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# Letter from the editor

**Sara Moore** (page 3) starts off this issue asking if the role played by the euro and Germany's continuing wish for a dominant role in Europe lead inevitably to a 'Closed Bloc' Europe? The astonishing similarities between political developments, the events leading up to the 1929 stock market crash and the Great Depression, and the events following the introduction of the euro require us to pause and ask 'whither Europe?'

**Jens-Peter Bonde** (page 5) argues that the Irish Government formally betrayed its people by accepting to have a new referendum on the Treaty of Lisbon

**Glen Ruffle** (page 6) looks into a combination of different political forces currently aligning that could soon begin a series of consequences which would undermine NATO's future. He later argues in another article that as the Commission takes more and more legislative power from European governments, it is allowing for the remilitarisation of Europe as, once again, a potential battle ground between the US and Russia, and thereby creating a Euro-military force.

In the first in a series, **Christie Davies** (page 8) looks at the asymmetry of Central Europe's power in the EU. The fact that France, Germany and Italy control 43 per cent of the votes as against only 5.6 per cent for the three peripheral Central European countries, the Czech Republic, Hungary and Slovakia, may well lead Central Europeans to have doubts about the future.

**Martin Wright** (page 10) asks if the recent extradition proceedings relating to the alleged Holocaust denier, Dr Frederick Toben, pursued under the European Arrest Warrant (which is enforced in the UK by the Extradition Act 2003), raises concerns about the erosion of the right of individual Member States to legislate and administer their own laws.

Founder of a new political party dedicated to campaigning against the Lisbon Treaty in the Czech Republic, **Petr Mach** (page 13) advises that the "financial crisis has become an excuse for the European Union to increase the socialization of the economy and to usurp new powers. Somebody should tell the European Union that it does not yet have a mandate to do so. Someone should remind the European Union that the Treaty of Lisbon has not been ratified yet."

Of particular note is a report by **Margarida Vasconcelos** on how Tony Blair gave up £7bn of the UK rebate in return for reform of the Common Agricultural Policy and despite the Union's latest attempts, there is still no serious reform on the way (page 21).

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 Editor

# The euro, the stock market collapse and the future of Europe?

**Sara Moore** asks if the role played by the euro and Germany's continuing wish for a dominant role in Europe lead inevitably to a 'Closed Bloc' Europe? The astonishing similarities between political developments, the events leading up to the 1929 stock market crash and the Great Depression, and the events following the introduction of the euro require us to pause and ask 'whither Europe?'

History has been defined as 'past experience' and at this critical juncture in the turmoil and uncertainties of European and world markets it is timely to reflect on previous changes in currencies, stock market performances and political developments. Is the role played by the euro and Germany's continuing wish for a dominant role in Europe leading inevitably to a 'Closed Bloc' Europe? The astonishing similarities between political developments, the events leading up to the 1929 stock market crash and the Great Depression, and the events following the introduction of the euro require us to pause and ask 'whither Europe?'

It seems that the arrival of a new currency often leads to stock market crashes. In 1873, two years after Germany adopted the Gold Standard, the Austrian and US stock markets crashed and the new German Reich was plunged into a lasting depression.

Between 1924 and 1929 Germany, Britain, France and Japan adopted the Gold Standard. In 1929 Germany's and later France's gold purchases caused a fall in Britain's gold reserves and a rise in her bank rate. Money became scarce and in October 1929 the American stock market crashed.

Following the European Union's adoption of the euro, the ECB kept its interest rates at 2 per cent to help re-unified Germany. Money poured into Britain and America distorting money markets. After December 2005 the ECB inched up interest rates seven times. In January 2007 Germany raised VAT by 3 per cent and the German unions asked for increased wages in compensation. German Bundesbank President Axel Weber sought and secured another ECB interest rate rise to curb German wage inflation. Higher interest rates then caused funds to sweep back to Europe and soon the US and UK financial systems began to crack. After a further ECB interest rate rise in July 2008 stock markets round the world collapsed.

From this one can see that countries must proceed with great caution in dealing with the far-reaching consequences

of falling and rising interest rates after a new currency is introduced

In 1929, however, while Germany's return to the Gold Standard did affect currency flows, it was principally their political moves in relation to war reparations that contributed to the Wall Street crash.

The US stock market swept to dizzy heights in 1929, until the Young Plan war reparations agreement (in which America and the Allies agreed to remove their controls from the German economy and to give her a generous new financial deal) was finally concluded on Saturday 31 August. The first instalment was to be paid almost immediately, even though the agreement had yet to be ratified.

Five days later, on Thursday 4 September, the American stock market dived. The following Monday the *New York Times* consoled investors that money markets were guarded against old-time panics, both by their accumulation of gold and by their fund of available foreign credits. However, the stock market kept on falling and the German funds, which had come in quantity since the beginning of the year, began to ebb away.

Across the ocean in Germany, bellicose Alfred Hugenberg, right-wing leader of Germany's second largest political party and owner of over 500 newspapers, also revealed that Americans' trust in him had been misplaced. He had sent a much-publicised letter to 3,000 prominent American Senators and governors in the spring asking them to give

Germany a generous reparations deal. Yet after the Americans had done as he had suggested, he suddenly campaigned against Germany paying any reparations at all. He put the minority party leader Adolph Hitler on the committee he had set up to promote his new petition. This called for President Hindenburg and the whole German cabinet to be tried for treason for accepting the Young Plan reparations agreement and all treaties signed since the war (including the Treaty of Versailles).

The German socialist coalition government was appalled. On 13 October 1929 it declared that Hugenberg's petition

**While Germany's return to the Gold Standard affected currency flows, it was principally their political moves in relation to war reparations that contributed to the Wall Street crash.**



was a 'monstrous attempt to incite the German people against the government and to annihilate the ten year good-will policy of the republic with Germany's former enemies.'

On 17 October the two-week process of counting Hugenberg's petition began. The *New York Times* reporter declared '... no other post-war political issue has contained an equal amount of mischief in its make-up.' Yet it believed that the petition would gain sufficient votes for Germany to have to hold a national referendum.

On 21 October 'perpendicular' falls were recorded on Wall Street after the dollar fell sharply against the mark on Berlin's money market.

The final straw for the market was the discovery that Swedish match king, Ivar Kreuger could no longer honour his side of an agreement with the German government, under which he received a monopoly of the German match industry in return for loaning it \$125 million to help pay the initial Young Plan reparations instalment. On the evening of 22 October Americans read with horror that indebted Kreuger was trying to raise money on Wall Street to help pay the initial instalment; this called into question, not only Germany's ability or willingness to pay the reparations, but also whether any of Germany's debts would be repaid.

On 23 October 1929 the American stock market crashed - 19,226,400 shares were sold but no one criticised Germany in case their fears proved unfounded.

In 2008 stock markets have not fallen nearly as far as in 1929 but the banks are in a bad state and a deep recession is feared. It is therefore worth looking at the Great Depression to see if there are lessons to be learned.

Upon becoming Chancellor in 1930, ascetic ex-gunnery officer, Heinrich Brüning told the (ex-military) civil service unions that his chief aim was to free Germany from paying war reparations and foreign debt. He would have to lower their wages and tighten credit so that German exports could conquer foreign markets. They agreed 'as long as ... all classes of the German people' suffered equally. So the German agony began. Only 1.2m people were without jobs in June 1928 but 6 million became unemployed in the Great Depression. Eventually Germany was let off paying reparations. Yet there is ample modern evidence that she was less poor than she made out. Germany's economy had been disrupted by political unrest after the war but she owned the most profitable coalfields in Europe. By 1931 she was the greatest exporter in the world with reserves in the Reichsbank covering an astonishing 40 per cent of the notes in circulation. So when she closed down her economy and diverted all her energy into exports, she caused misery and despair throughout Europe and America.

Germany's secret exports to the Soviet Union also upset the world economy because Stalin was prepared to sell wheat at any price in order to buy German armaments. After expelling his Kulak farmers to the Arctic, Stalin exported their wheat to the already overprovided market in North America. The resulting collapse in the world wheat price brought the 'dust bowl' to America.

Today there is no chance of world agricultural prices collapsing in a similar fashion. Nevertheless there are disquieting parallels with the 1930s. Germany is once again the greatest exporter in the world; she is also cutting public expenditure. This year she has been able to generate a satisfactory budgetary surplus. Next year, despite the world economic downturn and the threat of dramatically increasing unemployment at home, she is planning on saving even more money. In view of this we have a right to ask, has she any political motives?

Angela Merkel has had popular support in her campaign against the hedge funds. Yet there is one anxiety about German policy that foreigners have not articulated, the goal of an economic 'fortress Europe.' Mrs Merkel gave a sterling defence of open markets at the World Economic Forum in Davos in 24 January 2007. But she also declared

*The positive thing is that today's economic potential rests on many more shoulders, the downside is that industrial investment can ruthlessly be removed from one country to another, affecting poor countries well-being ... So what would be more obvious for Europe than for it to just hold its ground and cut itself off from the rest? We know that even in 2011 the European Union will still contribute four times as much to the world economy as China. Would it not be a successful strategy to exploit our strengths ruthlessly, secure the global resources necessary for our own prosperity just in time and build a few walls to conceal our own weakness? My short sweet answer is no.*

Angela Merkel then went on to outline her answer to the threat globalisation posed to the European Union by declaring that the European Union's salvation lay in reducing bureaucracy and in further integration. Yet it is interesting to note that the idea of a 'fortress Europe' had crossed her mind at all. Most people attribute European desires for protectionism to France. Nevertheless in 1912 the Germans talked menacingly of a 'closed economic area to secure our need for raw materials and our exports' and one historian even declared of the Second World War, 'from an economic perspective ... the war amounted to a gigantic struggle between two diametrically opposed views on how to organize the future world market: Closed Blocs vs. the Open Door.'

We appreciate the fear that Germany and the European Union have of the escalating power of China and the Far East but destroying the wealth of Western Europe and America in order to create a Closed Bloc economy to exclude them, is not the way forward. The arrival of the euro did cause an unfortunate flight of funds to America and back again and helped cause an upset in the world economy. But if the recession gets worse we shall look for a parallel in history and, understanding the role that Germany has played historically, take the necessary steps to ensure that Europe does not become a 'Closed Bloc' economy by default.

*Sara Moore is the author of two books, Peace without Victory for the Allies 1918-1932 (Berg, 1994) and How Hitler came to Power (2006).*



# Ireland will re-run the same treaty with no legal changes

**Jens-Peter Bonde** argues that the Irish Government formally betrayed its people by accepting to have a new referendum on the Treaty of Lisbon.

The EU Summit in Brussels finished on time. The Irish government formally betrayed its people by accepting to have a new referendum on exactly the same text which was rejected 12 June by 53.4 per cent of the Irish voters.

They also accepted a decision to bring the Lisbon Treaty into force from 1 January 2010 even if it has been rejected. Thereby they have already concluded that a second referendum will be a “yes”.

The Irish voters can choose between “Yes” and “Yes please” – the Lisbon Treaty will be put in force no matter their preference.

The government has obtained only one real concession. There must be a commissioner from each Member State. But it will be up to the majority of EU leaders to decide who shall be representing each Member State.

There will be nothing changed in the Treaty concerning this matter.

There is also talk of so-called ‘legal guarantees’ for sensitive issues from the Irish debate. But legal guarantees have to be ratified to become truly “legal” by the other Member States. There is however no further discussion on a re-vote on the Lisbon Treaty by other countries.

Then they have aired a possibility for making such guarantees legally binding in the next Treaty. Well, this is only possible if they insert these promises in the existing treaties.

The reality is that the Irish government simply plans to make declarations against some possible interpretations of the Treaty. They could state, for example, that nothing in the

Lisbon Treaty will include provisions for conscription to an European army.

I heard this argument only one time during my many meetings in Ireland. It was the foreign minister who brought it on television as a “No” argument! I never heard it from “No” persons.

Such declarations will in fact change nothing. The Irish voters will therefore be asked to vote on the same Treaty twice while voters in other countries are not allowed to vote for it once.

This is very bad for the feeling of belonging to a democracy. The EUDemocrats will urge the governments to bring the Lisbon Treaty to a referendum in all Member States instead of asking the Irish to vote twice on the same issue. And, why not, have it all together with the European Parliament Elections between 4-7 June next year.

Or even better: let us establish a short and readable Treaty which can be read by prime ministers before they sign it. The Lisbon Treaty has not been read by any of the Prime Ministers when they signed it and we don't think it likely that they have looked upon it since.

*Jens-Peter Bonde, the current President of the EUDemocrats, recently retired from his position as a Danish MEP in the European Parliament after 29 years of service. He was Co-Chairman of the Independence and Democracy Group. He has written more than 60 books including reader-friendly editions of the EU Constitution and the Treaty of Lisbon.*

## Václav Klaus leaves ODS

The Czech President, Václav Klaus, has resigned as honorary chairman of the party he founded, the Civic Democratic Forum or ODS. He announced his decision following a congress of the party at which the enemy, the current Prime Minister, Mirek Topolánek, was re-elected as party chairman. Klaus and the ODS have been increasingly at odds over recent years as a result of differences over European policy. The Lisbon Treaty has brought these differences to a head, since Klaus has openly and vigorously campaigned against the Treaty while the Topolánek government strongly supports it. [*České Noviny*, 8 December 2008]

Klaus immediately announced his intention to stand behind the formation of a new political party, which is to be headed by a friend of the European Foundation, Petr Mach. A young economist, Mach has for many years run the Centre for Economics and Politics, of which Klaus is the President.

