospects ultimately depend.

Conclusion

The EU stands at a crossroads. The Greek, Irish and Portuguese bailouts which continue to plague the Eurozone are symptomatic of a deeper structural failure of the European project which requires radical renegotiation. Italy and Spain are on the brink. The EU is not working and is inherently undemocratic. Union rules do not work. Economically and politically, there must be radical reform of the system. Within the acquis communautaire, the EU is uniform and inflexible. The EU claims irreversibility with qualified majority voting and the system of co-decision. The UK and other Member States need an EFTA-plus arrangement through a free association of nation states – “associated, but not absorbed”, as Churchill said. Parliament must override all the so-called provisions which are deemed not to be in our national interest. Parliament is the ultimate authority for the United Kingdom and not the Supreme Court or the Court of Justice of the EU.

There are those who would wish, as ever, to divide the Eurorealist movement – but the questions that need to be answered by them is who has been proved right over the years and in what respects have they been wrong? It would be helpful to say the least that if those who wish to divide the Eurorealists would come out with transparent and candid arguments and to say what they really want and to what extent they support Government policy and if so, why?

The whole of Europe is trembling and action is needed now. David Cameron should take the lead in establishing the European Free Trade Area-plus which would be purely Intergovernmental. It is in our vital national interest to do so. The Liberal Democrats and elements in the Conservative Party are allowing further European developments dressed up as if they affect the Eurozone only. What is really happening through an unacceptable distortion of the existing Treaties is the creation of two Europe's to which the United Kingdom would remain bound by Treaty and law though they are built on sand. They include the creation of a greater Germany which is neither in the interests of the European Union as a whole, nor of Germany itself – and particularly not in the national interests of the United Kingdom. The whole system will disintegrate with ever-greater disturbance and economic disaster. This will encourage the rise of the Far Right and undermine democracy in Europe. This can all be avoided, even at this late time. There are already massive protests and riots. Unemployment levels have already risen to utterly unacceptable levels, particularly for the young. There is no growth and no means of creating growth. The panaceas are merely scraps of paper and the triumph of hope over experience by those who are wedded to an ideology which has long since passed its sell by date, as long ago as Maastricht and most obviously since the Lisbon Treaty, which achieved nothing but contributed much to the present chaotic situation in Europe. The United Kingdom, in its own vital national interests, must take the lead in renegotiating all the European Treaties, combining with other Member States who reject the need for European economic government and fiscal union for the Eurozone. We must return to an EFTA-plus arrangement, so that we regain our democracy and economic stability and, with it, the ability to deliver policies for which the British people have voted or leave the European Union altogether. These issues are so great that they must be preceded by the Referendum proposed above. The status quo is undermining the United Kingdom.