There is considerable speculation in Prague that the creation of a new party is linked to the plan to create a pan-European Eurosceptic political party. This idea is principally being driven by Declan Ganley, the man credited with bankrolling the successful “No to Lisbon” campaign in Ireland, who is now trying to turn his energies to the creation of a pan-European party which would aim to win a majority of seats in the European Parliament.

Ganley has been the subject of intense speculation and hostility in the European (including Czech) press. He has been accused, variously, of being financed by the Pentagon and by the Kremlin: the latter line is being peddled in Prague, while the “American connection” is the favourite of Ganley's enemies in Western Europe. The veteran dissident, Jan Urban, has accused Ganley of being a “Russian Trojan horse” for the EC. [4 December 2008, [www.obozrevatel.cz](http://www.obozrevatel.cz)] [John Laughland]

# Dancing, but to who's tune?

**Glen Ruffle** looks into a combination of different political forces currently aligning that could soon begin a series of consequences which would undermine NATO's future.

A combination of different forces is aligning that could soon start a series of consequences which would undermine NATO's future.

It began in April 2008, when NATO ministers met and agreed that eventually, Georgia and the Ukraine would join the alliance. The much sought after MAP (Membership Action Plan), the actual timetable for membership, was however denied.

The next major development was in August. From what it is possible to gather from the OSCE, the Georgian President, Mikhail Saakashvili, pulled the trigger first in a tense situation that had built up in South Ossetia. Separatist forces had for a long time been receiving aid and help from Russia, and when Saakashvili decided to try and crush them by force, he bit off much more than he could chew. Presumably he thought the West would help and be able to stop Russia, but geography worked against him. The West was helpless and Georgia was, and still is, at the mercy of Russia.

The brief war shook Georgia. The West was helpless. For all its bravado, the United States was shown to be a paper tiger in this situation. Georgian policy has since had a time of reflection. NATO, the United States' military alliance, was unable to offer as much assistance as the French Presidency of the EU appeared to do. And, given the EU's military ambitions and the fact that the new Treaty of Lisbon, forced through parliaments across Europe, duplicates NATO as a collective defence organisation in Article 42.7, suddenly the prospects of NATO membership seemed somewhat less enticing.

The Georgian war offered the Europhiles and Francophiles a fantastic opportunity as well. For the EU, it opened up the perfect opportunity to intervene and carry out diplomatic missions and peace keeping operations. With the full knowledge that Russia would not tolerate any NATO presence in such a role, the EU, so keen to build close relations with Russia as Russia is such a vital energy supplier, can slip perfectly into the role of middle-man, helping to keep both sides happy. Bernard Kouchner after all did lay out French policy clearly: "In the EU we want to maintain a dialogue with Russia...it is our neighbour...and we are consumers of their energy". Georgia has the security of British and French military patrols, and EU taxpayers money, whilst Russia has the security of knowing its compliant partner, the EU, is bereft of NATO's most unpopular member, the United States.

And it is the absence of the United States from EU missions that also pleases the Francophiles. Russian and French policy coincides at this point: both want to reshape the world order, and to establish a new system whereby the

world is more multipolar and the US is 'just another state' amongst many. By strengthening the EU through peacekeeping operations and developing its military capabilities, France further undermines the need and credibility of NATO, which can be used as an instrument of US policy.

Subsequently, these celestial movements have produced a Saakashvili government in Georgia that recently, started emphasising EU relations rather than NATO membership (particularly after a new MAP was again denied recently), and an EU that is exploiting the situation to develop itself as a state and weaken US hegemony, and a Russia which is pleased as its policy of weakening the US is furthered by other international institutions. The Georgian border is of course not the only place where the EU is stepping up to missions. The former Yugoslavia, another region where Russian interests are significant, is also increasingly being managed by the EU instead of the United Nations. Only recently, the UN Mission in Kosovo handed all operations over to EULEX, the EU mission which will from now on manage this province.

Unfortunately there is little sign that the US has realised what is happening. Whilst dismissing Sergei Ivanov's Russian plan for a new European defence treaty as blatantly anti-NATO, US Deputy Assistant Secretary of State, Matthew Bryza failed to expand on the way the EU is undermining the *raison d'être* of NATO as well. France, on the other hand, announced that Russia's idea would be discussed, as the EU wants a renewed commitment from Russia to the Conventional Armed Forces in Europe Treaty. Such a commitment would undoubtedly include a clause that demanded the removal of the American missiles from Eastern Europe. This removal will be less of a blow to Eastern Europe if the EU acts as a new security guarantor, which the Treaty of Lisbon makes steps towards.

'New Europe' can thus be placated, and so we must look at 'Old Europe'. Germany, Italy and France have been singled out as the main movers opposing any Membership Action Plan being given to Georgia or the Ukraine. For these 'old Europe' states, there is no fear of a neighbour who recently was your master. Russia is instead a major business partner and opportunity, and of course a vital energy supplier. So whereas 'new Europe' still feels it has a valid reason for NATO membership, the 'old Europe' heartlands no longer have the ideological glue that held the alliance together. Yet they are still members, and can thus from this strong negotiating stance can direct the organisation. As such, NATO is now no longer so much about 'old Europe's' defence as is becoming a lever for 'old European' politics.

Such political manoeuvrings at NATO's expense will only

exasperate and alienate the US. NATO will no longer be the useful tool of US policy it once was. The US will assess its commitment to the alliance, and probably downgrade it, eventually relegating it to redundancy. The EU will be able to step in and offer to take over the buildings and structures of NATO, expanding the presence of the EU cell that currently already is installed in NATO supreme command in Belgium. The absence of one major enemy has produced a major ideological void in NATO that is being filled with national ideas, and as economic difficulties will be increasing, states

will be looking for the best uses of their resources. Committed legally to the European Union, many states in Eastern Europe will feel obliged to put more effort into the EU's Defence Agency and the "framing of a common Union defence policy". This in turn will see NATO commitments weaken, and the likely long-term effect of it all will be the emasculation of NATO and its eventual abandonment, leaving the US with a weakened presence in Europe. Just what the EU, Old Europe and Russia want. [Glen Ruffle]

## Czech Republic delays ratification of Lisbon

On 9 December, and at the request of the Prime Minister, Mirek Topolánek, the Parliament of the Czech Republic decided to delay the vote on the ratification of the Lisbon treaty until 3 February 2009. The Czech Republic is therefore the last country not to have voted on the Treaty, and it has taken over the presidency of the EU on 1 January 2009. The decision reneges on a promise made by Mr Topolánek to the German Chancellor, Angela Merkel, to ratify the treaty by the end of the year. His decision reflects the battle of wills between supporters and opponents of the Lisbon treaty within his own party. He was personally re-elected as party chairman on 7 December, thereby inflicting a defeat on the

Eurosceptic wing, he now has to make concessions to those who support a less pro-EU policy, in particular to prevent them from deserting the ODS and joining Klaus' new party instead. The delay to the ratification of Lisbon is also intended to allow the ratification of the treaty with the United States of America on the stationing of an anti-missile radar station near Prague, part of the anti-missile shield. This is to which a massive majority (some 70 per cent) of Czechs are firmly opposed. The anti-missile shield is also opposed by most parliamentarians and without the horsetrading over Lisbon, it would have no chance of being approved.

[John Laughland]

## Sarkozy now 'leader' in EU

The Elysée Palace is widely briefing that President Sarkozy has taken over the leadership role of the EU from Chancellor Merkel. It has been a hectic presidency – the Georgian crisis, the financial crisis, the ongoing agonies of the Lisbon treaty – made only more hectic by Nicolas Sarkozy's addiction to work. Berlin is convinced that Sarkozy has also shifted the main centre of gravity within the EU from Paris-Berlin to

Paris-London. Gordon Brown is said to be Nicolas Sarkozy's favourite person, since he reacted very positively to French initiatives over the financial crisis. He also wants to make progress on European defence with the French. The Germans, by contrast, have been rather disapproving about British policy. [Günther Nonnenmacher, *FAZ*, 12 December 2008] [John Laughland]

## EU and US on same wavelength

As predicted in the last *Digest*, the Atlantic Alliance is prospering in the wake of the election of Barack Obama. The president of the European Commission, José Manuel Barroso, has said that the thinking of the incoming American administration corresponds closely to that of the EU and its governments, and he has welcomed the fact that there will therefore be a "transatlantic answer" to the crisis. Barroso asked, "Why should there not be a common programme with

the USA?" Barroso had to calm some ruffled feathers in Berlin as his visit to London to attend a brainstorming session with Gordon Brown and Nicolas Sarkozy prior to the EU summit was regarded with suspicion by the Germans – not least because Chancellor Merkel was not invited. The EU package involves 200 billion euros. [*Frankfurter Allgemeine Zeitung*, 8 December 2008][John Laughland]

# Central Europe and the EU: unfair accession and the imbalance of power

In the first in a series, **Christie Davies** looks at the asymmetry of Central Europe's power in the EU. The fact that France, Germany and Italy control 43 per cent of the votes as against only 5.6 per cent for the three peripheral Central European countries, the Czech Republic, Hungary and Slovakia, may well lead Central Europeans to have doubts about the future.

When the Central European nations emerged from the long night of socialism they sought military security through NATO and a reinforcement of their drive towards a corruption-free democracy and a competitive and prosperous market based economy through joining the EU. They wanted the opposite of what they had known during the corrupt, undemocratic, state-planned period of Soviet domination. During the latter part of the pre-accession period collaboration between the Central Europeans and the EU and its existing constituent countries may well have been effective in the achievement of these common ideals and objectives.<sup>1</sup>

The actual accession was unfair and asymmetrical. The Central Europeans had to accept unfair terms imposed on weaker and vulnerable partners.<sup>2</sup> Because of the size and proximity of the European Union's market, they had very little choice but to join, whereas there was considerable opposition to their joining from 'old' members, who thought that an expansion taking in several poorer countries would disturb their existing pattern of comfortable privileges. The unfairness was to be expected given the ungenerous nature of the Association Agreements (Europe Agreements) concluded in 1991 and 1993 between the EEC and the core Central European countries and the conflicts to which they gave rise.<sup>3</sup>

Now three years on it is necessary to ask whether further progress towards the fundamental goals of achieving prosperity and eliminating corruption, through the establishment of open democracy and competitive markets, can still be effectively pursued within the European Union. Alternatively, have the Central Europeans entered a fundamentally undemocratic European Union, where corruption is tolerated, and one where competition, innovation and economic progress are faltering? It is a question that, of course, should be asked in every member country but it is one that has a particular importance and even poignancy for the Central European countries whose past was bleaker and whose hopes correspondingly greater than for the 'old' members.

## The Unfair Accession

The terms of accession were loaded against the Central European countries in three ways.

1. The *acquis communautaire* and the CAP had been designed and developed in the material interests of the earlier

members and particularly of powerful producer lobbies and to satisfy the desires to control of a central bureaucratic elite. They were not negotiable. They do not necessarily suit the nations of Central Europe.<sup>4</sup>

2. The free movement of labour is supposed to be a central principle of the EU but the existing members were allowed to bar the entry of Central European workers until 2011. . The Central Europeans were not granted the free mobility of labour that the original Treaty of Rome 1957 had seen as, "an essential element of European citizenship" and as "a fundamental right", "the most important right under community law for individuals".<sup>5</sup> All Europeans have equal rights but until 2011 some have more than others. To add insult to injury some old members have permitted and even encouraged immigration from outside Europe. Since 2004 there has been more movement of labour into the EU from outside than between the constituent countries.<sup>6</sup>

3. Central Europe ended up in 2004 without its fair share of the CAP and structural or regional funds that directly and indirectly subsidised and protected agriculturalists; payments will not become equal until 2013.

One supposed justification of the agricultural funds and the structural or regional funds is that they are there to assist groups who have low incomes by reason of where they live or the sector they work in. The Central European nations are far poorer than the established ones. Some of their regions to the east are the poorest of all and some parts of their agricultural sectors most in need of modernisation. If the principle of neediness applies, whether in relation to income or level of development, why was funding not diverted to them on their accession? That this did not happen shows that the principle is a sham. On 27 September 2006, at a time when the old member states took 90 per cent of the EU's agricultural spending with over 20 per cent going to a very wealthy France, the European Commissioner Mariann Fischer Boel was still claiming in relation to the CAP that: "the European model of agriculture embodies a core set of values".<sup>7</sup> Are unfairness and greed core EU "values"? When speaking of the EU Central Europeans would be well advised not to use the language of values but rather the language of power.

Initially the EU wanted the Central European farmers to get zero direct payments.<sup>8</sup> One curious justification given for

with-holding such funding was that it would halt or at least slow down the making of urgent and necessary structural changes in Central European agriculture.<sup>9</sup> Yet this point applies with even greater force to agriculture in the EU's Mediterranean countries, who are hopelessly addicted to EU subsidies. Surely by now those existing members who have been in receipt of EU aid over a long period of time should have developed to the point where they do not need it. If they have not so developed, should we not conclude that the money was wasted?

By 2013 the CAP, according to *The Economist* "the single most idiotic system of economic mismanagement that the rich Western countries have ever devised"<sup>10</sup> may well have to be scrapped due to cumulative pressures from other countries and trading blocs, who are also well aware that EU systems of income support and regional or structural funds are a form of disguised protectionism

### The Future Imbalance of Power

With accession in 2004 the situation of the Central European countries changed. Before entering the EU they had been supplicants forced to join on terms laid down by others, by a mixture of the arbitrary decisions of its bureaucracy and the material interests of its more powerful and querulous existing members. Now as full members they are entitled to press for the kind of Europe they want, which may well not

be the one that had it been intended they should want nor the one that suits the earlier members

The asymmetry in power remains. It is likely that in the future decisions will be made by simple majority voting in the EU, with the votes weighted according to population. In which case the core countries France, Germany and Italy will control 43 per cent of the votes as against only 5.6 per cent for the three peripheral Central European countries the Czech Republic, Hungary and Slovakia.<sup>11</sup> The best predictor of whether more powerful nations will treat their smaller and weaker neighbours fairly is to ask 'how did they behave in the past?' The loaded politicking of the pre-accession period should lead Central Europeans to have doubts about the future, particularly in those countries proposing to enter a Eurozone in crisis and about to become politicised in the interests of the larger members.

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## Dublin agrees to 2nd referendum

The Irish government has agreed to hold a second referendum on the Lisbon treaty. The EU has made one concession – that the number of commissars in the Commission will remain equivalent to the number of member states – and it claims that it will also give legally-binding guarantees that the EU will not interfere in certain sensitive aspects of Irish social and ethical policy (especially abortion). Anti-Lisbon campaigners in Ireland have quickly denounced the government for betraying its promise to respect the will of the people as expressed in the first referendum; they also dismiss the proposed guarantees, which will presumably take the form of declarations, as legally worthless. They also point out that the French presidency of the EU declared that it had agreed a deal with the Irish government (which lost the poll) without having ever consulted the people who led and won the No campaign. In other words, the EU stoutly refused to talk to representatives of the majority. [Declan Ganley & Jens-Peter Bonde, *EU Observer*, 11 December 2008]

[John Laughland]

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**"The Georgian eruption had wide-ranging consequences. It embarrassingly exposed the disunity, rivalry and weakness that characterises an energy-dependent European Union in its dealings with Russia."**

**Simon Tisdall, The Guardian, 9 January**

# The strange case of Dr. Toben

**Martin Wright** asks if the recent extradition proceedings relating to the alleged Holocaust denial, Dr Frederick Toben, pursued under the European Arrest Warrant (which is enforced in the UK by the Extradition Act 2003), raises concerns about the erosion of the right of individual Member States to legislate and administer their own laws.

The recent extradition proceedings relating to the alleged Holocaust denial, Dr Frederick Toben, have revived earlier concerns about the adoption, following the enactment of the Extradition Act 2003, of the European Arrest Warrant (EAW) procedure into UK law. In the event Dr Toben successfully resisted the proposed extradition to Germany. Nevertheless the case does raise concerns about the erosion of the right of individual member states to legislate and administer their own laws.

Dr Toben was born in Germany but has lived in Australia since childhood and is an Australian citizen. He runs a website which challenges generally accepted historical thinking about the Holocaust. At the time of his arrest he was travelling from the USA to Dubai via London. In none of these three countries is Holocaust denial a crime. Dr Toben might have been forgiven for thinking therefore that he was perfectly safe to undertake his journey. In that he was deluding himself, for he had not taken into account this

I mentioned that the issues about the EAW are not restricted to Holocaust denial. A prime example arose in 2005, when the Austrian cartoonist, Gerhard Haderer, published a small book of cartoons, "The Life of Christ", which included various pictures of Christ in unseemly situations. The book was banned in Greece, where he was tried in absentia for blasphemy and sentenced to six months imprisonment. It was only after conviction that the Greek authorities issued an EAW. According to the *Guardian*, this was the first time that an artist had been the subject of such a warrant. Conveniently, the conviction was subsequently quashed, but the point is nevertheless made.

A second example concern doctors involved in abortion or euthanasia. According to Lib Dem home affairs spokesman, Chris Huhne MP, there was such concern in Belgium about the stance of the Polish authorities on these issues that the Belgian Government had announced that it would not recognise any EAW issued by Poland in such cases.

**"The police boarded his plane to execute an EAW on behalf of the German prosecuting authorities."**

country's ever-growing subservience, thanks to the EU, to external legal concepts. The police boarded his plane to execute an EAW on behalf of the German prosecuting authorities.

Of course it is uncommon for a person to endorse Holocaust denial, but it is precisely when a subject seems to be beyond the pale that we have to ensure that we follow principle not emotion. It is simply not good enough to say "he's a nasty man, so who cares?" Moreover the situation is not confined to Holocaust deniers; there are other issues that either have arisen or could arise between EU states involving mismatches between the laws and cultures of individual countries.

Looking back, it is said that the EAW was introduced as a response to the growth of international terrorism. There was concern that traditional extradition proceedings were time-consuming and sometimes capable of being obstructed. The relevant page of the European Commission website boasts: "The European Arrest Warrant means faster and simpler surrender procedures and no more political involvement." You will note there the total absence of any concern that there should be checks and balances to ensure justice for the subject. Their only concern is efficiency. No doubt the KGB and Stasi were very efficient in their procedures, but that is hardly a recommendation for their methods.

Germany's constitutional laws are quite wide and ban "Volkshetzung" or incitement of any kind, not just anti-semitism. Politically there is a desire to improve integration of the large Turkish community and associated with that is a sometimes almost obsequious desire to avoid any offence. So could we be faced in a few years' time with German EAW applications against British journalists who have warned against Islamist extremism on the basis that a particular publication had upset Germany's Muslims? After all the German stance in the Toben case appears to be that anything published on the internet anywhere in the world is published in Germany. It may not be so far fetched, as Germany's laws are not concerned about whether the publication is true or fair comment but on the effect of potentially disturbing the harmony between communities.

A final example could easily arise once Turkey joins the EU. It is a criminal offence in Turkey to allege any massacre by Turkey of Armenians. Imagine that a journalist or historian residing in the UK did just that in a press article or blog. Previous Turkish behaviour suggests that it is quite likely that the Turkish authorities would issue an EAW for the journalist's extradition, particularly if an expatriate Turk was involved.

All these examples involve extradition for an action that is not an offence in the state where the accused resides. In legal

terms there is no “dual criminality”. The removal of the “dual criminality” test is the main objection to the introduction of the EAW. Under previous procedures, no extradition was possible unless the conduct complained of was regarded as criminal here. No such test applies in EAW cases.

During the passage of the Bill, the then Home Office Minister, Lord Filkin, promised Parliament that no one would be extradited for conduct that was legal in Britain: “.., if someone denied the Holocaust in the UK by whatever means, it would not be possible to extradite that person for that action, even though it might be an offence in Germany. These amendments will put beyond any shadow of doubt that no one will be extradited for conduct which takes place in the UK which is not contrary to our law.”

But the amendment and the promise do not amount to a test for dual criminality, for they do not test whether the action is a crime in the UK. The let-out is merely for acts committed in the UK, not for acts that are legal in the UK. So while some one who had denied the Holocaust while in the UK cannot be extradited, the Minister also said that if some one from the UK denied the Holocaust in Cologne market place and returned to the UK, they would be extradited back to Germany. Thus according to the new legislation if a Polish doctor had conducted abortions in Poland and then moved to the UK, we would be obliged to comply with an EAW to extradite him back to Poland, even though abortion (within defined parameters) is not a crime in the UK.

There are also a number of oddities in the structure outlined in the relevant EU webpage. The most glaring is that a person may not be extradited if he is the beneficiary of an amnesty concerning his criminality. But there is no exemption if it is not a crime at all in the UK. Thus a secondary ground can bring exemption but a primary reason cannot. The logic of that can only be described as Kafkaesque.

A second important safeguard in traditional extradition procedures was that the foreign jurisdiction would have to establish that there was a *prima facie* case for the accused to answer. There is no longer any such requirement; the European Framework Directive requires our courts to respect the legal systems of all other member states without question. The relevant EC webpage says: “The EAW is based on the principle of mutual recognition of judicial decisions. This means that a decision by the judicial authority of a member state to require the arrest and return of a person should be recognized and executed as quickly and as easily as possible in the other Member States.”

But why should we? Why should we necessarily believe that the legal system of a country that has only recently emerged from, say, a communist dictatorship is both fair in principle and practice, free from corruption and observant of due process? In 2001 Lord Justice Scott told the *Daily Telegraph*: “The fair-trial implications are serious. We are going to have a number of new entrants to the Community, sooner or later, and the decisions to admit them will be political decisions.

“They will all sign up to the European Convention on Human Rights, but some of them may be countries that do not have much depth of experience of what we would regard as the rule of law and democratic institutions.

“The extent to which the judiciary is truly independent of the executive, and – by our standards – able to provide an entirely judicially objective approach to trials, may be variable in particular types of case.”

Some states have been showing more independence of spirit than the United Kingdom. The EU website bewails *inter alia* that “effort ... is still required by some Member States to comply fully with the Framework Decision.” And also “A few Member States considered that, with regard to their nationals, they should reintroduce a systematic check on double criminality or convert their sentences. Noticeable in some Member States is the introduction of supplementary grounds for refusal, which are contrary to the Framework Decision, such as political reasons, reasons of national security or those involving examination of the merits of a case.” All I can say is: well done to those other states for asserting their sovereignty in these matters.

As it happened, no great principles were tested in the Toben case – the outcome was more mundane. The District Judge ruled that the EAW issued was invalid simply because it lacked sufficient detail about the time and place of the alleged offences. There was no need for her to consider more wide reaching issues such as dual criminality. Although the Crown Prosecution Service initially appealed, the prospects of success were slim, so the German government eventually consented to Dr Toben’s release and this was formally approved by the High Court. While Dr Toben is no doubt relieved to be back in Australia, observers may be less satisfied, as the principles behind the EAW have not been fully tested. The Toben case could be described as a near miss: a properly completed EAW form might have seen his extradition.

So what is the conclusion to be drawn? It is important for those who would like to preserve the essence of our common law, that (short of a withdrawal from the EU) the UK should either renegotiate the Framework Document or, more likely, amend the Extradition Act 2003 to restore the traditional checks and balances that ensure that the British courts test the validity of overseas prosecuting authorities’ warrant applications, rather than the current system, which often seems little more than a rubber stamping process.

Unfortunately the trend of affairs is entirely in the other direction. In the long term, the pressure will always be on greater unification of laws across the whole EU. More immediately the EU Council of Justice Ministers has just adopted the Framework Decision on racism and xenophobia seven years after it was first proposed. Although we already have laws against inciting racial hatred, racist assaults etc., our laws will now need amendment and augmentation in order to conform to a European standard rather than being tailored to our own society’s needs. How far the crusade against xenophobia will go is a moot point. Would the Conservative Party’s 2005 election posters on immigration have been legal?

# Ukraine famine remembered or misremembered?

The European Union has passed a resolution describing the famine in the Ukraine in 1932-1933 as “a crime against the Ukrainian people and a crime against humanity”. On 22 November, the event was remembered in Kiev and the European Parliament was represented there by Adam Bielan, the Polish Vice-President of the European Parliament: Poland has played a strong role in supporting the pro-NATO forces in Ukraine and this visit should be understood in that context. Although it is undoubtedly true that the famine was a terrible crime, it is highly questionable whether it (or any aspect of Communism) should be presented in the current nationalistic terms, i.e. as something which the Russians did to the Ukrainians. The European Parliament did recognise in its resolution that the famine led to the “mass annihilation of the Ukrainian people as well as other nations of the Soviet Union” and the latter part of this quotation is intended to protect the EP against claims that it is falsifying history: it is

indeed the case that the Soviet collectivisation policies oppressed the whole country and not just the Ukraine. It would therefore be unfair to present that policy as having been directed specifically against Ukrainians, but that is nonetheless obviously the political objective. In an interview, published on the European Parliament’s web site, Adam Bielan has said, “the Great Famine was the result of deliberate and planned-out policies which were meant to annihilate the Ukrainians’ national aspirations and which the regime considered would undermine the unity of the Soviet Union.” Like similar acts of historical “remembrance” in the Baltic States, this one is designed to present Communism and the Soviet Union as a purely Russian phenomenon, a distortion of the truth in view of the nationality of the Soviet leader at the time of the famine and in view of the fact that there were plenty of Ukrainian Communists too.

[John Laughland]

# Sikorski defends anti-missile shield

The Polish Foreign Minister, Radoslaw Sikorski, has defended the unpopular anti-missile shield which the USA wants to install in his country. Known as a fervent supporter of the USA in general and of the Bush administration in particular, Sikorski denied that Poland was going it alone in installing the anti-missile shield, saying that NATO had also expressed support for the project. He blamed Russia for the shield, saying that President Medvedev’s announcement that missiles would be installed in Kaliningrad and aimed at the missile launchers in Poland made it impossible for the Barack administration to backtrack on the project. Sikorski was also asked whether he might stand for the post of NATO Secretary-General, and he did not deny that he would. On the contrary he said, “I understand the argument that it would be normal, ten years after accession [Poland became a NATO member in 1999] to consider a candidate from the new NATO Member States. If our region were to provide the General Secretary, that would be like taking out an extra insurance policy.” In other words, Sikorski does consider that the main threat to his country and the region comes from Russia, and that the shield must be installed in order to face down Russian opposition. (The official line has always been

that the shield is intended to protect American from Iran and North Korea.) But Sikorski also expressed some dissatisfaction with the way NATO is operating. He said that the Alliance had spent hundreds of millions of euros on radars and defence mechanisms in its new member states, but that Poland had neither military nor command installations on its territory. In other words, he is calling for the deployment of NATO forces and command structures to the East of Europe, and complained that because this has not happened, “NATO in this respect has not in fact been extended at all.” Sikorski naturally rejected out of hand President Medvedev’s suggestion that a new European security structure be created, saying that instead Russia had to be encouraged to respect her existing obligations under various treaties. Sikorski also confirmed that he wants NATO to declare that it will react against any attempt by Russia to protect its nationals beyond its borders. In particular (and here his words chime in with those of Adam Bielan, discussed above) Sikorski said that Europe could not stand idly by if there was a crisis between Russia and Ukraine. [Interview with Gerhard Gnauck, *Die Welt*, 9 December 2008] [John Laughland]

**“Great Britain does not meet the entry criteria for the euro.” L. Bini Smaghi, ECB board member**



# Financial Crisis and the Treaty of Lisbon

*Petr Mach is executive director of Center for Economics and Politics, a think tank based in Prague. Originally published in Czech on 8 December 2008*

On 26 November 2008, the European Commission published its “European Economic Recovery Plan” (1) – a plan to spend EUR 200 billion of the public money with the aim to resist the current recession which some EU countries are facing. The plan was accepted by the Prime Ministers of the Member States at the Council meeting on 12 December 2008.

There are two things in this plan, in addition to its Keynesian economic nature, that one should take note of: First, the European Commission has no EUR 200 billion, and so it actually expects that the money will be spent by the individual Member States upon the Commission’s call. This implies the second, that the Commission acts as if the Lisbon Treaty, which was supposed to give the European Council a mandate to set guidelines for the economic policies of the individual Member States, were already in effect.

## Keynesian Nature of the Plan

In principle, any economic problem can be approached in two ways: the first approach – let us call it socialist or Keynesian – based on the politicians’ conviction that they know better than the ordinary people how to spend the ordinary people’s money. The second approach – let us call it liberal – is based on the fact that politicians do not know better than we how our money should be spent, and economic choices should therefore be left up to the individuals where possible.

From this perspective, the Commission’s plan is Keynesian, not liberal. The U.S. economist, Russel Roberts, aptly described the nature of this kind of redistribution and “fiscal stimuli” as follows: “It’s like taking a bucket of water from the deep end of a pool and dumping it into the shallow end”. This is exactly what the EU wants – that the Member States encumber themselves with debt and thus push out private investments from the loan market – and the European Commission could, in agreement with the prime ministers of the Member States, say that the EUR 200 billion is somewhat extra money, money that will save the European economy from the financial crisis.

## Who is going to pay for it?

The plan foresees that out of the EUR 200 billion, EUR 170 billion will be spent by the individual Member States by way of increasing their public debt, the remaining 30 billion will be provided by the European Union. But the EU does not even have the 30 billion. The European Union has an approved financial framework until 2013 and the GDP percentage, which the Member States send; the distribution is pre-defined, and the largest portion is used up by the farm subsidies. That is why the EU wants to use a quasi-fiscal tool:

the European Investment Bank, an institution whose shares are held, other than the EU, by the individual Member States. The bank is supposed to supply most of the “European” 30 billion EUR in the form of bank loans.

Do we want politicians to use political decisions to force banks to provide loans for politically preferred projects? At any rate, fulfillment of political goals through banks is not without cost. Since the accession to the EU, the Czech Republic alone has paid EUR 200 million (CZK 5.2 billion) from its state budget just to help increase the capital and reserves for covering the losses of the European Investment Bank. (The breakdown of contributions of all countries is available on [www.money-go-round.eu](http://www.money-go-round.eu)). And the Commission is now asking the Member States to increase the capital and reserves of the European Investment Bank so that it could provide the politically motivated loans in order to “save the economy”. There is a risk, however, that the politically motivated loans to, for example, Germany’s ailing car makers will become irrecoverable – thus worsening the financial crisis, which they were supposed to heal.

## Planning Commission

The plan “sets out a comprehensive programme to direct action to ‘smart’ investment”. What the European Commission is probably trying to say is that its members are smarter than millions of people active in the market. The plan literally says that billions of euros will be used for “factories of the future”. So, there will probably be some factories of the future controlled by the European Union. More billions are supposed to subsidize the production of “environment-friendly” cars.

Commenting on the plan, Barroso says: “Europe needs to extend to the real economy its unprecedented coordination over financial markets.” While economists may try hard to figure out what it means to extend to the real economy the unprecedented coordination over financial markets, I suspect that what the European Commission really wants is to extend its own powers and to weaken the market forces. The plan also foresees that the EU will redefine the mission of the recently established “European Globalization Adjustment Fund” – its new mission is said to be “helping people to find jobs” – it is therefore supposed to become a sort of multinational employment bureau.

In other words, this plan gave birth to a super-planning commission in Brussels. The people who wrote this Plan probably already have their offices in the Commission.

The Plan also says that “Member States should consider reducing employers’ social charges on lower incomes”. Does the European Commission know better than democratically

elected politicians in the 27 Member States what specific social policy should be pursued? "The Commission will develop guidelines allowing state support for loans". Bravo! Let us remember that we joined the European Union where the principle of single market was subject to the condition that the individual Member States cannot distort the market by providing support to their individual manufacturers. The European Commission says this should end.

The Plan is really "comprehensive". For example, another part of the plan says that "public authorities should pay invoices, including to small and medium-sized enterprises, for supplies and services within one month". Why within one month? And why specifically to SMEs? The answer is simple: because the central commission said so.

In other words, the Commission's proposal represents a broad central planning scheme and an economy controlled from the center in Brussels. The only obstacle is a political one. The plan would have to be embraced by the prime ministers of all Member States. Otherwise it would not be a plan of the European Union. But what if all Member States do not have socialist governments? Why should for example the Czech Republic get into debt on the instigation of the European Commission when we do not even have any financial crisis after all? Why should we pour more money into the European Investment Bank so that it could help saving German car makers?

I am afraid that the European Commission is deeply mistaken in that the measures proposed could improve the economic situation. Redistribution of money and centrally made decisions about in what and how much to invest have always led only to economic decline.

The European Union badly needs defense mechanisms that would stop such plan.

### Lisbon Treaty Is Not in Force

The European Union, however, does not have any mandate today to control the economic policies of the individual Member States under the basic treaties. The European Union treaties only mention a provision on the economic policy in the Maastricht Treaty, requiring that the countries seeking to join the Euro Area maintain the public finance deficits below 3 % of the gross domestic product and that their public debts not exceed 60 % of GDP. The countries that are already members of the Euro Area are subject to the so-called

Stability and Growth Pact, according to which the public finance deficit must not exceed 3% of GDP subject to financial sanctions. The treaties mention nothing about the Commission being able to call on the Member States to get into greater debt or to tell them for which they should use such loans.

The Treaty of Lisbon was supposed to change this. It says: "The Member States shall coordinate their economic and employment policies within arrangements as determined by this Treaty, which the Union shall have competence to provide" and "...To this end, the Council shall adopt measures, in particular broad guidelines for these policies." In addition, the Treaty of Lisbon would incorporate into the basic law of the European Union for the first time the basic character of the economic policy: "The Union...shall work for the sustainable development...based on...social market economy, aiming at full employment and social progress." A liberal economic policy is thus ruled out.

These provisions are completely taken over from the previously rejected EU Constitution. The Treaty of Lisbon changed one single thing as opposed to the rejected European constitution: Upon the request of the French President Sarkozy, the following sentence was deleted: "The Union shall offer its citizens ... an internal market where competition is free and undistorted." Instead, it merely says that "The Union shall establish an internal market".

I would not have any problem with the Plan if it were, say, a French plan of a democratically elected French government, implemented in France. But I cannot agree that this should be a central economic plan of the European elites for all European countries.

### Conclusion

A sensible person must agree, after having studied the plan of the European Union, that it is not about financial crisis. The Commission's proposals are unlikely to heal the financial crisis. Quite the opposite, through the so-called crowding out effect it will make it harder for businesses to access loans. The financial crisis has become an excuse for the European Union to increase the socialization of the economy and to usurp new powers. Somebody should tell the European Union that it does not yet have a mandate to do so. Someone should remind the European Union that the Treaty of Lisbon has not been ratified yet. [Petr Mach]

## EUROPE NEWS



### Greater Belgium

The EU has occasionally been caricatured as a 'Greater Belgium' and now it is to take on a post-colonial role in Congo, the former colonial possession of the Belgian kings. Eastern Congo has been plunged into chaos thanks to invasion by Rwandan Tutsis who claim to pursuing their former pursuers, the Hutus, who allegedly fled there after the 1994 genocide. The EU has decided to send a military mission there. This follows a request from the UN Secretary-General, Ban Ki-Moon, to Javier Solana, the EU's Foreign Minister. The purpose of the EU mission is to support the currently 17,000 strong UN blue helmets in the country, for such time as it takes for the UN to agree to strengthen its own deployment there by a further 3,000.

Negotiations between the government of Congo and the rebels in the East are on the point of breakdown, partly because the Tutsi rebels accuse the UN negotiator, the former Nigerian president and army chief, Olusegun Obasanjo, of being partial and supporting Kinshasa. [Horst Bacia & Thomas Scheen, *Frankfurter Allgemeine Zeitung*, 11 Décembre 2008] [JL]

# EU talks, Russia walks

**Glen Ruffle** argues that as the Commission takes more and more legislative power from European governments, it is allowing for the remilitarisation of Europe as, once again, a potential battle ground between the US and Russia, and thereby creating a Euro-military force.

On 14 November, President Sarkozy met the Russian President Dmitri Medvedev at Nice for the second round of talks in a process seeking to establish a new EU-Russian agreement. They appear to have been a further success for Russian diplomacy.

The first round of talks occurred in June 2008, but was then delayed after the South Ossetian conflict in August. The talks revolved around the main issue of the day, that being the global financial crisis, as well as the conflict. EU foreign ministers also met and approved the Commission's mandate to continue negotiating a new Partnership and Cooperation Agreement to replace the old one from 1997. Lithuania opposed any new agreement, but as unanimity is not required, the Commission got it's go-ahead. Georgia was placated by Javier Solana with the statement "this is not business as usual", which technically was correct - the talks were seeking to establish far more business than usual.

The subject of the extension of the Russian Presidential term to a maximum of two 6 year terms seems to have escaped attention at the summit. Whilst the EU talks strongly about promoting democracy and accountability, it's own inherent lack of these components (and its tacit acknowledgement that these aspects are missing) means confronting other states where such blatant maneuverings for political power happen lack any substance. Instead the EU Commission is happy to work with the Putin regime and opt for stability over too much democracy. The Russian Presidential situation does however offer stability and shows us that the next twelve years will continue as Putin ruled for the last eight years; in belligerently doing what Russia sees as best and in further working to undermine any other states leadership of the international order.

## What Russia wants...

The Russian world is one in which the US is a power among many. Russia knows it may not be the superpower, but sees no reason why it cannot be a major player on an equal footing with the US, China and EU. Subsequently, according to Dmitri Trenin of the Carnegie Endowment for International Peace, Russian policy is aimed at reducing US influence in the world, and pushing towards the creation of a multipolar order.

The Nice summit achieved these Russian aims. Medvedev, after the summit on November 14th, stated that Russia, the EU and France all shared a similar or identical vision of reforming the global financial architecture. Both Putin and Medvedev have been on record criticising the currency economic system, accusing it of blatantly favouring the US at the expense of everyone else. Medvedev argued that the

world financial framework must be "a system that should be accepted in all countries and that should work in the interests of all and not in the interests of just one country." For Russia, argues Professor Martin Gilman, former senior representative of the IMF in Russia, this includes removing the dollar as the main global reserve currency and replacing it with many reserve currencies including the Ruble.

## What the Commission wants...

This is music to the ears of the Commission. A global system with numerous reserve currencies is better than one where the dollar dominates, because it means that, given Europe's higher state of economic development than elsewhere in the world, the Euro would de-facto become the major reserve currency and thus the problems encountered in keeping the Eurozone together would be eased as the EU could splash out on Euro-fuelled spending spree's as the US has done on the back of demand for the dollar.

The Commission also hopes to secure a special deal with Russia guaranteeing the security of Russian energy supplies to Europe as opposed to China. If the EU is to be a secure project, then it needs energy security, and can not afford to be picky about the regimes that supply its energy. Meanwhile, Russia is able to offer secure supplies in return for EU pressure on admitting it to the World Trade Organisation. Trade Commissioner Catherine Ashton has already argued that EU-Russian relations would be far more valuable if Russia joined the WTO.

Yet the ability to pursue this dream is riddled with problems. As opposed to the coherent policy of Russia, the EU is weak and divided, with numerous national agendas mixed in with the federalist ambitions of those who exclusively propose all policy. Benita Ferrero-Waldner, Commissioner for External Relations, stated clearly that "Russia needs the EU", and only remotely suggested there might be some mutual dependence given the EU's enormous dependence on Russian energy supplies. Meanwhile, as well as the onward push with the Nord-Stream pipeline from Russia to Griefswald in Germany, Poland unilaterally decided to host US missiles, prompting Russian retaliation with the moving of it's Iskander missiles to Kaliningrad to target the US missiles.

There are a number of issues to highlight here: firstly, as the Commission takes more and more legislative power from governments, it is allowing the remilitarisation of Europe as, once again, a potential battle ground between the US and Russia, and also ambitiously seeking to militarise Europe and create a Euro-military force via Article 45 (TEU) of the Consolidated Lisbon Treaty and the burgeoning European

Defence Agency.

Secondly, EU cooperation with Russia can only harm Britain's trans-atlantic relationship, given the Russian ambitions. The EU is committed, via the 2003 St Petersburg Roadmap for a Common Economic Space, in Annex 1, Section 5, to cooperation in the field of Space research and policy, including "compatibility and interoperability" between the Russian GLONASS system and the EU white-elephant GALILEO project. This will increase US reluctance to share sensitive military information with the UK, for fear that it will leak to Moscow.

Finally, one must ask where the diplomats are. If these missiles are for Iran, and not Russia, then why is the British Labour government not trying to encourage the allaying of Russian fears by asking the US to allow inspections of the

site? Why cannot a joint site be found, as Russia suggested, in Azerbaijan, which is also far closer to Iran? US Defense Secretary, Robert Gates, did after all say that he had no idea what the Kaliningrad missiles were for, as "the only real threat on Russia's periphery is Iran". And given President Medvedev's statement that he would seek a new European Security Treaty, that would undoubtedly involve the removal of missiles from Europe in it, the failure of EU political leadership is completed.

It is clear that the EU is a structure inherently crippled from within by differing interests, and unable to give effective leadership without compromising key allies. Britain needs a government that will take serious issue with seeking Britain's interests free from the structural tangle of the EU; either by renegotiating or demanding reform and a looser relationship.

## EU holidays in 2009...

*Glen Ruffle writes:* As the Labour government progressively turns an economic downturn into a crisis by crippling the British state for decades to come, it would seem odd to think about holidays. Many people will now miss out on breaks because of Brown's 'bust'.

Yet Tourism has become another area where the EU is encroaching its powers. Prior to the Lisbon Treaty, tourism was an exclusive member state competence, though that did not stop the Commission and European Parliament finding ways to intrude under the guises of consumer protection and making sure the market was working efficiently (see European Parliament Resolution on the 29 November 2007).

Despite not being an EU competence, the Commission has launched numerous programmes to develop the EU's power in this area, as well as creating other policy area programmes with numerous side-effects on tourism. For example, The European Fisheries Fund will intrude on tourism. The Competitiveness and Innovation Framework will impact on Tourism, as much of the tourist industry is operated by Small and Medium sized Enterprises. The European Regional Development Fund will encroach on tourism policy. And the list goes on.

The Commission's Tourism Sustainability Group recommended that the Commission be given the role of acquiring more information on tourism and facilitating information exchange between Member States. The question of why the EU needs to set up another layer of bureaucracy to do this, when national governments and agencies could simply swap information, is as usual left unanswered.

Another programme, European Destinations of Excellence (EDEN), promises to help build Europe as the leading tourist destination in the world, by helping to highlight across the world what EU destinations have in common. As usual, this subtle packaging places many European destinations under one badge, helping to blur distinctions between identities and create the illusion of Europe being one place. For the Commission, bringing any

tourists into Europe is a win-win situation. In their eyes, Europe is after all, Europe; their play area. But the reality is that tourists in Hungary do not benefit the Devon seaside towns. Visitors in Krakow do not spend money in Somerset. Thus an increase in tourists to Europe is not necessarily an increase in tourists to Britain or France, and shows exactly why this policy area should be left to Member States. States must compete for tourists if their individual industries are to survive.

Indeed, the Commission's 'Agenda 21' for tourism, proposed in 2006, could work against the EU as a whole by promoting it as one entity abroad. Instead of tourists being attracted to the wide diversity of different states with thousands of years of separate and unique histories, they may perceive the EU as one block, and that a visit to one state is a visit to all.

Of course, the Lisbon Treaty takes new steps towards expanding the EU role. Whilst not bringing tourism in as a direct EU competence, Article 6 of the Treaty on the Functioning of the European Union does give the EU the right to support the Member States efforts in tourism in any and every way it sees fit. Given that Member States will no doubt be trying their hardest to succeed in attracting tourists, if it is difficult to justify why the EU should duplicate these efforts and waste more tax-payers money doing the same job at the European level.

Article 195 deals more fully with tourism, and whilst the second part of it states explicitly that full harmonisation of policies is out of the question, it does reaffirm that the EU can do whatever it wants to complement member states.

As usual, the EU's role under Lisbon is to promote and further cooperation, and to, in section 1a of Article 195, create a more favourable environment for itself to work in the tourism sector (literally: "Union action shall be aimed at: (a) Encouraging the creation of a favourable environment for the development of undertakings in this sector"). It would be easy to conclude that the EU is preparing the ground for

the next Treaty after Lisbon, where it can move more openly and explicitly into this policy area.

But why does the EU want to expand its power into such a friendly and cordial area such as tourist policy? The answer is twofold. Firstly, tourism is an important revenue source, being directly responsible for 4 per cent of the EU's GDP, and when the associated industries are factored in, 11 per cent of EU GDP. Thus it is in the interest of the EU elites to keep people visiting Europe – anywhere in Europe will do – as the salaries of the EU elites come from all Member States. As long as some states are prospering, the elite's salaries are safe.

And secondly it is a reflection of the socialist influence

behind much of EU policy, and the logical conclusion to socialism, that is the centralisation of powers. Of course the EU has a commitment to subsidiarity, but this looks ever more like a meaningless word as European legislators start plans to enforce small and medium sized businesses, surely exactly the ones subsidiarity was meant to protect, to adopt standardisation measures such as a common 'star' rating system across Europe, that is being mooted.

So enjoy your holidays in 2009, but remember that if we keep on giving power to Brussels, the economic long-term effects could mean less holidays in the future for everyone.

[Glen Ruffle]

**"There is going to be friction as governments in the south start talking politically about coming out of the euro."**

Gary Dugan of Merrill Lynch bank

## EUROPE NEWS



### EU set to ban traditional light bulbs

As part of the plan to cut greenhouse gas emissions and limit global warming the EU wants to get rid of the traditional light bulbs and replaced them with more environmentally friendly light bulbs.

Last October, the Energy Council had stressed in its Conclusions its willingness to see "the sale of the worst-performing domestic lighting products (...) prohibited from 2010." The Council has therefore invited the Commission to present in 2008 a "draft Regulation that will launch a gradual process of phasing out until incandescent lamps and all the worst-performing lights are banned."

Such measure comes within the framework of the 2005 EcoDesign Directive which introduced rules establishing ecodesign requirements for energy-using products. The directive determines the conditions and criteria to the Commission to adopt environmental requirements for energy-using appliances through the comitology procedure.

On 8 December, the Regulatory Committee of the Ecodesign directive, comprising EU Member States experts, gave its opinion on the new energy efficiency requirements for household light bulbs. The Regulatory Committee has therefore endorsed the European Commission's proposal for a regulation progressively phasing out incandescent bulbs starting in 2009 and finishing at the end of 2012.

The Commission has estimated that EU households would reduce their electricity use by 10-15 per cent by switching to energy saving bulbs and there will be a reduction of about 15 million tons of CO2 emission per year.

The Commission regulation sets minimum energy efficiency and functionality requirements targeting households' lamps such as incandescent lamps, halogen lamps and compact fluorescent lamps. The Commission has stressed that consumers will be able to choose between long-life compact fluorescent lamps that presently amount the highest energy savings or efficient halogen lamps which could provide between 25 per cent and 50 per cent of energy savings.

The low energy light bulbs cost more than the traditional light bulbs and do not last as long as it has been claimed. They take time to warm up and the light is too dim. The low energy light bulbs might help us to save energy. However, there are concerns over the health impact of the energy saving bulbs as they can cause headaches and rashes. According to Spectrum, a group of charities which works with people with health conditions involving light sensitivity, such as lupus, the genetic disorder Xeroderma Pigmentosum (XP), people with light sensitivity suffer severe and painful reactions to fluorescent low-energy light bulbs. Hence, if a ban on incandescent bulbs takes place these people "will be unable to use electric light in their homes and will be unable to go anywhere else where electric light is in use."

Do we really need a ban on traditional light bulbs? People should be able to make their choice. In fact, as Spectrum said "People with sensitivity conditions must be able to continue to purchase incandescent bulbs for their homes." According to John Bowis MEP, conservative health and environment spokesman "We must make sure that, at the very least, incandescent bulbs continue to be readily available and that no total ban is contemplated before adequate alternatives have been researched and brought into production (...)." However, the draft regulation is expected to be formally adopted by the Commission in March 2009. [Margarida Vasconcelos]

**Non-G7 developed economies outside the EU grew by 1.42% more each year than EU economies**

# Common European asylum will have significant impact on UK policy

*Margarida Vasconcelos reports:* The 2004 Hague Programme has called for the Commission to present the second-phase of instruments of the Common European Asylum System (CEAS) with a view to their adoption before the end of 2010. The first phase in the creation of a Common European Asylum System has now been achieved however the main objective of the Common European Asylum System is the establishment of a common asylum procedure and a uniform status for persons in need of international protection valid throughout the EU.

The UK is not part of the Schengen agreement and it has an opt out from Title IV of the TEC (visas, asylum, immigration, judicial cooperation in civil matters). Nevertheless, the Government has opted into all proposals concerning asylum and almost all proposals concerning illegal migration. The decision of the Government to opt into an EU common asylum system has weakened the UK's border controls. The UK Government has decided to opt into measures establishing a Common European Asylum System therefore once such a decision is taken, and the measures have been adopted, the UK is bound by them.

Last July, the Commission adopted a Communication entitled "Policy Plan on asylum, an integrated approach to protection across the EU." The Commission has pointed out that several shortcomings were identified in the legislative instruments of the CEAS's first phase. On 3 December, the Commission has adopted concrete proposals to implement the Policy Plan. These are the first proposals of the second phase of the asylum legislation. They represent a legislative step towards the single asylum system for the whole of the European Union. Hence, endeavouring to further harmonise asylum rules, the Commission has presented proposals to amend: the Directive on reception conditions for asylum-seekers, the Dublin Regulation and the Eurodac Regulation. In 2009, the Commission will amend the Qualification Directive, the Asylum Procedures Directive and it will propose the establishment of a European Asylum Support Office.

The Reception Conditions Directive provides for several rights to be made accessible for asylum-seekers while awaiting a decision on their application for international protection. According to the Commission this Directive allows a considerable amount of discretion for Member States in several key areas – therefore it wants to amend this instrument in order to limit the Member States margin of discretion. The Commission has proposed to extend the scope of this Directive to include applicants for subsidiary protection. The Commission has proposed common rules making it easier for asylum-seekers to work while their

applications are pending. Hence, asylum-seekers would no longer have to wait one year but six months after submitting an application for international protection before being allowed to work. The Commission has said that "the imposition of national labour market conditions shall not unduly restrict access to employment for asylum seekers." Liam Byrne, the Minister of State at the Home Office, has said to the European Scrutiny Committee that the Government believes that such provisions "(...) would encourage fraudulent claims from individuals looking to abuse the asylum system to gain access to the labour market." Liam Byrne said that "An increase in unfounded claims would make it difficult for us to focus our resources on those in genuine need of international protection." Moreover, the Commission's proposal would require Member States to calculate the amount of assistance to be granted to asylum seekers in order to ensure that the asylum seekers total value of material reception conditions is equivalent to the amount of social assistance granted to nationals requiring such assistance.

The European Commission wants to establish common rules on the detention of asylum-seekers. It has proposed to limit detentions to exceptional and clearly defined cases. Under the draft proposal a Member State may only detain an asylum seeker if other less coercive measures cannot be applied effectively, and in order to determine his identity, to determine the elements of his application for asylum, to decide on his right to enter the territory and when it is required for the protection of national security and public order. The Commission has stressed that detention shall be ordered for the shortest period possible. Liam Byrne has explained to the ESC that "No one is detained simply because they have made an asylum application (...). Third country asylum seekers are only detained when they meet specific detention criteria such as for the purposes of removal or where there is a risk of absconding." Moreover, he said "The detention of asylum seekers whose applications appear straightforward and capable of being decided quickly also remains an important component in the maintenance of a fair but robust and effective asylum system."

The so called Dublin Regulation, which came into force in 2003, provides the criteria for establishing which Member State is responsible for examining an asylum claim. Under the Dublin Regulation the responsibility for examining an application lies with the Member State which played the greatest part in the applicant's entry into and residence in the territories of the Member States. The main principle is that the Member States which allow an asylum seeker to enter the EU (whether legally or illegally) is responsible for deciding

his claim. There are other factors such as the presence of family members in another Member State which are considered in a hierarchical order.

According to Jacques Barrot, Commissioner responsible for Justice, Freedom and Security, "this legislation, by stipulating that the asylum request must be done and dealt with in the refugee's first host country, has allowed us to put a stop to the phenomenon of "asylum shopping" however he said "there is an injustice as all countries do not have the same burden, but it is also unfair to asylum applicants." The Commission's proposal would introduce a new procedure allowing for the temporary suspension of Dublin transfers. Under the Commission's proposal, Member States may request to the Commission that the transfer of applicants for international protection to be suspended if they are facing a particularly urgent situation which places an exceptionally heavy pressure on their reception capacities, asylum system or infrastructure and the Dublin transfer would make the situation worse. This procedure of suspension of transfers may also be used in cases where the Commission considers that Dublin transfers could result in applicants for international protection not benefiting from adequate standards of protection in the responsible Member State. Hence, if the Commission considers that a Member State level of protection for applicants for international protection is not in conformity with Community legislation it may decide to suspend all transfers of applicants to that Member State. A Member State may also request the Commission to suspend all transfers of applicants to a Member State if that country's level of protection is not in conformity with Community legislation. Under the proposal, the Commission may decide, through the comitology procedure, to suspend all transfers of applicants to the Member State concerned. The

proposal provides that such a decision shall be taken as soon as possible and at the latest one month following the receipt of a request. The Council would have one month from the date of the referral by a Member State, acting by qualified majority, to take a different decision. The proposal provides that transfers may not be suspended for a period exceeding six months. However, if the conditions persist the Commission may decide to extend their application for a further six months period. According to the Commission's proposal "(...) the other Member States in which the applicants whose transfers have been suspended are present, shall be responsible for examining the applications for international protection of those persons."

The UK Government is concerned over the creation of a mechanism that would allow the temporary suspension of the Dublin System. According to Liam Byrne "The existence of a provision specifically related to reception conditions could reduce the incentive on all Member States to provide adequate reception conditions for those applicants for which they are responsible." Moreover, he believes that "(...) it could provide an unwelcome pull-factor by encouraging individuals and traffickers to target particular Member States as points of entry in the belief that individuals could not be returned to the responsible Member States."

The proposals still have to be approved by the European Parliament and the Council through the co-decision procedure. As there is no veto power the UK has a reduced influence over the development of a common asylum policy. The development of a common European asylum system will have a significant impact on the UK's future asylum policy. The UK is obliged to ensure that its policy and practice does not conflict with the EU asylum legislation.

## EUROPE NEWS



### Kouchner regrets human rights minister

On the occasion of the 60th anniversary of the Universal Declaration of Human Rights, signed on 10 December 1948 in Paris, the French Foreign Minister, Bernard Kouchner, has said that he regrets appointing a Secretary of State (the equivalent of a Minister of State in Britain) for human rights. The current holder of this new post is the originally Senegalese woman, Rama Yade, whose black skin, Muslim faith and Jewish husband all help the multicultural and inclusive image of the Sarkozy administration. But Kouchner seems to have discovered very quickly the pitfalls of what the first New Labour government proudly called "an ethnical foreign policy".

Kouchner said that the creation of the post within the French Foreign Ministry had been a mistake because of the "permanent contradiction between human rights and the foreign policy of a state". Bernard Kouchner is himself closely associated with the concept of an ethical foreign policy. The co-founder of Médecins sans frontières, Kouchner made his name in the 1990s by having himself shown on TV, carrying bags of rice on his own back to starving Africans while minister of state for humanitarian action in François Mitterrand's governments. He was later the first High Representative in Kosovo, the international governor of that province, having been an enthusiastic supporter of the Kosovo war (and of the 2003 attack on Iraq).

Kouchner said, "The contradiction between human rights and foreign policy can be a fertile one. But did we have to give it a governmental status by creating a Secretariat of State? I no longer believe so. You can't respect everything and as a result you are constantly being attacked. Even when you act." [*Le Parisien*, 10 December 2008] [John Laughland]

**The EU's December Economic Recovery Plan will cost Britain 1.5% of GDP which is £25 billion**



# Missed opportunity for CAP reform

*Margarida Vasconcelos writes:* The CAP has been through different reforms but it continues to be one of the most expensive EU common policies, it imposes substantial costs on developing countries as well as EU consumers and taxpayers. According to the *Irish Times*, Dalia Grybauskaite, EU Budget Commissioner, has said “In reality our CAP today is a more protectionist policy than a market-oriented policy and, because of this, we pay, all of us, all consumers, two to three times more for food than we would pay without this policy.”

Last May the European Commission proposed the so-called CAP “health check” which is a mid-term review before the 2013 planned reform. Although there were conflicting national interests the French presidency was able to force a compromise deal. On 20 November, the Council reached a political agreement on the CAP ‘health-check’. France, Germany and Italy were the big winners whereas the UK was not able to fully endorse the final agreement. Hilary Benn has stressed that the Government “wanted to cut further the trade distorting nature of the CAP, reduce regulatory burdens, give farmers greater control over their business decisions, and redirect more CAP spending away from direct farm payments towards delivery of targeted public benefits.”

An opportunity to reform the CAP was missed. In fact, it seems that the agreement on the CAP “health check” will lead to further complexity and to distortions of competition.

The Commission has pointed out that in order to strengthen the EU efforts in the field of climate change, renewable energy, water management and biodiversity additional funding is needed. The Commission has therefore proposed to increase modulation, the transfer of direct payments to the Rural Development budget by 8 per cent. However, France, Italy and Germany, could not agree so the percentage was reduced to a compromise figure of 5 per cent. Hence, all farms receiving €5,000 must transfer 5 per cent of EU aid into rural development projects by 2012, in addition to the 5 per cent that is already compulsory. Therefore, under the agreement reached by the EU agricultural ministers aid for rural development will rise to 10 per cent of the farm subsidies and not the 13 per cent that the European Commission has proposed. The UK is the only EU Member State which already applies a voluntary modulation system. Whereas presently English farmers pay 19 per cent the farmers from other Member States pay 5 per

cent and from 2012 English farmers will continue to pay 19 per cent while others will pay 10 per cent. The UK already has the highest modulation in the EU therefore it was expected that more compulsory modulation would have been agreed to bring other Member States in line.

The Commission has proposed to further decoupling meaning reducing the link between how much farmers produce and how much financial support they receive from the CAP.

The remaining coupled payments will now be decoupled and moved into the Single Payment Scheme, with the exception of suckler cow, goat and sheep premia, where Member States may maintain current levels of coupled support. The UK has welcomed further decoupling of approximately £3 billion of direct farm payments. Nevertheless, Hilary Benn has pointed out that “this decoupling could be significantly reduced if Member States fully utilise payments under national envelopes under Article 68.”

Member States will have greater flexibility in deciding which fragile agricultural sectors should receive special aid as well as in how they should spread their direct payments to farmers. The EU Member States will be able to use up to 10 per cent of their national ceilings to grant support to farmers for certain types of agriculture which are significant in terms of the protection or improvement of the environment, to improve the quality of agricultural products or their marketing. The Member States will no longer have to spend the money in the same sector. The Commission has also proposed, after being pressured by France, that these funds might be used as a contribution to crop insurance premiums and mutual funds for animal disease compensation.

Under the so-called new arrangements of Article 68, Member States would be allowed to spend whole of the 10 per cent of the national ceiling on measures with additional agri-environmental benefits. Moreover, coupled payments under Article 68 will amount to 3.5 per cent of the national Single Payment Scheme (SPS) ceiling. Measures aiming at helping dairy, beef or sheep farmers in economically or environmentally vulnerable areas, or economically vulnerable types of farming and crop insurance premiums or mutual funds for animal and plant diseases are limited to 3.5 per cent of SPS payments. Jim Begg, Dairy UK Director-General, has said “We are also concerned that the measures under article

**“A failure to persuade Russia to resume gas flows would cast more doubt on the EU’s goal of being a global actor, and on its arcane internal rules...”**

**Mark John, Reuters, 9 January**



68 will allow Member States to effectively re-introduce coupled support for the dairy sector which could distort the competitive environment.”

Under the agreement, Member States which apply the Single Payment Scheme will be allowed either to use currently unused money from their national envelope funds to finance measures under Article 68 or to use it for Rural Development measures. Hilary Benn has said “(...) I could not support the use of unspent funds which should come back to Member States.” He stressed that this will increase “the potential for distortions.”

One of the most controversial issues was the phasing out of milk quotas before they are totally scrapped in 2015. French Agriculture Minister Michel Barnier has said before the agreement was reached that he would “not allow the milk quotas to be scrapped without accompanying measures, precautions being taken.” The Council has agreed an increase of 1 per cent for the milk quotas per year in 2009, 2010, 2011, 2012, and for the marketing year 2013/2014, to prepare for their expiration in 2015. Italy was granted a special derogation – therefore it will be allowed for a single quota increase of 5 per cent in 2009.

The Commission has also proposed to replace the present intervention systems under which farmers are able to sell stock into EU reserves if they cannot get a decent price for their produce on the market into a “genuine safety net.” The UK has been demanding the end of all market instruments whereas France does not want to give up them. France has won significant concessions, in particular retaining the intervention system for bread-making wheat as well as for durum wheat and rice. Intervention will be abolished for pig meat and set at zero for barley and sorghum. Intervention for durum wheat, rice will be maintained as a market management instrument but with the thresholds set at zero.

The Commission proposals are expected to be formally adopted by the Council by the end of the year and coming into force in 2009.

According to Hilary Benn “This is a mixed result. On the big items of reform this is a step forward, but I regret what has been conceded in order to secure a deal which will lead to some new distortions in the short term.” Moreover, he said “We are also disappointed that the Health Check was unable to go further in achieving full decoupling across the EU (although that will be achieved in England), phasing out all the remaining market support mechanisms such as intervention, and focusing even more CAP spending on delivering public benefits, including environmental benefits.” However, according to Neil Parish MEP, “Britain sent five ministers to this meeting, yet when the crucial negotiations were ongoing earlier this year, not a single British minister was present. Britain has been the empty chair in the room when it came to farm reform, and part of the blame for the timidity of the Health Check falls to our government.”

It should be mentioned that the Agriculture Council met on 28 November to debate a paper drawn up by the French presidency on the future of CAP policy after 2013.

France being the biggest beneficiary of CAP obviously does not want to see a reduction on farm subsidies. France has been arguing that CAP is needed to keep food price stability in the EU as well as to protect farmers through the import tariff system. France wants to keep the CAP original principles which are “the community preference,” and “market stabilization” and “Farm income protection.” It was expecting to achieve a joint commitment on the CAP’s long-term objectives before talks on its budget for the post 2013 period.

According to a French Presidency press release an overwhelming majority of Member States supported the Presidency’s conclusions on the future of the Common Agricultural Policy after 2013, at the Agriculture Council, whereas just 3 Member States were opposed. The French EU Presidency did not succeed in defining the consensual bases between the 27 EU Member States on the CAP future. Britain, Latvia and Sweden have refused to support the French paper. France has been endeavouring to set out concrete objectives for the Common Agricultural Policy before the review of the EU’s financial perspectives for the 2014-2020. Tony Blair gave up £7bn of the UK rebate in return for reform of the CAP and there is no serious reform on the way. There is no solid commitment that CAP will be properly reformed. France is fighting hard to ensure the continuation of large EU subsidies for farmers. It should be mentioned that the UK’s contributions to the EU budget are expected to be in 2008/2009 £2bn and £6.5bn in 2010/2011.

The European Court of Auditors has recently adopted a report on cross-compliance. Cross compliance is now an important element of the CAP under which payments may be reduced if the beneficiaries have not respected certain environment, food safety, animal and plant health and animal welfare rules. In 2008, the Court of Auditors carried out an audit of the cross-compliance policy at the Commission and in seven Member States. The Court considers that the cross compliance rules are poorly managed and enforced. The Court has stressed that data that Member States sent to the Commission is not reliable and overestimates the monitoring of farmers rates and the farmers’ compliance rates. Moreover, according to the Court “The Commission’s system for monitoring these data is incomplete and suffers in particular from the absence of performance indicators and baseline levels.” Hence, the Court has concluded that cross-compliance “it is not effective as currently managed by the Commission and implemented by the Member States.”

In the mean time, the Commission announced on 11 December that it will recover €528.5 million of CAP expenditure unduly spent by Member States. The Commission has decided to claim the money back because of inadequate control procedures and non-compliance with EU rules on agricultural expenditure. Funds will be recovered from several Member States including the UK. The UK will be charged with £74.5 million for not keeping payment deadlines.



## Through the EU Labyrinth

Margarida Vasconcelos of the European Foundation provides a regular assessment on what is happening in and around the EU institutions, the European Scrutiny Committee at Westminster and of the legal and political importance of recent decisions, regulations, directives and law.

# Commission's legislation will weaken consumer protection in UK

Presently, EU rules on consumer protection come from four EU Directives – Unfair contract terms, Sales and Guarantees, Distance Selling, and Doorstep Selling. According to the Commission these Directives provide only minimum standards for the protection of consumers. But they give Member States the discretion to establish more strict standards if they so desire.

Last October, the Commission proposed a draft Directive on consumer rights which revises and merges the four Directives into a single instrument. The draft Directive concerns contracts for sales of goods and services from business-to-consumer and applies to both domestic and cross-border contracts. The Commission wants to harmonise consumer rights as regards information about the goods, rights in the event of late delivery or non-delivery, cooling-off periods, returns, refunds, repair terms and guarantees. The Commission has moved away from the minimum harmonisation approach to a full harmonisation approach under which Member States would be prohibited from keeping or introducing provisions in their national law which differ from the proposed Directive, whether those provisions provide for more or less stringent consumer protection requirements. Consequently, if the Directive is adopted the UK would have to repeal any existing legislation which exceeds or provides less protection than the level of consumer protection provided by the Directive.

Under the Commission proposal the rules on off-premises sales would apply to all contracts, despite of their value. However, there is, presently, under UK law, a threshold of £35 below which the rules do not apply. The Minister for Trade and Consumer Affairs, Mr. Gareth Thomas, told to the European Scrutiny Committee that it's the Government view that "(...) imposing information requirements on traders and introducing a right of

withdrawal for off-premises contacts worth less than £35 would place a disproportionate burden on traders." Moreover, he said "(...) there was little evidence of consumer detriment relating to these low value contracts and therefore no justification for removing the threshold."

The draft Directive also provides for the same standard set of remedies available to all consumers who have bought a faulty product. Under the draft Directive where goods do not conform, repair and replacement is the first option and the consumer would only be entitled to a refund in restricted circumstances. Hence, the trader may provide a remedy by repairing or replacing the product. Under certain circumstances, such as if the trader refuses to remedy the lack of conformity or fails to do so in a reasonable time, the consumer would be entitled to have a reduction of the price or rescind the contract and claim damages. However, retaining the right to reject is essential for consumer confidence. The UK would be required to repeal consumers' existing right, in national law, to reject faulty goods. Consequently, consumers in the UK would no longer have a legal right to reject goods of unsatisfactory quality and be reimbursed. Furthermore, under the draft Directive the trader, not the consumer, would be entitled to decide whether non conforming goods should be repaired or replaced. The Minister has said that: "Our initial view is that this change will amount to a reduction in consumer protection for UK consumers which is unlikely to be acceptable."

According to *EurActiv*, Nuria Rodriguez, a legal officer at European consumers' organisation BEUC, said that the "BEUC supported the principle of minimum harmonisation, but the Directive harmonises everything to the maximum level while providing a low level of protection for the consumer."

The Consumer Rights Directive must be approved by the

European Parliament and EU Member States before becoming law. It remains to be seen what will come out

from the negotiations but QMV is required at the Council – therefore the UK would not be able to veto the proposal.

## Commission strikes again on nuclear safety

The Commission has been trying to introduce Community legislation on nuclear safety but until now, no legislation on this area has been adopted. In September 2004, the Commission tried to instigate a Community framework for nuclear safety but it has failed to get support of the EU Member States.

On 26 November, the Commission struck again and adopted a revised proposal for a Directive setting up a Community framework for nuclear safety intending to restart the process of establishing a common EU framework on nuclear safety.

The Commission has pointed out that all the EU Member States are Contracting Parties to the Convention on Nuclear Safety. Nevertheless, there are different procedures and practices on nuclear safety among them. According to the Commission, presently standardisation of safety requirements between Member States is limited therefore convergence of rules at EU level is needed.

The Convention on Nuclear Safety and the 2006 International Atomic Energy Agency Safety Fundamentals guidelines are voluntary. The draft Directive incorporates provisions of the Convention on Nuclear Safety and the International Atomic Energy Agency's Safety Fundamentals guidelines into EU legislation which would be the chief pillar of EU legislation and would be mandatory for all EU Member States.

The draft Directive is intending to establish an EU broad binding safety legislation for the operation of nuclear

power plants. The draft Directive provides for obligations and general principles for the safety of nuclear installations in the EU while enhancing the role of national regulatory bodies. Under the Commission's draft proposal all nuclear activity in the EU will be subject to common safety rules. According to the Commission the Directive would cover "the full life-cycle of a nuclear installation from its design and location through the construction phase to the maintenance and decommissioning of a plant and the management of spent fuel and radioactive waste."

According to the *European Voice* Andrej Striar, chairman of the European Nuclear Regulators' Group, has shown concerns about the Commission's proposals to harmonise standards. He said "Every big country has an established system. None of them is bad or better [than the others]. They are simply different." According to Andrej Striar, it is difficult to find common standards that would please all Member States.

The draft Directive to become law must be adopted by the EU Member States with QMV required at the Council. The European Parliament has a consultative role. It remains to be seen if the Commission's proposal wins the support of the EU Member States. It seems that this draft Directive, like the previous one, continues to give the Commission scope to interfere with decisions taken by Member States, and would continue to duplicate work being carried out within the framework of the International Atomic Energy Agency.

**"The euro will never reach its 20th anniversary as the PIGS plunge for the exit – and the collapse of the eurozone won't be... peaceful. In Britain we can thank our lucky stars we don't have to go through the same... crisis."**

Peter Osborne, The Daily Mail

**"The euro takes the 'Ugly' currency baton in 2009 that was held by the pound in 2008 and the dollar in 2007."**

RBS strategist David Simmonds

# EU climate package will damage European economies

Last January the European Commission answered the call of the European Council and adopted a package of measures aimed at tackling climate change. The package contains several legislative proposals on emission cuts, renewable sources, carbon capture and revision of the emission trading scheme. The EU is seeking a united front on how to address climate change at the international conference at Copenhagen in December 2009 before putting pressure on other countries to sign up for an international climate change agreement to replace the Kyoto Protocol. The October European Council has given to EU lawmakers a mandate to conclude the climate package before the end of 2008 in order to allow for its adoption before the end of the current legislature.

Taking into account the financial crisis and the 2009 worsening economic outlook several Member States were not willing to give their backing to climate change policies as that would undermine the industrial interests of their national economies. Roger Helmer MEP has said that we are facing a "greatest crisis" and that "The threat is not posed by global warming, but by our policy responses to global warming" because "they will have a devastating economic effect." According to the Italian Prime Minister, Silvio Berlusconi, it was "absurd" to be talking about carbon emissions in the face of the more pressing financial crisis, he said "It's like someone with pneumonia thinking about having a hairdo."

Nevertheless, the European Council has reached agreement on the energy and climate change package. On 12 December, the EU heads of state and government approved, more easily than expected, the energy-climate change package proposed by the Commission. Nicolas Sarkozy has said "It is quite historic what has happened here (...) No continent has given itself such binding rules that we have adopted with unanimity." On the other hand, Czech President Vaclav Klaus has complained about the way Nicolas Sarkozy had "pushed" the deal.

The EU leaders reiterated their commitment to keep their original target of cutting greenhouse gas emissions by 20 per cent compared to 2005 and an improvement in energy efficiency of 20 percent, both by 2020. The European Council has confirmed the European Union's commitment to increasing this reduction to 30 per cent within the framework of a global agreement in Copenhagen, on condition that the other developed countries commit themselves to achieve comparable emission reductions.

The European Council has welcomed the outcome of the trilogies meetings which have lead to a broad agreement on the energy/climate legislative package.

In order to pass the climate and energy package to be

adopted by the end of 2008, an agreement between Parliament and Council needs to be reached at the first reading. Hence, the French Presidency, the European Parliament's rapporteurs and the Commission have been holding intensive negotiations, behind closed doors, on the Energy and Climate Package. They reached, even before the European Council meeting, an agreement on the draft Directive on renewable energies including biofuel targets. This draft Directive puts forward mandatory targets for the overall share of energy from renewable sources in energy consumption and for the share of energy from renewable sources in transport. It establishes two binding goals, an overall target of a 20 per cent share of renewable energy sources in energy consumption and a 10 per cent minimum target for biofuels in transport, to be achieved by each Member State. Member States would be required to substantially increase the contribution of renewable energies to its energy mix. The UK's share of renewable energies in 2005 was 1.3 per cent and under the Commission proposal by 2020 it is required to have a share of 15 per cent.

The Government has admitted that such proposal would have serious implications for the UK. The UK has a lower proportion of its energy coming from renewable sources than any other EU Member State. Nevertheless, the UK Government is determined that the UK will meet its fair share of the overall EU target which will increase in costs for consumers. According to the energy consultancy Pöyry "The cost to the UK in 2020 of meeting this burden share is between €5.0bn (least cost trading) and €6.7bn (domestic constrained) (...) and the lifetime costs are in order of €59.0 bn, whereas under domestic constrained scenario they are €93.1bn." Moreover, according to a report by Professor Ian Fells of Newcastle University such a target is unattainable as it implies that 40 per cent of electricity will have to come from renewables and currently renewables produce just 4.5 per cent.

The EU leaders have addressed the outstanding issues. As regards the EU ETS Review the main controversial issues have been the allocation method, use of auctioning proceeds, and rules for auctioning. Whereas presently 90 per cent of pollution allowances are given to installations for free under the Commission's proposal auctioning will be the basic principle for allocation. The Commission has proposed to introduce full auctioning in 2013 for electricity generation, and for other sectors a gradual introduction until 2020.

Germany has been showing its concern that heavy industries, such as cement, chemicals and steel would be seriously hit by the EU emissions trading system, under which they would have to pay for all their permits to emit

carbon dioxide. Hence, such industries would be forced to move their factories, jobs and CO<sub>2</sub> emission to third countries to keep prices down and in this way producing “carbon leakage.”

The European Council has agreed on a calculation method to determine which industrial sectors are exposed to a significant risk of carbon leakage. The EU leaders unanimously agreed, in order to please Germany, that industries considered to be exposed to a significant risk of carbon leakage will be granted up to 100 per cent of their CO<sub>2</sub> allocations free of charge “at the level of the benchmark of the best technology available.” Such industries must first already be using the cleanest technology available in their production processes.

With regards to the industrial sectors not exposed to the risk of carbon leakage the auctioning rate is set at 20 per cent in 2013, 70 per cent in 2020, with a view to reaching 100 per cent in 2027. The European Commission initially proposed that other industrial sectors would have to buy 30 per cent of their carbon allowances in 2013 with 100 per cent to be reached by 2020.

Under the agreement reached at the summit, Member States in which more than 30 per cent of electricity was produced from a single fossil fuel and whose gross domestic product per capita at market prices did not exceed 50 per cent of the average gross domestic product per capita of the EU may be granted derogations. Poland has got its derogation to the setting the auctioning rate at 100 per cent in 2013 in the electricity sector. The EU leaders have agreed that for those Member States the auctioning rate in 2013 will be 30 per cent and will be gradually raised to 100 per cent in 2020. Hence, Poland and Hungary as well as other central and east European countries would be allowed to grant to their electricity companies 70 per cent of their CO<sub>2</sub> allowances for free after 2013.

Under the European Council deal 88 per cent of the total quantity of allowances between 2013 and 2020 to be auctioned will be allocated between Member States in equal proportions, 10 per cent will be allocated between certain Member States in the “interests of solidarity” and 2 per cent will be allocated between “the Member States which had achieved in 2005 a reduction of at least 20 per cent in greenhouse gas emissions compared with the reference year set by the Kyoto Protocol.” The European Council has already broken down the 2 per cent between Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia. It was agreed that 12 per cent of the share of proceeds from all auctioning of emissions trading allowances are to be reserved for a “solidarity fund” intended to compensate Central and

Eastern Europe new Member States for the cost of meeting the greenhouse-gas emissions targets. The Commission has proposed 10 per cent however those Member States were able to secure an agreement on the increase of the fund. Such a fund has been opposed by the UK and Germany which have been arguing that the ETS is not a suitable way to help poorer Member States to tackle the cost of fighting climate change but they decided to lift their reservations.

The main controversial issue between the European Parliament and the Council concerning the ETS revision has been how to spend revenue from auctions. Obviously, the Member States do not want Brussels to decide how they should use that money. Whereas the Commission has proposed that 20 per cent of the ETS auction revenues should be allocated for climate change protection measures in developing countries and inside the EU, the Environment Committee has proposed 50 per cent. The European Council has stressed that “Member States will determine, in accordance with their respective constitutional and budgetary requirements, the use of revenues generated from the auctioning of allowances in the EU emissions trading system.” The European Council has noted the Member States “willingness” to spend half of this amount on actions to reduce greenhouse gas emissions, for measures to avoid deforestation, to develop renewable energies, energy efficiency in Europe and in developing countries.

The European Council deal was immediately discussed by members of the European Parliament over the weekend. Hence, informal negotiations between Parliament representatives and the French Presidency have immediately started after the EU summit in order to find an agreement on the outstanding issues. The European Parliament rapporteurs and the French Presidency reached an informal agreement on the last details of the climate change package such as the EU’s emissions trading scheme, the proposal on carbon capture and storage and on the draft decision on Member State’s efforts to reduce their greenhouse gas emissions to meet the Community’s greenhouse gas emission reduction commitments. The European Parliament negotiators have therefore approved the climate change deal reached by the EU leaders. The informal compromise was supported by the European Parliament’s bigger political groups. The European Parliament voted for the agreement on the climate package on 17 December. The agreement reached in secret trilogues was presented to the plenary who simply confirmed it. Then, it will be formally endorsed by the Council.

**Correction to Francis Warren, *The Death of Democracy*, The European Journal, November/December 2008, page 15:** *The European Journal* apologises for the error in Francis Warren’s latest article. On page 15, in the right hand column on line 21, “the inconceivable shades into avoidable” should be “the inconceivable shades into the unavoidable”.

# Ireland's second referendum shows total contempt for democracy

On 12 June the Irish people rejected in a referendum the Lisbon Treaty. They were the only ones allowed to have they say on the Treaty and they said 'No' however that was the wrong answer to the EU leaders who said that the Lisbon Treaty will enhance democracy in the EU.

Following the 'No' vote, the other EU Member States have been putting Ireland under increasing pressure to find a way to pass the Lisbon Treaty. It was well known since the beginning that the only way that the Irish Government could please the other EU Governments was to hold another referendum. Hence, the Irish Government could not ask the Irish people to vote again on the same text – therefore it has been seeking a “Lisbon Plus” Treaty which could survive a second referendum.

On the 12 December, the European Council discussed the factors intended to respond to the concerns expressed during the Irish referendum and put forward a road map to enable the Treaty of Lisbon to come into force before the end of 2009. Brian Cowen has presented the government analysis on why the Irish voters rejected the Lisbon Treaty. Mr Cowen outlined several issues where he would like to have some “legal guarantees” from the EU leaders so that Ireland's traditional policy of neutrality as regards Common Security and Defence Policy (CSDP) would be kept, that the Irish constitution's provisions on the “right-to-life, education and family will not be affected by the Lisbon Treaty and that the Lisbon Treaty has not extended the EU's competences over taxation. The Irish Government also asked for assurances “that the Union attaches high importance to the protection of workers' rights and public services” but that Member States are responsible for the delivery of education and health services and that the Lisbon Treaty provisions will not affect the role and discretion of national, regional and local Governments in providing and organising non-economic services of general interest.

The European Council has agreed that, provided Ireland ratifies the Lisbon Treaty all the Irish concerns “shall be addressed to the mutual satisfaction of Ireland and the other Member States.” According to the Council Conclusions “the necessary legal guarantees” will be given to address the Irish concerns. The European Council has promised to Ireland “legally guarantees” on three issues taxation, neutrality, and family-related issues but not on social issues. The European Council Conclusions read “In addition, the high importance attached to the issues, including workers' rights, set out in paragraph (d) of Annex 1 will be confirmed.” According to the *EuropeanVoice* the UK has insisted that the social issues and workers' rights be

removed from the “legal guarantees.”

Moreover, the European Council agreed that on condition that the Treaty of Lisbon enters into force, a decision will be taken in order for the Commission to continue to be composed of one representative from each Member State. Hence, Ireland can keep its EU Commissioner but first it has to ratify the Lisbon Treaty. Nevertheless, it should be mentioned that under the existing Treaties the Council and the Commission President adopts the list of the Commissioners in accordance with the proposals made by each Member State. However, under the Lisbon Treaty such a list will not be based on “proposals” but “suggestions” made by Member States. Hence, each Member State will suggest different candidates, and the Council and the President will choose from there. However, they still have to be subject to the “vote of consent” of the EP which complicates things even further. This provision will limit even more the influence of the Member States it would have been much easier and more democratic each Member State to appoint one Commissioner.

According to the Council Conclusions “In the light of the above commitments by the European Council, and conditional on the satisfactory completion of the detailed follow-on work by mid-2009 and on presumption of their satisfactory implementation, the Irish Government is committed to seeking ratification of the Treaty of Lisbon by the end of the term of the current Commission.” Hence, the Irish government has committed itself to hold a second referendum on the Treaty. The date is not specified but the council conclusions text implies late October or early November 2009 when the mandate of the current European Commission ends. This is outrageous, the EU leaders, including Gordon Brown, are demanding Ireland to hold a second referendum while they denied their people to have a say.

The EU leaders have promised “the necessary legal guarantees” to address the Irish people's concerns on the right of Ireland to decide tax policy, military neutrality and ethical issues. It seems that the EU leaders are convinced that their guarantees would persuade the Irish people to vote ‘Yes’ in a second referendum but hopefully they are wrong.

The Irish Government has not respected the people's democratic vote. Irish Prime Minister Brian Cowen said after the summit “Today we have the clear evidence the European Union is ready to respond. (...) On the basis of the agreement today, (...) I would be prepared to return to the public, to put a new package and seek their approval

of it.” Moreover he said, “I am confident we will be successful in a second vote.”

At the moment Ireland only got a declaration from the European Council that its concerns would be addressed through “legal guarantees.” The precise nature of the guarantees would be worked out in the coming months. It is not clear yet how Ireland will get its “legal guarantees.” In fact, some Member States, including the UK, had already asked for more precision on the nature of such guarantees as they are concerns that they would re-open the ratification of the Lisbon Treaty.

Unsurprisingly, the EU leaders are not willing to change the Treaty text because they would have to go through the ratification process again as it would legally be a new Treaty. Consequently, they would not like to consider possible opt out's on certain Treaty provisions as that would require all Member States to go through all the ratification process again in order to make the opt-out protocols legally binding. Obviously, declarations are for them the best

solution but they are not legally binding. The declarations would have changed nothing in the Treaty. In fact, the Irish government is aware that declarations would not be able to convince the Irish people that the Treaty has been changed. The deceit would have been too obvious in that case.

Nicolas Sarkozy announced after the EU summit that in order to make the EU leaders' commitments legally binding without reopening the Treaty ratification procedure, the Irish guarantees would be included in a protocol together with Croatia's accession Treaty to the EU in 2010 or 2011. It seems that the “legal guarantees” would be introduced in a protocol, the “Irish protocol”, attached to the accession Treaty when Croatia joins the EU. However, Slovenia is blocking accession talks with Croatia. Therefore, there is still uncertainty over Croatia's accession. Nevertheless, if Ireland votes again and says yes and the Treaty enters into force by the end of 2009 (beginning of 2010), the Ireland protocol will enter into force one or two years after.

## UK cannot block the “pesticides regulation” which will increase food prices

The European Commission presented in July 2006 a Thematic Strategy on the sustainable use of pesticides proposing new rules for plant protection products aimed at reinforcing the protection of public health and the environment. The Commission has proposed a regulation concerning the placing of plant protection products on the market. This Draft regulation aims at tightening up the environmental and health criteria in regard of approval of active substances (key ingredients of pesticides) before they are authorized at EU level replacing council Directive 91/414/EEC.

Last December, the French Presidency, the European Commission and the European Parliament's rapporteurs have reached, behind closed doors, a compromise agreement on the pesticides package. The European Parliament debate and vote on this legislative proposal were public however this means nothing as such important decision was made behind closed doors with no accountability. The agreement reached last December was presented to the plenary which has solely confirmed it. Hence, on 13 January the European Parliament voted on second reading by an overwhelming majority, 577 votes in favour, approved the EU legislation on pesticides tightening pesticide use in Europe.

The so called “pesticides regulation” will have far reaching impacts on farmers, consumers and food security. It will have terrible consequences for the production of many crops in Europe. The new legislation will substantially reduce pesticides available in the market,

consequently crop protection will be reduced and there will be an increase in food prices and dependency on food imports.

It should be noted that the Commission has not presented a full impact assessment of the proposed new measures on EU agriculture or consumers. According to Hilary Benn “These regulations could hit agricultural production in the UK for no recognisable benefit to human health, and we are being asked to agree to something here when nobody knows what the impact will be.” Moreover, he said “While we have managed to secure some improvements surrounding the use of certain pesticides, the UK does not support these proposals.”

The Conservative Party called for a full impact assessment on the legislation and more derogations for Member States. However, the Conservative amendments and attempt to reject the compromise were not approved.

Several plant protection products which have been used by British producers for many years will be banned. The legislation will have a terrible impact on food production in the UK. Such measures might reduce UK crop yields from 20 per cent by up to 50 per cent. The ban will cause in the UK a reduction in the production of several vegetables such as carrots, broccoli, cabbage and cereals whilst the consumers will see the prices increasing. According to the European Crop Protection Association (ECPA) the EU rules “could add 10 per cent to annual rises in food prices.” Robert Sturdy, MEP, has said “This law will drive up the cost of the weekly food shop at the worst time for British

families. Without crop protection products, our food supplies will be volatile at a time when food security is rising up the political agenda.”

Under the proposal active substances would only be included in plant protection products if it has been demonstrated that they represent a clear benefit for plant production and they will not have any harmful effect on human or animal health. The decision on acceptability or non-acceptability of such substances is to be taken at Community level on the basis of harmonised criteria. Under the Draft regulation, active substances that can be used in the pesticide production would appear in a positive list drawn up at EU level while the others would be banned. The pesticides will be authorised at national level taking into account that list. The Member States will have to follow the strict EU criteria for the authorization process of plant protection products. The plant protection product shall only contain active substances approved at EU level.

The criteria for substances approval as well as the substances that should be banned from authorization have been very controversial issues. The European Parliament not only supported the Commission's proposal but it has tried to expand the scope of substances banned from usage in the production of pesticides in the EU. Under the compromise deal reached by the Council, Commission and European Parliament negotiators more active substances will be banned when compared to the Council Common position.

Under the compromise deal substances that are “genotoxic, carcinogenic or toxic to reproduction” will be banned. Moreover, neurotoxic, immunotoxic and certain endocrine-disrupting substances will be also banned if they are considered to pose a significant risk.

The compromise text allows a possible derogation to the prohibition. Hence, in exceptional cases, if available products do not provide enough effective plant protection, other hazardous substances may be used, but under strictly regulated conditions. Those substances may be allowed to be used for a limited period of five years if they are necessary to combat a serious danger to plant health. However, this derogation will not apply “to active substances which are or have to be classified (...) as carcinogenic category 1, carcinogenic category 2 without a threshold, or toxic for reproduction category 1.” It is not a general exception, Member States may authorise plant protection products containing active substances which do not meet the safety criteria but solely “when it is necessary to control that serious danger to plant health in their territory.”

It is expected that such a regulation will ban 22 products from the EU market. The EU strict criteria for the approval of active substances will have a negative impact on European agriculture as it will reduce the availability of pesticides. The EU regulation will ban several substances which have been extensively and safely used for many years.

The Commission has proposed to divide the EU into 3 geographic zones, a northern zone, a central zone and a southern zone. The draft proposal provides for a system of zonal authorization of plant protection products and for the compulsory mutual recognition of authorisations in Member States belonging to the same zone. The European Parliament Environment Committee has proposed a single EU zone but the European Parliament has accepted the three licensing zones as part of the compromise. Plant protection products authorised by one Member State will automatically be approved for use in the other Member States in that particular zone. In case of specific national environmental or agricultural circumstances Member States will be allowed to refuse the mutual recognition of registration of certain pesticides or limit their application.

It also includes provisions on packaging, labelling and advertising of plant protection products and obligations to keep records and official controls.

It has been argued that the EU regulation has no scientific basis. Such legislation is based on a hazard approach to chemicals instead of a risk-based assessment of substances. It should be noticed that Britain's leading scientists are fully against such legislative proposal. According to Dr. Colin Ruscoe of the British Crop Production Council “There is no evidence of public health benefit to justify these proposals.” Moreover, the European Crop Protection Association (ECPA) Director General Friedhelm Schmider has said “Just because a product has hazardous properties does not mean it is dangerous. At a time when the global population is worried about high food prices, the current proposal will make it more difficult for European farmers to continue producing high quality food at affordable prices.”

Moreover, the regulation would harm developing countries as the EU is not considering the risks of not using pesticides. Professor Donald Roberts, a medical entomologist, said “It seems that EU regulators have no idea about the real risks to health and development to which most people in developing countries are exposed. They not only ignore real-world risks of chemical use but also ignore the risks of NOT using insecticides to protect crops and human health.”

This regulation implementing measures would be adopted through the untransparent comitology procedure.

The compromise text voted by the European Parliament must be formally endorsed by the Council. However, this will be a formality. The permanent representatives of EU Member States (Coreper), have already indicated, with the exception of the United Kingdom, Ireland and Hungary, that they will support the text. The UK will not be able to form a blocking minority for a qualified majority vote in the Council. The UK will vote against it but there is no veto therefore it will be forced to accept the legislative measure.